



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 February 20, 2014 Meeting Minutes**
- 4. Public Comments**
- 5. Committee Discussion Future Topics**
- 6. Public Comments**

AGENDA

**Charter Review Committee
April 17, 2014**

6:30 pm Regular Meeting

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

Sherwood City Charter Review Committee Meeting Date:

April 17, 2014

pg 1 of 1

ATTENDANCE SHEET

NAME

ADDRESS

PHONE

NAME	ADDRESS	PHONE

Apr 17, 2014 Charter Review Comm
 Date Gov. Body
Staff Provided A
 Agenda Item Exhibit #
 Document



SHERWOOD CHARTER REVIEW COMMITTEE
22560 SW Pine St., Sherwood, Or
February 20, 2014

Regular Session

1. **Call to Order:** Vice Chair Neil Shannon called the meeting to order at 7:02 pm.
2. **Committee Members Present:** 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, Cultural Arts Commission Representative Alyse Vordermark and Citizen at Large Jennifer Kuiper. Citizen at Large Chair Pat Allen was absent.
3. **Staff and Council Liaison Present:** City Manager Joseph Gall, City Recorder Sylvia Murphy and City Council Liaison Linda Henderson.

Vice Chair Shannon addressed the prior meeting minutes and asked for a motion.

4. Approval of February 13, 2014 Meeting Minutes

MOTION: from Brian Stecher to approve the meeting minutes, seconded by Beth Cooke. Motion passed 8:0. (Chair Pat Allen was absent).

5. Public Comments

No one came forward.

6. Charter Review Committee Discussion

Prior to discussion staff presented the following items into the record.

- City Charter with Track Changes, (see record, Exhibit A)
- Draft Ballot Titles pertaining to Positions, Council Rules & Public Comments, Term Limits, and Vacancies & Filling Vacancies, (4 ballot titles) (see record, Exhibit B)
- Draft Explanatory Statements, (4 statements-one for each ballot title) (see record, Exhibit C)

Vice Chair Shannon asked for discussion on Section 11-Meetings in regards to when public comments are heard and said the committee discussed this when he was on vacation and he would like to briefly provide input. He said he was in favor of adding the term, "prior to the start of business" at the end of the current sentence. He said his position on this is, he doesn't believe it would interfere with the operations of the City Council meeting as they have awards and presentations that occur prior to conducting Council business. He said there can be frustrations from the people that come before the Council and the Council may make

decisions on business and inviting public comments after their decision has been made. He said we are not writing in the rules how long the comments are to be or how many comments they receive and move the others to the end, this can be addressed in the Council Rules. He said he referred to this as a bill of rights and would like to this of this as the rights of the citizens to bring questions before the Council before decisions are made and not afterwards. Mr. Shannon asked for comments from the Board.

Ms. Vordermark asked Council Liaison Henderson if there was something to do with citizens comments not having to be received to make decisions. Ms. Henderson said in the past the Council did not accept citizen comments on business that was listed on the agenda. She said this is a way to keep things moving and not let things get held up on topics that are not required to have a public hearing. She said we can take public comments on anything we want and there are ordinances on land use decisions that require public hearings. She explained past practice of this language being on the form people fill out to provide comment and the current Mayor Middleton doesn't do this. She said during the recent Walmart discussions the Mayor moved citizen comments because the Council wasn't getting any business done and he has not moved them back. She said this is one example of power the Mayor has. She gave an example of receiving general public comments and receiving public hearing comments.

Ms. Vordermark asked if it made a difference to state the comments needed to be at the beginning of a meeting.

Mr. Shannon gave the example of an ordinance which passes laws and requires a public hearing and a resolution, which is more of the administration of the City does not. He shared an example of a request he made to move business on an agenda to allow for comments and the Mayor moved the business. Mr. Shannon said the Mayor did not have to do this. Discussion followed regarding what requires a public hearing and prior business of the Council where public comments were not received and what the concerns were.

Mr. Silverforb stated he believes Mr. Shannon has valid points but does not agree with them. He said we all could come up with cases at one time or another where we were unhappy with the fact that public comment was not taken and said you can't please all the people all of the time. He said he would like to leave it so that the power be with the Mayor and the Council to decide when they want to have public comment. Mr. Shannon said he can accept this and may take the opportunity to provide comments when the Council discusses their rules next January.

Comments were received and it was clarified that the committee was in agreement of proposing the Council would take public comments but the committee was not indicating when. Additional questions and comments were received regarding past events.

Ms. Kuiper asked regarding resolutions and requirements of the law to provide comments or if this was part of the charter and can be changed. Mr. Shannon replied it's not required and Ms. Henderson said public testimony isn't required at all. The City Recorder added public testimony is required by law for land use matters and said the reference in the Charter to ordinances and resolutions does not indicate the requirement of receiving public comments and suggested a future opportunity for the committee to consider when they address these sections of the charter.

Ms. Henderson commented regarding the public having other opportunities to provide comments to the Council prior to a meeting, via email, in writing or conversation and not needing to wait for a meeting. City

Manager Gall commented regarding recent business of the Council with a desire being voiced to move a resolution to allow public comments.

Vice Chair Shannon addressed the next business item.

The Committee addressed the ballot title for Positions and it was suggested under the Caption, prior to the word positions to insert the word "Council", likewise under the Question to insert "Council". The City Recorder commented that the position numbers refer to Councilors as the Mayor does not have a position number and suggested inserting the word "councilor". No objections or comments were received.

Discussion occurred regarding language in the 3rd paragraph of the Summary and the reference to the May election and it was suggested to include language indicating which election is being referred too, the current May 2014 election or the prior May 2005 election. Alternative language was suggested as:

The proposed revision removes "by position" language adopted in May 2005 and reverts to an election process that existed prior to the May 2005 election. The current process assigns position numbers to councilors thereby requiring a candidate to file for a particular position.

Discussion occurred regarding the last paragraph in the Summary and amending the language to clarify. The committee referred to language in the West Linn Charter.

The City Recorder informed the committee the ballot titles were a very rough draft and per City Code the City Attorney must draft the ballot titles and explanatory statements. She explained the timeline the committee was working under and the next scheduled meeting with the City Council to review the committee's recommendations. Discussion followed regarding alternative language in the 4th paragraph of the summary with reference made to West Linn and removing language in the 2nd paragraph to allow for more text in the 4th paragraph.

Vice Chair Shannon said he did not believe the committee could word-smith the ballot title tonight and appreciated the work already done and said the committee would have another opportunity at the work session with the Council to comment on the language.

Vice Chair Shannon addressed the ballot title for Council Rules and Public Comments and said they were looking at addressing Section 10 of the Charter and removing the provision that the Council must adopt rules for its meeting and the committee would add language of, "in January after each general election". He said they also looked at language requiring the Council to take public comment. He asked the committee to review the draft ballot title and provide comments. Ms. Kuiper asked regarding technical edits and the City Recorder replied the City Attorney would oversee the technical edits.

Vice Chair Shannon addressed the ballot title for Term Limits and said the committee looked at the changes they proposed and outlined the areas they are looking to change and trying to ensure the public is clear on the effect. He suggested in the Caption to insert the word "Councilor" before the text of term limits.

Mr. Hoffbuhr suggested in the 2nd paragraph, 2nd sentence removing the word "limit" after term as there are no term limits for the Mayor. The sentence would read: "The Mayor's term shall remain as is, with no limits specified." Discussion followed to amend the language in the 5th paragraph to read: *"The proposed revision establishes councilor term limits to 3 consecutive terms, cleans up language pertaining to the mayor, retains mayoral term as is, and adds clarification language to terms for elected officials."*

Vice Chair Shannon addressed the ballot title for Vacancies and Filling Vacancies.

Mr. Silverforb addressed in the 4th paragraph in the Summary and said if the intent of the Council is to appoint a replacement within 45 days, he believes the last words of "within 45 days" would be better placed to read: "or by appointment of the majority of the Council within 45 days if less than 13 months remain."

Ms. Kuiper referred to the 2nd paragraph in the Summary which begins with the language of, "by adding" and asked if this was supposed to be part of the 1st sentence. Discussion followed including the format of the remaining paragraphs and it was suggested to remove the word "by" in the 2nd paragraph and incorporating the first and second paragraphs into one and formatting the remainder of the Summary language to be in bullet form with each paragraph being an action item.

The City Recorder asked regarding the ballot titles for Council Rules and Public Comment and if there were any amendments.

Mr. Stecher referred to the last sentence in the last paragraph of the Summary and adding the word "Council" before the word "meeting." Discussion followed regarding the language in the last paragraph pertaining to the receipt of public comments. The committee suggested amending the text to read: *"requires an opportunity for public comment at each regular Council meeting."*

Vice Chair Shannon stated he did not believe the amendments required a motion for approval and it's directing staff to amend. He reminded the committee of their next meeting, a work session with the City Council on February 25th at 6:30 pm.

Mr. Shannon stated the committee was open to receive public comment. No one came forward.

Mr. Harbick asked if the committee would be meeting on Thursday February 27th. The City Recorder explained the options before the committee as: if the February 25th meeting was a City Council work session with the committee attending the work session this would allow for the public notice to indicate a Council work session and if the Council chose at the end of the work session to adopt the ballot titles, they would convene to a regular Council session, hold a public hearing and adopt the resolutions for the ballot titles. She explained the alternative of the committee holding another meeting, dual public noticing for both meeting and the timing needed for the Council to adopt the ballot titles. The committee decided to meet in a City Council work session allowing for the Council to convene a regular session.

City Manager Gall informed the committee that Attorney Ed Sullivan would be providing legal counsel for the work performed by the committee. Discussion followed regarding the explanatory statements and legal counsel reviewing these as well for consideration of adoption. The City Recorder explained the documents she would prepare for the Council meeting packet on February 25th.

7. Adjourn:

Vice Chair Shannon adjourned the meeting at 7:55 pm.

Sylvia Murphy, MMC, City Recorder

Neil Shannon, Vice Chair

April 17, 2014 Charter Review Comm.
Date Gov. Body

Staff Provided B
Agenda Item Exhibit #
Document,

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 cityCity, 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) 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).

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 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.

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 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
April 17, 2014

Regular Session

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

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

4. Approval of February 20, 2014 Meeting Minutes

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

5. Public Comments

No one came forward.

6. Charter Review Committee Discussion

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Chair Allen asked for other general committee discussion.

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

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

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

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


With no other business, Chair Allen adjourned.

7. Adjourn:

Chair Allen adjourned the meeting at 7:29 pm.



Sylvia Murphy, MMC, City Recorder



Patrick Allen, Chair