



*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 April 17, 2014 Meeting Minutes
- 4. Public Comments**
- 5. Committee Discussion**
  - A. Appointment Authority (Chapter II-Powers, Section 6-Distribution)
  - B. Control of the Order of Business (Chapter III-Council, Section 8-Mayor)
  - C. The need for Public Hearings (Chapter IV-Legislative Authority)
  - D. Mayor Veto Power (Chapter IV-Legislative Authority)
  - E. Section 33 and 34.b Hiring and Firing restriction for City Manager and City Recorder (Chapter VIII-Appointive Officers)
  - F. Language referencing Employment Contracts (Chapter VIII-Appointive Officers)
  - G. Section 33.i Removal from Council for interfering in Operations (Chapter VIII-Appointive Officers)
  - H. Rules and mechanism related to merit system and other employment terms and issues (Chapter IX)
  - I. Committee discussion future meeting dates
- 6. Public Comments**
- 7. Adjourn**

## **AGENDA**

**Charter Review Committee  
May 1, 2014**

**6:30 pm Regular Meeting**

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



Sherwood City Charter Review Committee Meeting Date:

*May 1, 2014*  
*pg 1 of 1*

# ATTENDANCE SHEET

**NAME**

**ADDRESS**

**PHONE**

NAME	ADDRESS	PHONE



**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 15<sup>th</sup>.

May 1, 2014  
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Charter Review Comm.  
Gov. Body

3.A  
Agenda Item

A  
Exhibit #

She explained the Council's meeting schedule and said the committee's recommendations would be in the August 5<sup>th</sup> Council meeting packet, and if the materials were not ready for the August 5<sup>th</sup> 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 5<sup>th</sup> meeting, this would need to occur within the last two weeks in July. She said the Council meets on July 15<sup>th</sup> 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 15<sup>th</sup>.

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 15<sup>th</sup>.

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 1<sup>st</sup> and Thursday May 22<sup>nd</sup> 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 5<sup>th</sup> and said maybe hold the 19<sup>th</sup> just in case.

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

Chair Allen asked for member availability for July 3<sup>rd</sup>, comments were received with some members being out of town. He said July 10<sup>th</sup> 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 15<sup>th</sup>. He asked for availability for July 10<sup>th</sup>, one member indicated she was not available.

Chair Allen stated July 10<sup>th</sup> 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 5<sup>th</sup> 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.

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Sylvia Murphy, MMC, City Recorder

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Patrick Allen, Chair

May 1, 2014  
Date

Charter Review Comm.  
Gov. Body

5-Comm. Discussion  
Agenda Item

B  
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) 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 <sup>and removal</sup> 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.

Sherwood Charter Review Committee-Proposed Meeting Dates for November 2014 Ballot Measures

													Last Comm. Mtg	Wk Sess. W. Council	
	1-May	8-May	15-May	22-May	29-May		5-Jun	12-Jun	19-Jun	26-Jun		3-Jul	10-Jul	15-Jul	Notes:
Pat Allen															
Neil Shannon	Y	Y	Y	Y	Y		Y	Y	Y	Y		Y	Y	Y	
Beth Cooke	N	Y	Y	N	Y @7PM		Y	Y	Y	Y		N	N	Y	
Jack Hoffbuhr	Y	Y	Y	Y	Y		Y	Y	Y	Y		Y	Y	Y	
Brian Stecher	Y	Y	N	Y	Y		Y	Y	Y	Y		Y	Y	Y	
Jennifer Kuiper	N	N	Y	Y	Y		N	N	Y	Y		N	MAYBE	MAYBE	
Alyse Vordermark	Y	Y	Y	Y	Y		Y	MAYBE	Y	Y		N	Y	Y	Prefer not to meet on June 12, but can if needed
Charlie Harbick	Y														
Bob Silverforb	Y	N	N	Y	Y		Y	N	Y	Y		Y	Y	Y	
Quorum Confirmed	Y	Y	Y	Y	Y		Y	N	Y	Y		N	Y	Y	

May 1, 2014  
Date

Charter Review Comm.  
Gov. Body

5.I, Mtg. Dates  
Agenda Item

C  
Exhibit #

# Approved Minutes



*Home of the Tualatin River National Wildlife Refuge*

**SHERWOOD CHARTER REVIEW COMMITTEE**  
**22560 SW Pine St., Sherwood, Or**  
**May 1, 2014**

**Regular Session**

- 1. Call to Order:** Chair Pat Allen called the meeting to order at 6:35 pm.
- 2. Committee Members Present:** Chair Pat Allen, Budget Committee Representative Vice Chair Neil Shannon, Library Advisory Board Representative Jack Hoffbuhr, Cultural Arts Commission Representative Alyse Vordermark, Parks Advisory Board Representative Brian Stecher and Citizen at Large Bob Silverforb. Alternate Citizen at Large Renee Brouse was present. SURPAC Representative Charlie Harbick, Planning Commission Representative Beth Cooke and Citizen at Large Jennifer Kuiper were absent.
- 3. Staff and Council Liaison Present:** City Recorder Sylvia Murphy, City Manager Joseph Gall arrived at 7:00 pm, and City Council Liaison Linda Henderson arrived at 7:15 pm.

Chair Allen addressed the draft April 17, 2014 meeting minutes (see record, Exhibit A) and asked for amendments or a motion to approve.

**4. Approval of April 17, 2014 Meeting Minutes**

**MOTION: From Neil Shannon to adopt the April 17, 2014 meeting minutes, seconded by Jack Hoffbuhr. Motion passed 6:0, all present members voted in favor. (Charlie Harbick, Jennifer Kuiper and Beth Cooke were absent).**

**5. Public Comments**

No one came forward. The committee discussed the lack of public involvement and methods of communications they can use to generate interest. Comments were received regarding committee members using facebook to inform the public. Discussion followed regarding people needing to have a personal involvement in issues to generate interest and attendance. Comments were received regarding the May Ballot Measures and seeing if the results indicate the level of public interest. Discussion followed regarding public attendance at other City board & commission meetings.

**6. Charter Review Committee Discussion**

Chair Allen recapped the meeting agenda topics.

**A. Appointive Authority, Chapter II-Powers, Section 6-Distribution**

**B. Control of the Order of Business, Chapter III-Council, Section 8-Mayor and who sets the Council agenda**

- C. Public Hearings, Chapter IV-Legislative Authority, Mayor's Veto Power
- D. Sections 33 and Section 34, Chapter VIII-Appointive Officers, hiring and firing restrictions for the City Manager and City Recorder
- E. Language referencing employment contracts, Chapter VIII-Appointive Officers
- F. Section 33.i Removal from Council for interfering in operations, Chapter VIII-Appointive Officers
- G. Language regarding merit system and other employment terms and issues, Chapter IX
- H. Future Committee meeting dates

Chair Allen addressed item A, Chapter II, Section 6 Appointment Authority and referred to Exhibit B (see record) and the language of, "*the council appoints members of commissions, board and committees established by ordinance or resolution*". He said the committee placed this on the agenda as there has been issues within the last few months. He asked if this language was sufficient or if more structure was needed.

Discussion followed regarding what the issues have been, appointments to City boards, as well as appointments to regional and county committees. The committee asked regarding the Council recently adopting amended Council Rules. The City Recorder explained the Council adopted amended Council Rules indicating appointments would be made via resolution with the consent of the Council. Discussion followed regarding the committee considering adopting the language the Council adopted as a charter provision.

Chair Allen asked if the committee was comfortable having the City Recorder add the adopted language in the redlined version for the committee to discuss. No objections were received.

Ms. Vordermark asked regarding the language for City committees indicating the Mayor appointing commission members. The City Recorder explained there has been inconsistency with processes and language and said there is municipal code language for Planning Commission, the Parks Board and the Library Board, and said there is not code language for Cultural Arts or SURPAC. She said language exists in some areas stating the mayor will appoint. She explained past practice of applications being received, and interviews held with the Chair, staff liaison and Council liaison and the interview panel forwarding a recommendation to the Mayor who sets the agenda. She said the resolution would then come before the full council scheduled on the agenda. Ms. Murphy stated the language stating the "Mayor will appoint" has been misunderstood as the appointment process is not spelled out.

Ms. Vordermark asked if language is indicated in the Charter, do the boards and commissions now need to look at their code language indicating the appointments are made by the council as reflected in the Charter? Ms. Murphy stated staff has discussed the inconsistency of the language in the Charter, Council Rules and Code and said once changes are made potentially in the Charter and Council Rules, staff will be looking at the municipal code to ensure consistency. Discussion followed regarding the Council being the final authority to make appointments.

Chair Allen stated the committee will look at the language adopted by the Council in the Council Rules and see if the committee wants to mirror that language as charter language.

**Chair Allen addressed Item B, control of the Order of Business, Chapter III, Section 8**, and read, "*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*".

Chair Allen referred to the language of *"determines the order of business under council rules"*. He said the idea was to talk about the notion of the mayor having unilateral authority to control the agenda and asked if the committee is fine with this or do they want to consider some ability, if a majority of the Council wants to cause an issue to come up before the Council, do they have the ability to do that.

Mr. Hoffbuhr asked regarding the Council recently adopting changes to the Council Rules regarding this. Ms. Murphy stated the Rules were changed to indicate the Mayor and Council President would set agendas. She stated there was an amendment as the original language as proposed indicated the Mayor, Council President and City Manager would meet to set the agenda and the amendment was made the night of adoption to remove the reference to the City Manager. Discussion followed regarding Council Rules and they being followed by the Council and rules not taking authority away when granted in the charter.

Chair Allen stated he is bothered by the notion that the majority of the Council cannot cause something to come before the Council if that's what the majority of the Council wants. The City Recorder explained they can and said that process recently occurred with amendments to the agenda made by the Mayor within a day of a meeting and the Council by motion and a majority vote, motioned to add items back on the agenda. She said the Council can by action of a majority request or conduct business. Discussion followed that the charter does not indicate this, and it's Robert's Rules that does, and Robert's Rules would apply when the charter does not specify. Comments were received that the language is authoritarian and being more civil in bringing business to the Council even if someone is against it. Discussion followed regarding charter language superseding Robert's Rules and the process of a majority of an elected body being able to make a decision is a Robert's Rule.

Ms. Vordermark asked if it was reasonable to remove this language and rely on Council rules.

The City Recorder informed the committee that the language of *"determines the order of business under council Rules"* indicates the Order of Business, being Pledge of Allegiance, Roll Call, Consent Agenda etc. and these are standard items listed on an agenda and are considered the "order of business" and not actual Council business items. Ms. Murphy stated the Council recently discussed revisions to their rules and gave the example of Citizen Comments being listed as an order of business and the Council having the flexibility to determine the order of business on an agenda.

Chair Allen asked how does business get on an agenda. The City Recorder explained the current unwritten process as, the Mayor meets with staff, (the City Manager, City Recorder and Assistant City Manager) weekly and reviews the business that staff schedules on an Agenda Forecast. She said the Agenda Forecast is a shared document amongst all management staff that is a 6 month forecast and when the Mayor meets with staff weekly he determines the business as recommended by staff and sets the Council business agenda. She explained the Mayor asks for work sessions if more information is needed or moves business to a future date if more information is needed. She said the business comes before the Council through the Mayor.

Ms. Murphy explained when Mayor Middleton took office he chose to have an additional Council member with him, the Council President, in the weekly meetings. She said prior to Mayor Middleton this was not the practice, it was solely the Mayor that met with staff.

Chair Allen stated he had a suggestion and said the Order of Business language seems fine as it is and believes the committee should consider adding language of, *"A majority of the Council may cause an item to be added to the agenda of any meeting or to the agenda of a future meeting if needed to meet requirements for public notice"*. He said if four councilors wanted to bring up an issue they can add it to that



agenda or if it was something that required notice, they can cause it to be added to a future agenda. Comments were received that this would establish clarity. Chair Allen said whatever the unwritten process is, the unwritten process can't be used to bottle something up and this is his concern. He said this manner allows for a majority of the Council and not any one person. Committee comments were received in support that this adds value.

Mr. Hoffbuhr stated we aren't stating how the agenda is set and doesn't know if it's important to indicate this in the charter. He commented regarding the Order of Business and the unwritten process that is currently in place, he said he is not sure where that language should be. He said setting the agenda is fairly important and can determine the tone of a meeting.

Chair Allen replied the language he suggested probably fits better in Section 7-Council rather than Section 8-Mayor. He suggested the committee look at this language in the redline version and look at if we want to capture language procedurally for setting the agenda. He said as long as we have a safety valve that a majority can get something on the agenda, it almost doesn't matter how the agenda gets set.

Mr. Stecher asked if the Council Rules speak to setting the agenda. The City Recorder replied the recent amendment to the rules specified the Mayor and Council President would set the agenda but the process is not noted in detail. Chair Allen replied two is better than one, but these two can forth will a majority.

**Chair Allen addressed Item C, the need for public hearings, Chapter IV-Legislative Authority** and asked staff if research was being gathered on this topic. Ms. Murphy replied she did not recall.

Chair Allen said this is the question of; the language does not indicate when a public hearing is required. He said land use is covered by state law and it requires a public hearing, and ordinances and resolutions under the City charter do not have public hearing requirements.

Ms. Vordermark asked if land use was the only area that required public hearings. The City Recorder replied she believes the budget process requires public hearings as does raising of fees or taxes. Comments were received regarding adding language requiring public hearings. Chair Allen referred to Section 16-Ordinance Adoption, subsection (a) language of, *"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"*. He suggested adding language at the end of the sentence of, *"and after conducting a public hearing"*.

Ms. Vordermark asked how many ordinances are adopted every year. Ms. Murphy replied about 12-15 potential ordinances per calendar year. She explained the language referred to by Chair Allen is one reading of an ordinance. She said many jurisdictions in the state have a process of two readings of an ordinance, reading the title and having the ordinance available at one Council meeting and holding a public hearing and bringing the ordinance back at a second meeting for consideration of adoption. She said the language in the charter references a 7 day period, and when there is an ordinance on the agenda, she must publically post the agenda 7 days prior to a meeting so the public is aware and she must make the ordinance available if requested, even if the ordinance is in draft form.

Ms. Vordermark asked Mr. Shannon if this is something that he had spoken of before. Mr. Shannon replied he has a strong advocacy of allowing the citizens make the Council approachable. He said ordinances are laws that affect the entire City and believes if people have an issue they want to speak of they should have that opportunity. He said resolutions are basically how we conduct business and gave an example of appointing someone or signing a contract. He said ordinances are enforceable by law and there should be an opportunity to be heard. Discussion followed with the process of the City Recorder providing an

ordinance to the public if requested, even in draft form and the Council generally receiving their complete meeting packets on Wednesday or Thursday prior to a Tuesday meeting.

Mr. Silverforb asked regarding the 7 day period and what is provided in the ordinance. The City Recorder explained the ordinance is usually in draft form, marked draft, it has not been formatted nor a legislative number assigned. She said the language usually stated the general subject and the draft document may still be under legal counsel review.

Chair Allen stated he would be interested in looking at language that would cause Section 16.a to read, *“adoption of an ordinance requires approval by a majority of the council at one meeting provided that the proposed ordinance is available in writing to the public at least one week before the meeting, and further provided the council has conducted at least one public hearing on the matter”*.

Mr. Hoffbuhr replied he liked this and said he was more accustomed to the process where a title is published at one meeting and there is a public hearing and it is voted upon at the next meeting.

Chair Allen said what he is proposing would not change the timeline, the 7 day can still be done and a hearing can be held.

Mr. Stecher commented regarding the ordinance being a law and believes a smooth ordinance needs to be available to the public prior to the public hearing by a day or two. He said people should be able to come to a meeting and know what they are commenting on. Discussion followed regarding the 7 day posting and Mr. Stecher stated he did not believe this would be acceptable as the City Recorder is posting a draft document and he is not comfortable with this as lawyers change things. He said he would rather see it in a smooth, completed format after legal review and ready to go to a vote. He said this may slow it down, but ordinances are important.

Chair Allen stated when the ordinance gets posted in draft form, the only thing that changes it would be council action at the meeting where it is being considered. Chair Allen clarified what the City Recorder stated and said it can be changed substantially between the time it is posted and the time the Council considers it. The City Recorder clarified and said she doesn't "post" the draft ordinance, it is made available to her from staff and because of the language in the charter she must have the ordinance available to the public, if requested, 7 days in advance of the Council meeting, she confirmed it may not be a final document.

Chair Allen shared information on the land use process where the actual staff recommendation and report are provided and are posted 7 days before the commission takes up the business. He said the commission may change it, but there is something for the public to see. He asked the committee what practical challenges they saw if this was the standard for the Council when dealing with ordinances.

The City Recorder replied if ordinances needed to be adopted immediately, there is a provision where the Council by emergency can adopt an ordinance and this process usually has legal review. Discussion followed regarding the use of "emergency clause language" and how often this is done by the Council and the Council and or legal being the judge of what is considered an emergency.

City Manager Gall informed the committee that many jurisdictions have two readings of ordinances and said the first reading allows for modifications and then bringing the ordinance back at a second reading, he said this slows down the process and requires two Council meetings to enact laws. He said they can waive this if it is an emergency. He shared his experiences in the City of Fairview and offered to bring back example language from other charters. He said this would be a major shift for Sherwood, but many

jurisdictions have two readings. Discussion followed that a two reading process was a fairer process and a strong consideration.

City Manager Gall offered to bring back sample language from other jurisdictions and Chair Allen suggested bringing back two different ideas; 1) a first and second reading process and 2) stronger language of what gets put out to the public 7 days ahead and if it is the actual ordinance. He said personally he doesn't believe the council needs to read it twice, as long as the public has a reasonable period of time to see the actual ordinance that is being considered.

The City Record suggested language that all ordinances are required to have a public hearing and if additional procedures or timing language is needed it be spelled out in the charter or elsewhere. Comments were received regarding ordinances being laws and the public having an opportunity to provide comments and the method in which this can be done.

Chair Allen stated we know we want to have a public hearing requirement and we want to see example language of what people are able to see, whether it be two readings or notice language.

**Chair Allen addressed item D, Mayor Veto Power, Chapter IV-Legislative Authority.**

Mr. Hoffbuhr stated if we put the process in place so the public has an opportunity, he did not believe the mayor needed veto authority. Discussion followed regarding the mayor opposing a resolution or an ordinance and it having to pass by a majority.

Ms. Vordermark stated she was okay with leaving the language in and said it's another check and balance and explained.

Chair Allen said it provides a platform for the mayor to send a political message about the strength of his/her feelings about a particular issue and makes the Council consider the legislation again. Comments from the committee were received to leave the language as is.

**Chair Allen addressed item E, Sections 33 and 34.b, Hiring and Firing restrictions for the City Manager and City Recorder, Chapter VIII-Appointive Officers.** He read, "*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*". He said the language indicated the appointment must be made without regard to these, and said but evidentially the firing can be made in regards to these. He said he believes this is grammatical and suggested language of, "*the appointment or removal*" must be made without regard to political considerations". Comments were received regarding the removal of the City Manager being for other than political consideration reasons, and the example of for cause of embezzlement was mentioned.

Chair Allen confirmed the addition of "removal" language with the committee for Sections 33 and 34.b of the City Manager and City Recorder.

Mr. Shannon referred to Section 33.c and residency requirements for the City Manager. Discussion followed on the commonality in the region. Mr. Gall stated there are charters that have language "encouraging" residency. Comments were received and examples given from other jurisdictions that residency requirements could discourage City Manager candidates as candidates may not want to move their families. The committee agreed not to amend this section.

**Chair Allen addressed Item F, Language referencing employment contracts, Chapter VIII-Appointive Officers.** Chair Allen said the notion was there is not language that envisions there being an employment

contract and asked if there needs to be. He noted Council Liaison Henderson brought forward the topic and asked if she thought there should be language of, *"the council may execute an employment contract with appointive officials"* or something like this? He stated for City Manager, City Recorder, Attorney and Judge?

Chair Allen reminded Ms. Henderson she mentioned at the previous Charter Review Committee meeting that there is not language pertaining to employment contracts and if dismissed for cause, what the remedies and such would be.

City Manager Gall informed the committee that he and the City Recorder have contracts and said the City did not have a contract with the City Attorney's office that he could find and said we have used the same firm for many years. The City Recorder confirmed the City does have a contract for the City Attorney.

Mr. Gall said the City did not have a contract for the Judge, that he was aware of, and said the Judge is appointed by resolution. Discussion followed regarding the contract being an employment contract or a contract for services and Chair Allen stated it could be either. City Manager Gall stated the City Manager and City Recorder have individual contracts and the contract with the City Attorney's office, is with a firm.

Chair Allen stated this may have created an opportunity for confusion and said the language reads like the City Manager and City Recorder language, in a singular person context.

Chair Allen suggested language after the first sentence in **Section 35-City Attorney**, "The office of city attorney is established as the chief legal officer of the city government. *The City attorney may be a direct employee of the council or the services may be provided to the City by a firm under a contract adopted by the council*".

Mr. Hoffbuhr replied the current language assumes it is an employee. City Manager Gall informed of criticisms received at the City in regards to a "contract attorney" and criticisms of violating the charter. He said if the charter had this clarity this would not be an outstanding question.

Chair Allen asked if the committee thinks the City attorney should be a City employee as opposed to a contracted firm. Discussion followed with the City having multiple attorney's and Mr. Gall explained Beery Elsner and Hammond provide the basic legal work and said we have a separate labor attorney and a separate bond attorney. Chair Allen replied neither of these attorney's carry the charter authority of the City attorney, Mr. Gall confirmed this was correct.

Mr. Silverforb replied depending on other situations that might arise you might want to use other attorneys in the office. Mr. Gall stated there are other cities that have in house legal staff that still use outside firms.

Mr. Gall offered to bring back examples of language for the committee's consideration. Chair Allen stated the current language is poor language as it is.

Mr. Shannon referred to the confusion in the charter language of, *"the attorney must appoint and supervise, and may remove any office employee"*.

The City Recorder informed the committee the Municipal Code refers to the Judge and Hearings officer being appointed by the Council. Discussion followed with the current situation of having a Municipal Judge and two pro tem judges appointed by the Council.

Chair Allen stated the Judge section is extensive and a Hearings Officer section could be more limited. Discussion followed regarding whether or not the City had a contract with a hearings officer and if the City usually uses the same person.

Chair Allen referred to the language in the City attorney section and said it is not clear in the language what the City attorney does. He asked staff to bring back examples of language including language of using a firm under contract authorized by the Council. Mr. Gall stated he believes either/or language is important, Chair Allen agreed. Mr. Gall commented that the cities of Wilsonville, Tualatin and Newberg all have in house attorney's.

Chair Allen recapped and said, the committee wants better City Attorney language that includes the ability to do contracted services, we want to see language regarding a Hearings Officer, and language with flexibility to do contracted services on the Municipal Court Judge. He confirmed with the committee this directive to staff.

Mr. Hoffbuhr asked regarding employment contracts and asked Council Liaison Henderson if she had comments with respect to employment contracts for the City Manager and City Recorder or any other position listed.

Ms. Henderson said she believes if the charter is being amended to keep the language flexible. She stated in many municipalities, the City Recorder doesn't report to the Council, the City Recorder reports to the City Manager. She said she likes it the way it is, but most don't have this situation.

Chair Allen replied in terms of flexibility, not having contracts referenced in the charter is the most flexible, allows the flexibility to have an at-will employee. He confirmed to leave this section un-amended with the possibility of readdressing it later.

**Chair Allen addressed Item H, rules and mechanisms related to merit system, Section 37-Compensation and Section 38-Merit System.**

Council Liaison Henderson addressed the language of, *"The council must authorize the compensation of city appointive officers and employees as part of its approval of the annual city budget"*. She gave the example of the Council having an employee such as the attorney, she said the Council doesn't do this, the Council reviews them once a year and makes a recommendation for salary adjustments. She referred to the second sentence in that section, that reads, *"The mayor and councilors may be reimbursed for actual expenses"*. She said she doesn't know why this sentence is in there and believes it would be covered under Council Rules or under Council and not under compensation as the Council is not personnel.

She said the second sentence is important, but doesn't believe it belongs in this section.

Chair Allen stated discussion on provisions related to compensation of councilors or a prohibition on it without a vote, is discussion the committee has scheduled on a future agenda. He suggested flagging this section to discuss at that time. Comments were received to consider the language be added to Chapter III.

Mr. Silverforb commented the language is probably in this section because the subject of compensation or merit increases are considered personnel or human resources and if you move it and there is no language in this section, the section is not needed.

Chair Allen commented regarding what the City does or doesn't do in terms of compensation of employees, and said this might be a question for legal counsel, does the adoption of a budget, which is developed with the compensation rates of each City employee, and the budget is adopted by the Council, does that constitute fulfilling this. He said he suspects it does, but it may not be specific enough.

City Manager Gall stated the proposed budget that the budget committee and the Council adopts includes proposed salaries for appointive officers based on contract. Discussion followed regarding the current

language of “and employee” being a concern. Discussion followed regarding the budget process, collective bargaining discussions, and a salary schedule being part of the budget document.

Chair Allen suggested getting legal advice on this language and if the Council’s adoption of the budget encompasses compensation satisfies this.

Mr. Stecher stated he would like to see less language here as this is the City Manager’s job and the City Manager should be the one to dictate the terms of employment, with the exception of the City Recorder, the Judge and City Attorney.

Ms. Henderson stated she did not know why the language was in the charter and said unless you want to reference labor.

Chair Allen said he agreed with Mr. Stecher and suggested leaving the language as is unless they have to absolutely touch it, he said he fears if this is on a ballot the argument could be on a completely different topic. City Manager Gall stated it may be language from the model charter that has not been an issue.

**Chair Allen addressed the next item, Section 33.i, the removal from the Council for interfering in operations, Chapter VIII.** Chair Allen read the language as, *“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 provision 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”*. Chair Allen said his concern is the middle sentence.

City Manager Gall said this is unique language and he has not seen this in other charters.

Chair Allen said the first sentence, to the point made by Mr. Stecher, is the way it should be. He asked the committee for their thoughts on removing the language of, *“Violation of this provision is grounds for removal from office by a majority of the council after a public hearing”*.

City Manager Gall stated part of the argument is, if a member of the Council is coercing the manager or interfering, that would be a public issue and this is why you have recalls. He said to have a majority of the Council remove an elected officials seems strong to him.

Mr. Shannon commented regarding the Council having the authority to remove the City Manager if they thought the manager was susceptible to coercion. Discussion followed regarding influencing and coercing being very different.

Council Liaison Henderson said she believes this language exists because politicians cross the line, not just with the office of the City Manager, but often with employees. She gave an example of the current practice of elected officials communicating directly with the City Manager, rather than contacting an employee. She said she believes this is why the language is there and did not believe it was well written. Discussion followed regarding coercion of the City Manager when an elected likes the administrative decisions of the City Manager.

Chair Allen referred to the language of *“Violation of this provision is grounds for removal from office by a majority of the council after a public hearing”* and suggested considering the removal of the language. No objections were received.

Chair Allen address Item I, the committees future meeting schedule and reviewed a list of proposed meeting dates and member availability, (see record, Exhibit C). Discussion followed and the committee

members decided to tentatively schedule meetings on May 22<sup>nd</sup>, May 29<sup>th</sup>, June 19<sup>th</sup>, June 26<sup>th</sup>. Chair Allen said the committee would also schedule meetings for July 10<sup>th</sup> and July 15<sup>th</sup>, with the July 15<sup>th</sup> meeting being a work session with the City Council.

Chair Allen asked for general committee discussion.


Mr. Shannon asked regarding the committee's discussion of Council compensation. Chair Allen replied it is scheduled on the next meeting agenda. Chair Allen said we would add to that discussion reimbursement of actual expenses.

Mr. Shannon reminded the committee the City Budget Committee meetings will be held this month, and City Manager Gall stated the budget would be released tomorrow and will be available on the City website. Mr. Shannon informed the group that the Sherwood Archer has information regarding links to City budget information.

## 7. Adjourn:

Chair Allen adjourned the meeting at 7:50 pm.

  
Sylvia Murphy, MMC, City Recorder

  
Patrick Allen, Chair