



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 May 22, 2014 Meeting Minutes

4. Public Comments

5. Committee Discussion

- A. Chapter 1-Names and Boundaries, Section 1-Title**
- B. Chapter II-Powers, Section 6-Distribution, Appointment Authority**
- C. Chapter III-Council, Section 8-Mayor, Order of Business**
- D. Chapter IV-Legislative Authority, Section 16 Ordinance Adoption, Public Hearings**
- E. Chapter VIII-Appointive Officers, Section 33-City Manager, items 33.b and 33.i**
- F. Chapter VIII-Appointive Officers, Section 34-City Recorder, item 34.b**
- G. Chapter VIII-Appointive Officers, Language referencing Employment Contracts**
- H. Chapter VIII-Appointive Officers, Section 35-City Attorney**
- I. Chapter IX-Personnel, Section 37-Compensation**
- J. Chapter XI-Miscellaneous Provisions, Section 42-Solid Waste Incinerators**
- K. Chapter XI-Miscellaneous Provisions, Section 47-Time of Effect**
- L. Other General discussion**

6. Public Comments

7. Adjourn

AGENDA

**Charter Review Committee
May 29, 2014**

6:30 pm Regular Meeting

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

Sherwood City Charter Review Committee Meeting Date:

May 29, 2014
PS 181

ATTENDANCE SHEET

NAME

ADDRESS

PHONE

NAME	ADDRESS	PHONE

May 29, 2014
Date

Charter Review Comm.
Gov. Body

Agenda Item

A
Exhibit #



SHERWOOD CHARTER REVIEW COMMITTEE
22560 SW Pine St., Sherwood, Oregon
May 22, 2014

1. **Call to Order:** Chair Pat Allen called the meeting to order at 6:32 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, Planning Commission Representative Beth Cooke and Citizen at Large Jennifer Kuiper. SURPAC Representative Charlie Harbick was absent.
3. **Staff and Council Liaison Present:** City Manager Joseph Gall and City Recorder Sylvia Murphy. City Council Liaison Linda Henderson arrived at 6:50 pm.

Chair Allen addressed the draft May 1, 2014 meeting minutes (see record, Exhibit A) and asked for amendments or a motion to approve. Mr. Silverforb indicated there were a few typo's but did not specify. The City Recorder indicated she would review and make corrections.

4. **Approval of May 1, 2014 Meeting Minutes**

MOTION: From Bob Silverforb to adopt the May 1, 2014 meeting minutes with requested corrections, seconded by Brian Stecher. Motion passed 8:0, all present members voted in favor. (Charlie Harbick was absent).

5. **Public Comments**

No one came forward. The committee discussed the May election results and unofficial passage of all 5 proposed ballot measures amending the Charter. Comments were received regarding the value and importance of clarity in the amendments proposed by the committee.

Chair Allen addressed the agenda and recapped the items for discussion and referred to a track change document provided by the City Recorder, (see record, Exhibit B).

6. **Charter Review Committee Discussion**

A. Chapter VIII-Appointive Officers, Section 35-City Attorney. The Committee discussed the language of the City attorney and the assumption that the office of the City attorney is staffed and the attorney's office hires staff within their own office. The committee discussed the language of being the "chief legal officer" and replacing "officer" with "authority" or "counsel." They agreed to replace "*officer*" with "*counsel*." The committee discussed the language of, "the city attorney *may be* a direct employee" and agreed to change "*may be*" to "*shall be either*." They discussed the remainder of the language and

agreed to amend the sentence to read; *"The office of the city attorney is established as the chief legal counsel of the city government. The city attorney shall be either a direct employee of the council or a firm under contract adopted by the council."*

The committee discussed the following sentence and agreed to amend to read; *"A majority of the council must appoint and may remove the attorney or contracted firm."* They agreed to amend the last sentence to read; *"If the City attorney is a direct employee, the attorney must appoint and supervise and may remove any City attorney office employees."* Discussion followed regarding the employees of the City attorney's office and various scenarios of employment and if the City attorney or a firm has an arm's length relationship with the council and whether or not this is supported. City Manager Gall offered to research and bring back information.

The committee discussed a Hearings Officer and the appointment being made by the council, per the current municipal code. City Manager Gall stated Hearings Officer language generally is not in the charter and is referenced in the code, discussion followed and Mr. Gall offered to research language in other jurisdictions.

Chair Allen addressed Section 37-Compensation. The committee discussed the language and it being more appropriate for Chapter III-Council and the notion that council should not be compensated without a positive vote of the citizens and compensation would not include reimbursement for actual expenses. The committee discussed a new section for Chapter III with language of, *"the mayor and councilors may be reimbursed for actual expenses, no compensation above actual expenses shall be authorized without a prior vote of the citizens."* The committee discussed simple language of "none shall be authorized", and it taking a vote to amend the charter to authorize compensation.

The City Recorder asked if the proposed language would create a new Section 15 or would it be added to Section 7. Comments were received that if added to Section 7-Council the charter would not have to be renumbered. Chair Allen stated the language could read, *"The council consists of a mayor and six councilors nominated and elected from the city. Councilors are not entitled to compensation but may be reimbursed for actual expenses."*

Discussion followed regarding the definition of an "actual expense" and this possibly being established by Council Rules.

Council Liaison Henderson commented regarding her cell phone plan and cost and said she doesn't receive a City reimbursement, although the Mayor does, she said this is not written anywhere. Discussion followed regarding trying to identify expenses and this being a political issue. Language was suggested such as "expenses incurred while representing the council" or "expenses, as established by Council Rules." Discussion followed regarding the council not establishing what the reimbursement is, but establishing rules of what is considered an "actual expenses". The City Recorder offered examples of various types of expenses: mileage, meals, cell phone, training, lodging and parking. She said not all elected officials take the opportunity to submit for reimbursement of these expenses and said it makes it difficult to budget.

Chair Allen said he gets nervous when we talk about moving existing language elsewhere or taking existing language and adding language to it as it gets people wound up about something that is already there and has been working and isn't a problem. He suggested leaving the language in chapter 9 and adding to it to read; *"the mayor and councilors shall not be compensated but may be reimbursed for*

actual expenses". Discussion followed and it was asked if there is a standard understanding of what "actual expenses" are.

The City Recorder informed the committee that staff has discussed through the budget process budgeting a set amount for the expenses of elected officials and any amount exceeding this set figure would be out of pocket for the elected, she stated this conversation has been at the staff level and not at the council level. Discussion followed with examples of ways councilors can be reimbursed.

Chair Allen restated the proposed amendment as, "*the mayor and councilors shall not be compensated but may be reimbursed for actual and reasonable expenses.*" He suggested the language remain in Section 37. Discussion followed. Council Liaison Henderson informed the group that state law prohibits elected officials from voting in compensation for themselves while in office. Discussion followed regarding compensation examples from other cities and City Manager Gall provided an example from the City of West Linn where amounts are specified in the charter. Discussion continued regarding the public fear of elected officials voting themselves compensation and comments were received that the current mayor or councilors would probably not vote themselves compensation, but there is no language to prevent it. Discussion followed and Chair Allen said he would like to protect a future council from making the mistake of thinking it would be a good idea to adopt compensation solely on their own authority. He said he would like to protect the community from the potential malpractice and said the best way to do that is to put language in the charter that it requires a vote. Discussion followed and examples were provided on what the intent of the language could be, to prohibit compensation or specify an amount.

Discussion continued regarding compensation and there being a difference between being paid for your time and being paid for the expenses incurred while providing your time.

Chair Allen restated the proposed amendment as; "*the mayor and councilors shall not be compensated but may be reimbursed for actual and reasonable expenses.*" He asked if the language should remain in Chapter 9 or moved to Chapter 3 and explained he would argue to leave the language in Chapter 9 because the only charter change is actually strengthening the prohibition, and if you move it to Chapter 3 it appears we are authorizing things that are already in the charter.

The committee agreed with the suggestion to amend Chapter 9. Discussion followed regarding the potential language of the ballot title and Chair Allen replied it could be, "*Prohibits Council Compensation, Restricts Expenses*".

Mr. Silverforb asked regarding the current process when elected officials submit an expense. The City Recorder explained the expense comes to her and the City Manager approves all entries into the City's financial system. She stated the expenses are already spent and the City Manager is approving something after the fact. The City Manager explained the use of City purchase cards and his approval after the expenditure has been made.

Ms. Kuiper stated it's not a reimbursable. The City Recorder explained that the process is an unwritten process and provided an example and said the current Mayor is issued a City purchase card and other councilors are not. She stated this is based on past practices of the former Mayor and said the former Mayor also received an \$80 monthly cell phone reimbursement and the current Mayor chooses not to. She explained another example of an expense is for mileage when an elected official attends a county meeting, they are reimbursed. She provided another example of an elected official asking her to

register them for a conference in which she would use her City purchase card for the registration fee, she said these expenditures are approved by the City Manager after the fact.

Mr. Silverforb asked if the City Manager ever sees an expense that is above what is reasonably expected. City Manager Gall shared a recent example of an expenditure he did not approve, not due to the amount, but due to his thoughts that it did not meet the intent of the purpose and it wasn't consistent with past practice. He said it was to attend a fundraiser of an organization outside the City that the City is not a member of. He explained he has spoken with other cities on their practices and the guidelines are in their rules not in their charters. Discussion followed.

Mr. Stecher said he would like to see more in the Council Rules to take pressure off the City Manager. Discussion followed and Council Liaison Henderson spoke of a conversation she had with the City Recorder regarding allowing a set amount for each elected official for various expenses and gave examples of current practices regarding attending events. City Manager Gall provided an example from the City of Tigard where the elected officials see each other's expenses and police themselves.

Mr. Stecher reiterated the Council Rules would be a good place for this and said he is against the charter indicating an amount similar to the West Linn example.

Chair Allen suggested when the committee is done with their work on the charter, maybe the committee could look at the Council Rules and offer advisory recommendations to the council for their January review. The committee agreed.

Chair Allen addressed Section 38-Merit System and Council Liaison Henderson stated the council doesn't do any of this.

Mr. Stecher stated he believes the language should read "City personnel" as he believes this is who is being addressed and said this is what the City Manager was hired to do and asked why is the council being asked to address it. Comments were received that this is language from the model charter.

Ms. Vordermark asked if there is a council resolution stating the City Manager is responsible for this? Discussion followed and it was asked if the City Manager's contract is adopted by resolution, Ms. Henderson replied yes. It was asked if the contract provides that he will do these things, Ms. Henderson replied it's part of his day to day management.

The City Recorder reminded the committee they discussed this language previously, and the adoption of the employee manual. Mr. Hoffbuhr asked if the employee manual is adopted by the council, the City Recorder replied not recently within the last 8 years or so.

Chair Allen asked if there is a problem that needs to be fixed. Mr. Stecher replied he believes the language should be deleted and believes the council should not get the idea that they can select an employee and rate their fitness. Discussion followed.

Chair Allen referred to the language of "rules governing" and said he thinks this is what establishes the system, which the City Manager then executes. He said this is the system and not the individual decisions under the system. He said if he had to make the argument if the council has done this, they have by delegating the authority via the contract of the City Manager.

Discussion followed and Mr. Shannon said he is not sure there is a problem and suspects if the committee attempts to delete the language, an argument on a ballot would be difficult. Comments were received to not amend the section.

Mr. Stecher said he was previously thinking the language allowed the council to reach individuals and said they have a right to weigh in on the City Manager's contract and the employee manual.

Ms. Kuiper commented that if Mr. Stecher read the language as he previously had, who's to say that someone else won't read it that way as well. Discussion followed.

Mr. Stecher said he would be happier with language of "the council shall approve the employee manual." City Manager Gall agreed that the employee manual should come before the council.

Mr. Hoffbuhr stated if you wanted to reference it, language could be added at the end of the section to read, "per the City's employee manual".

Mr. Silverforb and Mr. Shannon suggested not amending the language. The committee agreed.

Council Liaison Henderson suggested when the committee reviews the Council Rules, they could suggest the council follow what is listed in the charter by having some rule that reminds the council to review these policies and procedures as related to the City Manager's daily operations of the City.

Chair Allen addressed Section 43-Willamette River Drinking Water and said this was a charter amendment that was passed in 2001 before we connected to the Willamette River System. He said we had a vote and it passed and asked now that we are drinking Willamette River drinking water do we need this provision. City Manager Gall shared language from the City of Wilsonville charter and asked if language could be added to indicate the City voted to approve the use. Discussion followed and reference was made to state statutes where informational notes are added without amending the statutes. The Committee discussed having the City Recorder add similar notes to the charter.

Mr. Shannon asked, as a clean-up, do we want to suggest deleting the paragraph. Comments were received to not delete the language. Discussion followed and the committee proposed to have the City Recorder add information notes to the display of the charter, and not amend the charter, similar to the language currently in parenthesis; (Approved by voters November 2001). The committee agreed to not amend this section of the charter.

Chair Allen addressed Section 42-Solid Waste Incinerators and general discussion occurred regarding the history and age of the language. City Manager Gall stated the language is old and ORS's have possibly changed and if the committee proposes to eliminate the language and the voters say no, the language remains in the charter. Chair Allen asked what the statute is for solid waste incinerators. Discussion occurred regarding current statutes and the current charter language being from 1990. Comments were received that, whether or not the voters approve an amendment to the charter, nothing changes. City Manager Gall replied the description could state the committee is proposing to remove the language because it is outdated or statutes have changed. Discussion followed.

Chair Allen stated the language is an awful charter provision and said it's a perfectly fine thing to want to prohibit.

Mr. Silverforb commented regarding providing an explanation indicating why the committee wants to remove it and letting the people know why, whether it's outdated, etc. He asked why we would want to keep something in the charter that has no relevance and is outdated.

Chair Allen suggested if the committee wanted to attempt the removal of the language to first find out what the state law is. He said if the committee could make an argument that state law prohibits it, then he could make that argument. Committee members agreed and general discussion followed. City Manager Gall offered to research and Chair Allen stated the committee would come back to this section.

Chair Allen addressed item F on the agenda, things not in the charter but flow from it.

City Manager Gall stated the committee previously asked regarding ordinances and said we currently have a process where ordinances can be approved by the council in one night. He provided examples from the City of Lake Oswego (see record, Exhibit C) where adoption could occur in one night, unless there were substantial amendments. He explained the language from West Linn (see record, Exhibit D) where adoption must occur in two meetings, requiring a first and second reading. He stated West Linn also had language indicating adoption could be done in one night. He said he believes the intent is to provide more public process and more public involvement, where laws are not adopted in one night without the opportunity to amend them or get public comments. Discussion followed and Chair Allen stated the committee would review the examples and continue discussion at their next meeting.

City Manager Gall stated he previously provided the committee information on the Multnomah County Charter and referred to language of how a charter is amended and language pertaining to the creation of a charter review committee every six years. He suggested the committee look at the examples he provided. He commented regarding the formation of a committee every 6-8 years to review the charter. Discussion followed.

Mr. Shannon provided topics of discussion noting he wasn't indicating support or lack of support for the topics. He said he spoke with community members after the budget committee meetings and the thought of whether or not a financial officer, Budget Director or CFO, should be employed by the council rather than the City Manager.

Chair Allen asked what was the argument for that. Mr. Shannon replied it's similar to the City attorney where they are highly required and responsible for the operations of the budget over the entire year and whether or not they should be reporting directly to the council with greater control over the budget. Discussion followed with examples of project management and multiple people touching a project budget, corporations having CFO's and who the CFO reports to, auditors and who they report to.

Mr. Shannon stated the other topic was regarding establishing an ombudsman and whether or not the committee wanted to look at opportunities for the public to appeal, discuss or establish another line of communication to the City administration besides going to the City Council.

Chair Allen said one manner to do that would be to identify the City Clerk as the ombudsman. Mr. Shannon stated another thought was the Hearings Officer or the Judge, who are further removed from administration. Discussion followed regarding the Hearings Officer and or Judge who are always attorneys who provide legal advice, are at arm's length from the City Manager and are not employees of the City Manager and are employees of the Council. City Manager Gall asked regarding the purpose

of the ombudsman and possibly hearing concerns regarding staff and said in this case the Supervisor should be addressed, and if concerns were over the City Manager then the Council should be addressed. Discussion followed with various examples of where ombudsmen are utilized and the function they perform and whether or not it's a charter issue. Chair Allen referred to the charter and the language of the City Recorder and adding language that "the City Clerk shall function as the City ombudsman." Discussion followed and other examples of the ombudsman role were provided. The committee asked why the need for the position and if the position would be a paid or volunteer position.

Comments were received that many people play an ombudsman role, and the committee did not show support for the role in a City of our size. Discussion followed regarding some cities providing mediation services and City Manager Gall stated Beaverton provides this service and explained.

Chair Allen mentioned another topic of discussion was run-offs and said now that the changes have been made to the Council positions, he did not believe a run-off situation makes sense. He referred to Mayoral elections and explained current situations and run-off situations. City Manager Gall provided the example of the City of Beaverton holding a primary election and explained. Discussion followed.

Chair Allen asked for other topics, none were mentioned. The City Recorder asked for a recap of the topics for the next meeting.

Ms. Murphy indicated she had listed:

- Section 35-City Attorney and use of the language of "counsel", instead of "authority" and other amended language
- Section 37-Compensation, adding amended language
- Section 38-Merit System, no changes
- Section 43-Willamette River Drinking Water, no changes to charter language, but adding notes and reference to vote date
- Section 42-Solid Waste Incinerators, staff to research current status of state laws
- Discussion of adoption of ordinances, amendment process and periodic review of Charter

Ms. Murphy indicated as the committee gets closer to concluding their work, they will need to look at Section 1-Title and Section 47-Time of Effect. She confirmed the committee wanted similar color coded discussion notes.

7. Adjourn:

Chair Allen adjourned the meeting at 7:50 pm.

Sylvia Murphy, MMC, City Recorder

Patrick Allen, Chair

Color Code As of May 22, 2014 meeting:

Red: Actual track changes, discussion of committee to amend

Blue: Discussion notes from 5/1 and 5/22 meetings

Green: Seek legal advice

Yellow highlighted text are proposed changes for May ballot

May 29, 2014
Date

Charter Review Comm.
Gov. Body

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.

5/22 The committee was reminded to address this section at the conclusion of their work.

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, subject to the consent of the City Council by resolution, established by ordinance or resolution.

5) Discussion notes: The committee discussed the last sentence in Section 6 as there had been recent issues and discussion at the City Council level pertaining to who appoints and how they are appointed. The City Council discussion resulted in adoption of amendments to Council Rules. The committee agreed to look at amending the charter with similar language adopted by the Council (Res. 2014-024, April 15, 2014).

Color Code As of May 22, 2014 meeting:

Red: Actual track changes, discussion of committee to amend

Blue: Discussion notes from 5/1 and 5/22 meetings

Green: Seek legal advice

Yellow highlighted text are proposed changes for May ballot

Chapter III 3

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.

Discussion notes: The committee discussed language of “determines the order of business under council rules” and the mayor having unilateral authority to control the agenda. They discussed considering some ability of the council if a majority of the council wanted to cause an issue to come before the council.

The committee discussed recent council discussion and amendments to the Council Rules (Res. 2014-024) regarding the Mayor and Council President meeting with staff to set the agendas. They discussed the notion that the council cannot cause something to come before the council if this is the desire of a majority. The committee was informed that a majority of the council can cause something to come before the council or can take action as Robert’s Rules allows for this. Discussion occurred regarding the charter superseding Robert’s Rules and Robert’s Rules applying when the charter is silent.

The committee discussed “Order of business” as indicated in the Council Rules and was informed this language pertained to council procedural business, such as Pledge of Allegiance, Roll Call, Consent Agenda etc.

The committee discussed how business gets scheduled on an agenda and staff explained the unwritten process of the current council, informing that past practice under former mayors was different.

The committee discussed not amending the language pertaining to Order of Business and considered 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.” The committee was supportive of language that added clarity.

The committee discussed the language fitting better in Section 7-Council rather than Section 8-Mayor.

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~~

Color Code As of May 22, 2014 meeting:

Red: Actual track changes, discussion of committee to amend

Blue: Discussion notes from 5/1 and 5/22 meetings

Green: Seek legal advice

Yellow highlighted text are proposed changes for May ballot

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, and after conducting a public hearing.

Discussion notes: The committee discussed the lack of charter language requiring public hearings, the above language in subsection (a) was suggested as well as an amendment to the entire section of:

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.

The committee discussed ordinances being laws and the council should receive public comments. They discussed a process of having two readings of an ordinance to allow time for the public to be informed, they discussed if a two reading process was necessary. They discussed the 7 day period that the ordinance is made available to the public and the current process of the ordinance being in draft form with the potential for significant changes and not being comfortable with providing a draft ordinance.

Color Code As of May 22, 2014 meeting:

Red: Actual track changes, discussion of committee to amend

Blue: Discussion notes from 5/1 and 5/22 meetings

Green: Seek legal advice

Yellow highlighted text are proposed changes for May ballot

The committee agreed to have staff research example of language indicating a two-reading processes and examples of public notice language.

5/22 City Manager Gall provided language examples of 1st and 2nd readings of ordinances from other cities. The committee agreed to review examples and continue discussion of potential amendments at future 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.

The committee discussed Mayor veto power and agreed not to amend the language.

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 5

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

Color Code As of May 22, 2014 meeting:

Red: Actual track changes, discussion of committee to amend

Blue: Discussion notes from 5/1 and 5/22 meetings

Green: Seek legal advice

Yellow highlighted text are proposed changes for May ballot

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 6

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 7

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.

Color Code As of May 22, 2014 meeting:

Red: Actual track changes, discussion of committee to amend

Blue: Discussion notes from 5/1 and 5/22 meetings

Green: Seek legal advice

Yellow highlighted text are proposed changes for May ballot

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,

Color Code As of May 22, 2014 meeting:

Red: Actual track changes, discussion of committee to amend

Blue: Discussion notes from 5/1 and 5/22 meetings

Green: Seek legal advice

Yellow highlighted text are proposed changes for May ballot

(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 8

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 ~~or removal~~ 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.

*Removal may not be based on political considerations
Signed R.P.*

The committee discussed Section 33.b and the language regarding appoint and removal being for the same causes and agreed to add the language of "or removal" to both Section 33-City Manager and Section 34-City Recorder.

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

The committee discussed residency requirements and the commonality in the region, and if residency was required it could discourage a candidate for the City Manager position as the candidate may not be willing to relocate their family. The committee agreed not to amend this section.

(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

Color Code As of May 22, 2014 meeting:

Red: Actual track changes, discussion of committee to amend

Blue: Discussion notes from 5/1 and 5/22 meetings

Green: Seek legal advice

Yellow highlighted text are proposed changes for May ballot

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.

The committee discussed section 33.i, with concerns of, "Violation of this prohibition is grounds for removal from office by a majority of the council after a public hearing." The committee agreed to remove this sentence.

(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~~ ^{or removal} must be made without regard to political considerations and solely on the basis of education and experience.

The committee discussed Section 33.b and the language regarding appoint and removal being for the same causes and agreed to add the language of "or removal" to both Section 33-City Manager and Section 34-City Recorder.

(c) When the recorder is temporarily disabled from acting as recorder or when the office becomes

Color Code As of May 22, 2014 meeting:

Red: Actual track changes, discussion of committee to amend

Blue: Discussion notes from 5/1 and 5/22 meetings

Green: Seek legal advice

Yellow highlighted text are proposed changes for May ballot

5/1 The committee heard feedback from Liaison Henderson regarding the language of “reimbursed for actual expenses” and she suggested that this language was better placed in Chapter III, Council or Council Rules.

5/22 The committee had lengthy discussion regarding compensation and potential amendments to be reflected in Chapter III or a new chapter, a new chapter resulting in renumbering of the charter. They discussed definition of “actual expenses” and possibly utilizing Council Rules to define.

5/22 The committee discussed charter language to prevent council from imposing compensation without a public vote. They discussed current unwritten processes and utilizing Council Rules.

5/22 The committee discussed potential language of the ballot title and it was suggested: *“Prohibits Council Compensation, Restricts Expenses”*.

5/22 They discussed and agreed to review Council Rules after concluding their work on the charter and offering advisory recommendations to the council.

5/22 The committee agreed to review amendments as noted in track changes and revisit at their next meeting.

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.

5/1 The committee discussed less language in this area regarding City employees as this is the responsibility of the City Manager to dictate employment terms. The committee agreed to not amend the language unless they absolutely have to.

5/22 The committee discussed the responsibilities of the City Manager as a contracted employee, responsibilities delegated to the City Manager per the charter, they discussed the adoption of the Employee Manual.

5/22 The committee agreed not to amend.

Chapter X 10

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.

Color Code As of May 22, 2014 meeting:

Red: Actual track changes, discussion of committee to amend

Blue: Discussion notes from 5/1 and 5/22 meetings

Green: Seek legal advice

Yellow highlighted text are proposed changes for May ballot

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 | 1

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)

5/22 The committee discussed the outdated language from 1990 and the relevance of maintaining it. They discussed ORS (Oregon Revised Statutes) and if still valid and current. City Manager Gall offered to research prior to committee considering amendments.

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)

5/22 The committee discussed the history of prior charter amendments and possible clean-up of this section as the language is not reflective of the City's current use of Willamette River water.

5/22 The committee agreed not to amend this section and suggested the City Recorder add information notes displayed on the Charter as noted above in () to include dates.

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.

May 29, 2014
Date

Charter Review Comm.
Gov. Body

Agenda Item

C
Exhibit #

Utility Advisory Board

A Utility Advisory Board is hereby established. The Utility Advisory Board will make recommendations to the City Council concerning water rates, franchise fees and any intended additional fee to be imposed on City residents. These recommendations shall pertain to those legislative matters to be decided by the City Council.

The City Council may not increase water rates more than three percent annually without a vote of the people. The Council may not declare any ordinance or resolution establishing water rates to be an emergency nor use any other means to prevent a vote of the people.

West Lim / OK City

Approved Minutes



Home of the Tualatin River National Wildlife Refuge

SHERWOOD CHARTER REVIEW COMMITTEE

Meeting Minutes

22560 SW Pine St., Sherwood, Oregon

May 29, 2014

- 1. Call to Order:** Vice Chair Neil Shannon called the meeting to order at 6:35 pm.
- 2. Committee Members Present** 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, Citizen at Large Bob Silverforb, Citizen at Large Jennifer Kuiper and SURPAC Representative Charlie Harbick. Chair Pat Allen and Planning Commission Representative Beth Cooke were absent.
- 3. Staff and Council Liaison Present:** City Recorder Sylvia Murphy and City Council Liaison Linda Henderson. City Manager Joe Gall was absent.

Vice Chair Shannon addressed the draft May 22, 2014 meeting minutes (see record, Exhibit A) and asked for amendments or a motion to approve.

Approval of May 22, 2014 Meeting Minutes

MOTION: From Bob Silverforb to adopt the May 22, 2014 meeting minutes, seconded by Jack Hoffbuhr. Motion passed 7:0, all present members voted in favor. (Pat Allen and Beth Cooke were absent).

4. Public Comments

No one came forward.

5. Charter Review Committee Discussion

Vice Chair Shannon addressed the agenda and referred to a City Charter provided by the City Recorder with track changes and discussion notes from the committee's last meeting, (see record, Exhibit B). He said the committee's goal is to review the document and resolve questions, language or issues and clarify any open research items for staff. He suggested the committee look at the areas of the charter where amendments would be proposed and identify logical sections and grouping the language in preparation of ballot measures to try and identify the number of ballot measures.

He addressed Chapter I-Names, Boundaries and Title and referred to a communication from the City Recorder regarding amending the revision dates of the Charter, specifically **Section 1-Title and Section 47-Time of Effect**. Ms. Murphy referred to Section 1 Title and the current reference to 2005 and asked if

the committee wanted to continue to indicate a year or have the language read the "Sherwood City Charter".

Mr. Hoffbuhr indicated the latter suggestion and said the date can be indicated in Section 47.

Vice Chair Shannon asked if the 2005 reference was deleted, if this is something that needs to go before the voters. Ms. Murphy indicated yes. He said this is probably a clean-up issue that we would look at along with other clean-up issues that we can bundle together. He suggested amending Section 1-Title by removing "2005" and considers this as part of the clean-up. No objections were received.

Mr. Shannon referred to **Section 2-Name and Section 3-Boundaries** and stated there were no changes.

He referred to **Section 4-Powers and Section 5-Distribution** with no changes to these sections.

He referred to **Section 6-Distribution** and the track change language of "*subject to consent of the City Council by resolution.*" Discussion followed regarding the intent of the language. It was suggested to add "as" to the end of the proposed language to read, "*subject to the consent of the City Council by resolution, as established by ordinance or resolution.*" No objections were received.

Mr. Shannon referred to **Section 8-Mayor** and recapped the discussion notes and the proposed language of, "*A majority of the council may cause an item to be added to the agenda for any meeting or to the agenda of a future meeting if needed to meet requirements for public notice*". He said currently the Mayor establishes the agenda and this rule would allow the council by a majority to add an item to the agenda. He asked if this was something that was recently added to the Council Rules, and said this would basically codify the language in the charter.

Ms. Kuiper asked what do the Council Rules state. Council Liaison Henderson referred to the Order of Business in the Council Rules and said the language basically states the agenda will be established by the Mayor and the Council President with the assistance of staff and that once an agenda has been published to the public, that amendments cannot be made without consulting the Mayor and the Council President and making sure we have time for adequate 24 hour notice.

Mr. Hoffbuhr stated he thought the question was to leave the language in Section 8 or move it to Section 7.

Mr. Shannon stated he doesn't know if this needs to be codified if the Council is happy in the manner they establish their own rules. He asked the committee if this is language that needs to be added to the charter.

Discussion followed regarding what is specifically in the Council Rules and the fact that the rules can change. Mr. Shannon said it is a question of whether or not there is a concern with someone taking over the Council Rules. Council Liaison Henderson explained the current process of council members adding business to the agenda, scheduling business and the Council following Robert's Rules and a majority of the council being able to make decisions pertaining to an agenda.

Mr. Stecher commented regarding the Council Rules and their review of the rules after every general election and this giving the council the opportunity to setup their own rules to their liking, whether or not they want this sentence in the charter. He said he did not believe it needed to be in the charter.

Mr. Shannon stated he did not see the language adding anything to the charter or the council. Mr. Stecher stated it appears we are bringing up the agenda and Section 7 and 8 do not talk about setting the agenda.

The City Recorder asked if the track change language suggested in Section 8-Mayor is something the committee wants to consider. Mr. Shannon replied he did not believe the committee needed to, as far as

the current attending members, and said we are satisfied with the current language. He stated the committee had good discussion on this section but does not believe they need to continue to track this.

Vice Chair Shannon addressed Chapter IV-Legislative Authority, Section 16-Ordinance Adoption and public hearings. He stated in previous discussions there were a few issues, one being whether or not we would request a public hearing for an ordinance as it currently is not required. He said ordinances carry the power of law. He said the other portion of the discussion was the concept of a first reading done at one council meeting followed by a second reading at a following meeting, and not being able to adopt the ordinance at the first meeting unless it was declared an emergency. He asked for committee comments.

Mr. Hoffbuhr stated he supports the two reading concept as this is what he is most familiar with. He said he thinks it makes sense and stated the City Manager was going to provide examples. He suggested delaying this until they could see examples and said he is in favor of a two reading process. He commented regarding the emergency and said most of the ordinances have caveats in them for an emergency. He said he believes it is cleaner than trying to do a 7 day waiting period as we currently have written in the charter.

Council Liaison Henderson asked if the committees concern is motivated by the fact that ordinances do not require a public hearing? She said only land use requires a public hearing. She commented that the council normally always has a public hearing but this doesn't mean that every council will. She asked if the committee wanted a 1st and 2nd reading or a public hearing?

Mr. Shannon replied he would be in favor of both and explained a 1st and 2nd reading allows for noticing the public, and allows someone to read the meeting agenda and even though they cannot attend, to at least know that something is coming up on the agenda.

Council Liaison Henderson confirmed the process of drafting an ordinance, having a 1st reading and a public hearing and then a 2nd reading that could incorporate public comments or concerns and then adopt.

Mr. Shannon replied he thought more of a 1st reading to put people on notice that the business is coming up and then a public hearing at the 2nd reading. Mr. Hoffbuhr replied this was his thought as well. Ms. Kuiper replied this makes sense.

Mr. Shannon referred to the redlined proposed language and Mr. Hoffbuhr replied he did not believe the text had anything to do with a 1st and 2nd reading, he said the committee spoke of the process and a suggestion was received to have a 1st and 2nd reading and this is when City Manager Gall offered to review language from other cities.

Mr. Shannon said he believes the committee wants to revisit this section. He referred to the proposed amendment to Section 16.a and stated the changes are not bad and said the question of what type of language is needed for a 1st and 2nd reading he is not sure of and will wait for the City Manager to provide information.

Ms. Kuiper pointed out that there were two changes noted in red track changes and said the second section follows the language in Section (a). Mr. Hoffbuhr replied the committee could have another rewrite after they saw information. Mr. Shannon stated the committee would revisit this section and await information from the City Manager.

Ms. Vordermark reminded the committee that the City Manager provided the committee with examples from the City of West Linn and Lake Oswego and said after reading through them neither of the examples

are specific as to what the committee is looking for as far as a 1st and 2nd reading. She said she is not sure if the City Manager has additional information more specific to what the committee is talking about.

The City Recorder noted with the committee's next meeting scheduled in three weeks, this would allow staff time to come back with something other than examples, language that is more concrete as she believes staff understands the committee's intent of a two reading process within a two meeting process with a public hearing at the 2nd meeting. The committee confirmed this was correct.

Mr. Shannon stated the next scheduled meeting was June 19th.

Mr. Shannon addressed Chapter VIII-Appointive Officers, Section 33-City Manager, specifically 33.b and 33.i. He said 33.b speaks to appointment and additional language of "or removal" and said he believes this is cleanup and not a big change to the charter. Discussion occurred regarding the language of "removal" and it was asked how could the council remove based on education and experience, they can appoint based on education and experience and the manner the sentence was structured with the addition language of "removal" didn't make sense.

The committee discussed adding a new sentence regarding the removal and the City Recorder stated she would delete the text in track changes "or removal" and asked for suggested language. The following was suggested, *"The removal must be made without regard to political consideration and solely based on performance"*. Discussion occurred regarding adding this sentence to **Section 34.b under City Recorder** as well. The committee agreed.

Mr. Shannon asked if the same language would be added to the language pertaining to the Municipal Court Judge in Section 36.

Mr. Silverforb referred to the additional sentence regarding "removal" in Sections 33 and Section 34 and said it would read, "without political considerations and solely on the basis of performance" and said there could be other reasons for removal other than performance. Discussion followed regarding additional language such as "job performance" or "for cause" and it was asked if there was an understanding of how "cause" would be defined? Discussion occurred with the use of "cause" and if there was a predefined definition.

The committee discussed contractual issues and the language in the City Manager's employment agreement.

Mr. Harbick stated he missed the last meeting and asked what the committee was trying to do and referred to the current language of "the majority of the council must appoint and may remove the manager" and asked why this wasn't good enough. Discussion followed and the committee discussed the language of "political consideration." Discussion followed regarding adding the same language to the City Recorder section. The committee discussed the language regarding the Municipal Judge and no changes were suggested.

Mr. Shannon addressed Section 33.i and the language of *"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."* He said the committee discussed the deletion of the language, *"Violation of this prohibition is grounds for removal from office by a majority of the council after a public hearing."* He asked does the council have the authority to remove a council member from office if they determined that they violated that condition. He asked for committee comments.

He asked Council Liaison Henderson and she said currently the council can remove a council member after censure in a public hearing. Mr. Shannon asked if this was based on Council Rules, Ms. Henderson confirmed.

Ms. Henderson asked if the committee understood what "coerce" meant. Discussion followed and examples were provided. Ms. Henderson shared an experience with the committee of a former City Manager claiming he was coerced. Mr. Shannon asked if Council Liaison Henderson thought the issue was adequately addressed in the Council Rules. Discussion followed regarding the job and responsibilities of the City Manager.

Ms. Kuiper asked if the Charter has language that refers to consequences or prohibitions on actions.

Mr. Harbick asked if this issue has even come up with the council voting out a member for this. Ms. Henderson replied not during her tenure. Mr. Harbick stated it's been around for a long time and he has never heard of it.

Ms. Kuiper replied she believes this is why the committee suggested removing it, as this is the only place in the charter where there is some sort of action against the rules not being followed.

Mr. Harbick stated he did not see the point of removing the language if it is not something that comes up, he said it's similar to the Mayor's veto power.

Ms. Vordermark stated she would hope the council would consider how egregious a coercion would be. Discussion followed with various examples of coercion.

Mr. Shannon stated the charter is clear that the council is not allowed to do this and trying to set the punishment for that is the question. Discussion followed that the language is from the model charter. Mr. Shannon stated if the committee decided to leave the language as is, it doesn't change anything because it goes back to a majority of the council under the Council Rules.

Mr. Shannon suggested to the City Recorder that the language remain and await future discussion with Chair Allen and Beth Cooke present. Mr. Shannon said the thought currently is not to amend.

Mr. Shannon addressed Section 34-City Recorder, Item 34.b, and said the committee already addressed this. Ms. Henderson informed the committee Council Rules are on the City website.

Mr. Shannon addressed Chapter VIII-Appointive Officer, language referencing Employment Contracts. Mr. Shannon suggested looking at **Section 35-City Attorney** and the discussion of appointive officers and the lack of language for these positions. Ms. Shannon said he believes the committee was looking for examples to be provided by the City Manager.

The City Recorder directed the committee to the discussion notes from their May 1st meeting and said the discussion was regarding the lack of language pertaining to contracted employees and she did not believe the committee questions have been answered yet. She said if the committee wants additional language examples for contracted employees, for the committee to consider that language for the municipal judge. She reminded the committee they spoke of the Hearings Officer and they decided not to address this position as it was in the code.

Mr. Shannon asked for committee comments regarding the language. Ms. Vordermark stated the only place that might be necessary to talk about contracts is under the City Attorney section where we have discussed having a contract confirmed. She said she did not know why contract language was needed in the City Manager or City Recorder sections.

Mr. Hoffbuhr replied he believes the only reason the committee addressed this was to make it clear that the City Attorney could be either a City employee or a contracted position and the City Council still had the authority to remove the firm or the individual. He said he did not know if the committee wanted to get into details about contracted employees, it was to clarify the situation of the City Attorney.

Mr. Shannon referred to the redlined language and said the language looks good to him and read the suggested language, *"The office of the City attorney is established as the chief legal counsel of the City government. The City attorney shall be either a direct employee of the council or a firm under contract adopted by the council. A majority of the council must appoint and may remove the attorney or contracted firm. If the City attorney is a direct employee, the attorney must appoint and supervise, and may remove any City attorney office employees."*

Mr. Silverforb stated he believes this is exactly what was agreed to at the last meeting.

Mr. Stecher asked the City Recorder if this is the way it really works with the City attorney appointing his staff, if his staff are outside the firm that he works for.

Ms. Murphy replied currently the City is contracted with an attorney firm and the employees of those firms, neither the City or the Council would not have jurisdiction over. She said we have not had the scenario where the City contracted an individual attorney where that attorney would have staff that he supervises and determines who that staff is and if he chooses to fire the assistant that is his sole discretion. She said this is what the current language is stating and we have not experienced that because we have always used a firm and the council does not have jurisdiction over the employees of that firm.

Mr. Stecher said what the last sentence in that section is saying, is if the City attorney is an individual he or she could go out and hire their own paralegal or legal secretary. Ms. Murphy replied to some degree, yes.

Mr. Shannon replied it would have to be budgeted and if the council budgeted for staff, the attorney would be the approver of that staff. He said the staff would still technically be a City employee reporting to the City Manager. He said he sees the reasoning behind this, in case there was conflict of interest. He provided an example.

The City Recorder provided a scenario as, the City Council decides to contract with an attorney, the attorney is a one attorney firm and he has a paralegal and a secretary in that firm and the attorney no longer wants to pay his lease at his office and wants to occupy office space at City Hall. The attorney brings his staff with him and supervises and manages his staff and those staffers are considered City employees receiving benefits. She said the question is do those employees fall under a labor agreement and would the City attorney determine that versus the council. She said those employees that came with the attorney are under the attorney's jurisdiction.

Mr. Shannon confirmed the suggested language as amended in Section 35 still remains.

Mr. Shannon addressed Section 37-Compensation and asked for comments.

Ms. Kuiper asked to be reminded of how the committee determined what "reasonable" would be and asked if it was even discussed. Discussion occurred regarding the prior meeting discussion.

Ms. Henderson read from the Council Rules, under expenses, "the council will follow the same rules and procedures for reimbursement as City employees". She said this is currently not happening or we have not been trained on purchasing. She said she never submits anything after the fact and provided an example of her attendance at a regional meeting.

Ms. Vordermark asked what the process is for City employees and asked if they receive approval in advance. Ms. Murphy replied generally approval is done through their supervisor, resulting in mileage reimbursement and the City paying the conference registration fee. Ms. Vordermark commented regarding the Council being trained in the process. Ms. Murphy replied she believes the council knows the process and said there is not a lot of outside council activity by all seven members. She said in past practice the mayor attended regional meetings and had a monthly standard expense report, and the other council members did not attend those meetings. She said in this case we have more council members participating in regional and county meetings who are submitting expense reports and the rules don't say they can't. She explained the council members are eligible for reimbursements and some choose to submit an expense report and other do not.

Mr. Silverforb asked whatever amounts are submitted would be reasonable. He asked if this is a fair statement for them to get approved. Ms. Murphy replied correct and said as the City Manager mentioned at the previous meeting it would be up to the City Manager to determine what would be reasonable. She explained examples of attending events that were not connected to the City or attending an event that did not benefit the City, or attending an event where you did not go to represent the City.

Mr. Silverforb gave the example of an individual attending a 3 day conference in Salem or Eugene, spends the night, having hotel and meal expenses. He said he has the background of what the government would allow. He said if the government allows a particular expense to a certain amount that is what gets reimbursed. He asked if this is similar to what happens. Ms. Murphy replied, yes, the reasonable expense. She gave an example attending a conference and having the option of two hotels with two very different costs and the approver of that expense questioning the more expensive choice and if the more expensive hotel was a reasonable expense. She provided another example of attending a conference in Eugene and Eugene having an airport and the elected requesting to fly to the conference verses driving, and the flight being an unreasonable expense in someone's determination. She posed the question of who determines what is unreasonable and reasonable. She said the discussion at the previous committee meeting suggested this being defined in the Council Rules, whether it be a set budgeted amount or a type of training or conference, and having this defined in the Rules verses the Charter allows for amendments to the Rules when there is a change in the elected body.

Discussion followed regarding the Council Rules indicating what a reasonable expense would be based on the standards of a federal employee. Ms. Murphy replied the definition of "reasonable" is not defined. She said the City follows the federal per diem for meal and mileage reimbursements. Mr. Shannon provided another example of an elected attending a wine festival and tourist board meeting. He said the Council would have to determine if this was reasonable.

Mr. Shannon suggested leaving the term "reasonable" in the charter and allowing the council to decide what "reasonable" is in the Council Rules. Mr. Silverforb agreed and said he did not think it was possible to include every scenario in the charter or any other document. Comments were received regarding reimbursing for meals and mileage, budgeting a certain amount for elected officials, current participation of elected officials at local and regional meetings and the inconsistency of submitted expense reports. Comments were received that conference expenses should require preapproval. Discussion followed and examples were provided by Ms. Kuiper of what occurs in the private industry.

Mr. Harbick asked why the committee was considering "reasonable" instead of "approved". The City Recorder asked who would approve? Mr. Harbick asked who is currently approving and comments were received that the council approves. Ms. Kuiper asked if these were approved at the beginning of a budget year. Ms. Murphy replied, not really, she sets the annual budget based on prior year expenses and history.

Mr. Harbick stated the approval can remain after the fact and Mr. Stecher said the question remains who will approve. Comments were received that currently the City Manager approves the expenses.

Mr. Harbick stated "reasonable" is confusing and Ms. Henderson replied it's too subjective.

Mr. Shannon said he can accept the language of "approved" versus "reasonable" and said it makes it clearer and the elected is not going to get compensated for possibly everything they submit even though they consider it to be reasonable, they would be compensated for what has been or will be approved.

Mr. Silverforb asked how will it be determined what to approve, Mr. Shannon replied through the Council Rules. Mr. Silverforb replied that is fine if there is a specific amount noted or a parameter. He said if he was to approve a person's trip without parameters, how would he know what to approve it for. He said he likes the term "reasonable" and said he thinks anybody can determine what is reasonable for expenses. He said federal guidelines will provide a good parameter.

Ms. Henderson quoted language in the Council Rules under expenses and said, "the council will follow the same rules and procedures for reimbursement as City employees". She said employees have a federal standard that is followed and that would be the reasonable in this test. Discussion followed regarding the reimbursement process and the City Recorder explained the process. Discussion followed with examples of expenditures, what is reasonable, following federal guidelines, and someone at a management level having the over sight to manage expenses. Ms. Murphy said currently this is managed by the Senior Management staff at the department level but it currently isn't managed at the Council level.

Mr. Stecher replied this is why he likes "reasonable" versus "approved", as the City Manager works for the elected officials, for him to approve council expenditures and determine what is reasonable. Mr. Shannon commented that he agreed with the language of "reasonable." Discussion followed.

The committee decided to leave the suggested track changed language as is.

Mr. Shannon addressed Section 42-Solid Waste Incinerators and said the City Manager was going to research to see if there were state laws that covered this.

Council liaison Henderson informed the committee that the City received a Browns Field Grant for \$200,000 to go towards cleanup efforts for the former tannery site.

The City Recorder confirmed the committee would revisit Section 42.

Mr. Shannon addressed **Other General Discussion** and asked for committee comments.

Mr. Harbick asked why the committee was not considering the removal of the Willamette River language. Mr. Shannon said because it's a hot button. Comments were received from the committee on their reasoning and former discussion to leave the language as is. Discussion followed and Mr. Shannon said the committee discussed what if the public vote is not to change the charter, then what is done.

Ms. Kuiper said two versions of measures could be posed to the public, one asking if the language should be removed in its entirety and another asking we keep the language and add text indicating the voters approved the use of the Willamette on said date. The committee members informed Mr. Harbick that the committee previously discussed not changing the charter and adding footnotes. Mr. Harbick said he understands why the language would be retained and is okay with that.

The City Recorder distributed a document to the committee (see record, Exhibit C) provided by Mayor Middleton that referred to a Utility Advisory Board, she said Mayor Middleton was present if the committee

had questions. Ms. Murphy indicated the example language pertains to utility boards in West Linn and Oregon City.

Mr. Harbick asked how many people would be on the advisory board. Mayor Middleton explained the Council spoke of a Utility Advisory Board as part of their goals. He said the language is a rough draft and it would be one of the few boards that would be in the charter. He said it's in the charters of the other cities, either West Linn or Oregon City.

Ms. Vordermark referred to the West Linn Charter and read, "a utility advisory board is hereby established. The utility advisory board shall make recommendations to the City council concerning rates for water. These recommendations shall pertain to those legislative matters to be decided by the City council concerning or affecting rates, such as master facility plan and service levels as they relate to rates. The utility advisory board may also make recommendations regarding such other City-owned utilities as the City council from time to time may determine. Appointment, terms of office, vacancies and removal, meetings and other organizational matters for the utility advisory board shall be provided for by the ordinance of the City council."

Mayor Middleton stated he believes it was Oregon City that had the maximum 3% lanaguge.

Mr. Shannon asked what would be the advantage of having a board in the charter versus a standard committee like the budget committee.

Mayor Middleton replied he did not know and said they were in the charter and he did not know if it's because it mandates a utility and if that makes it different.

Mr. Shannon said based on the last election what immediately comes to mind is an independent authority board, which is what they tried to do in Portland, taking the water bureau authority away from the city.

Mayor Middleton stated this would be an advisory board and said water is a big issue and commented regarding the council receiving public complaints regarding increasing rates. He commented regarding having a group in between us to explain to the public, appearing more honest and not just raising rates again. He said this was something the council talked about.

Ms. Vordermark stated she believes it is a great idea to have a board like this, and commented regarding other boards and commissions not being in the charter. Mayor Middleton replied we would have to look and see if there is a requirement because it is a utility. He commented it might be in there because it was voted in by initiative. Ms. Vordermark indicated the West Linn charter was amended in 1996.

Ms. Vordermark referred to the West Linn charter under Miscellaneous Provisions and a section of language pertaining to Voter Approval of Utility Rates and read, "no utility rate increase may exceed 5% in any calendar year without first receiving voter approval." Brief discussion occurred regarding what city the language originated from, possibly coming from Oregon City.

Mayor Middleton stated we could go either way and he did not think we could agree to get the Council to put any limits on it and this may be a reason why you would want to go to the voters, if you wanted to go to the voters to make a maximum cap, as right now they could go up 300% and there is not a thing anybody can do to preapprove it.

Mr. Shannon commented that actual water rates are not the big cost of the bill that is paid every month and the rest of what we pay every month we have little control over. Ms. Henderson replied, it's Clean Water Services and that bill has gone up 4% every year for the past 5 years. General discussion followed

regarding other City fees and Mayor Middleton stated we have a lot of water issues and it would be nice to have a committee that can go to water meetings. He said we have a lot of water meetings that take up a lot of time and they could work with Craig (public Works Director) and said we don't have the time at council meetings to get involved especially with Hillsboro wanting to build a pipeline. He said the council would still be involved but believes they would like others to be involved as well. Ms. Henderson stated the City is on the WRWC (Willamette River Water Coalition) and we are voting members. She said she agreed with the Mayor and Ms. Vordermark that having a Utility Advisory Board would not be just for water, it could be for any fee that is imposed that's for a utility, IE Clean Water Services, franchise fees, street fees etc. She said they would not be setting fees, they would be a sounding board for someone to go to and express concerns and get information. Mr. Shannon added it could include Sherwood Broadband. General discussion followed regarding a recent issue with the City of Portland issuing a boil water notice. Ms. Henderson provided the example of the creation of the Special Committee and this prompting people to get involved.

Ms. Henderson stated she did not know why it needs to be in the charter or why the other cities did that.

Ms. Kuiper added if the utility board was created they could look into rate issues but would not necessarily need to be in the charter. Ms. Henderson stated the City is looking into creating a Police Advisory Board and that is not going to go into the charter.

Mayor Middleton said the council can take this back and do it on their own and Mr. Shannon replied it seems like a good idea and the only reason he would see for putting it in the charter is if you were looking to grant it some sort of authority. Mayor Middleton commented regarding other City boards providing recommendations and that is probably what this board would do. He said if the council doesn't want to do it, it may have to go to the charter if someone brings back a petition.

Ms. Henderson asked if anyone was opposed to the utility board and comments were received that it was a great idea. No opposing comments were received. Ms. Henderson shared information on a recent regional water meeting she attended and general discussion followed regarding people getting involved and wanting to give feedback.

Mr. Silverforb commented that the board would be a catalyst to listen to the public and their sole mission is to look at the fees and understand why they are what they are, and why there are increases.

Mr. Shannon addressed the next agenda item.

6. Public Comments

Bill Middleton came forward as a citizen and said he has problems with the appointment and removal and said the reason for this is we write a very good contract for these employees. He said at the end of their contracts we might not want to renew their contracts. He said this would make us have to go to litigation and believes this would add a problem. He said no one is in jeopardy at this time, but if the council wanted to get rid of the City Manager just because he wasn't doing what the council felt was the direction of the City, if you put in the removal for cause, the end of the contract is not the cause. He asked staff if the committee could be provided with copies of employee contracts, the City Recorder confirmed. He suggested the committee review the contracts before making any moves on the charter language. He said the language is spelled out in the contracts and by adding something to the charter, he did not know if this would cause problems in the legal sense of trying to change directions. He said currently nothing is happening, but in the future it may limit the council on placing or removing that person. He said the contracts have a lot of information and if it's in the charter, he did not know if it would be contradictory. He

said he did not care one way or another, but did not want to put the City in a position of having to go through a protracted legal battle as it's for "cause". He said the question could be asked what's "for cause" and said it's spelled out in the contracts.

Mr. Shannon said one question he would have is whether or not failure to renew a contract is removal. Mr. Middleton replied yes, it's like any contract, if you don't renew the contract, the person is no longer your employee.

Mr. Shannon said the concept of removal would be somewhere in the middle of that contract. Mr. Middleton said you can still do it, but you have to pay compensation as noted in the contract.

Mr. Shannon said we can fire him without cause, if you compensated him for the 6 months.

Mr. Hoffbuhr replied we decided not to put that in there and said all we are doing is saying that it can't be done due to "political consideration". Ms. Kuiper confirmed.

Brief discussion followed regarding political consideration and Mr. Middleton said it's a very vague term. Mr. Hoffbuhr said we agreed and did not add "cause".

Ms. Henderson confirmed Mr. Middleton was speaking about Section 33.b. He confirmed yes, and said he did not know if we want to get into the "removal" part. He said currently we have the "appointment" part and believes the contract explains the removal part. He commented about having a crummy City Manager and people saying he is doing his job and said the Council has to evaluate him every year. He said if the committee wants to do that, that is fine, he just did not want to put us into a position where we could get us into litigation because of charter language.

Ms. Kuiper asked what about "removal in accordance with the contract". Mr. Middleton replied it's up to the committee and said he would like the City Recorder to provide copies of the contracts to the committee to read as the contract is clearer when read in it's entirety.

Mr. Harbick replied the language already indicates "the council may appoint and may remove the manager". He said "remove" is already in there. Mr. Shannon said he believes the only thing they were looking at as the "removal" would be based on nonpolitical consideration. Mr. Middleton commented that the employee could state they were then fired for political reasons and said he is not trying to be the devil's advocate, but we have been sued so many times and a lot of it is based on language, he said it's political and asked how are you going to defend it. He said it is up to the committee if they wanted the language in there, as he is more cautious.

Ms. Henderson said she is not sure why the language is in the charter as politics is not a protected class. Mr. Middleton replied and we are nonpartisan. Discussion followed.

Mr. Silverforb said when a contract expires and it is not renewed, you just terminate the relationship. He asked if Mr. Middleton had a problem with that. Mr. Middleton replied, no, we do that now and we are just renewing his contract.

Mr. Harbick confirmed Mr. Middleton favored not amending the language, Mr. Middleton confirmed and said to put language in for "political reasons", if you look at what people go after you for, it's any little thing they can say. He said he did not know if it would cause a problem or not and said we can't hire for political

reasons, so we can't apparently fire for that. He asked if that places a burden on the council. Brief discussion followed regarding partisan states and cities.

Mr. Middleton addressed the committee's discussion regarding "reasonable expenses" language and said he has no problems with that and he has recommended to the City Manager and it is supposed to start soon, on each monthly report, the City departments report on what training or conferences the City paid for. He said the public needs to know and we have guys in this City going all over the united states, he said he did not like it, but has no control over it, it's the City Manager's responsibility. He said the public has a right to know and some charters have language that out-of-state travel is not permitted without the approval of the council. He said if we put this information on the on-line agenda every month everyone in the City would know what you're doing. He commented regarding a legislator getting into trouble when it was reported he went to Hawaii for a wine conference. He said he wants everyone to know where we go and where we spend our money, it's only fair. He commented regarding the Council sending councilor's to Washington D.C. and it paying off with the recent \$200,000 grant. Discussion followed.

Mr. Middleton addressed Section 33.i and said he got into trouble on this and explained a situation of a resident contacting him to inform him he was in court and observed an officer being abusive to somebody. Mr. Middleton said he then contacted the City Manager to take care of the situation and said about a month later the father of the juvenile called and the resident called again and at this time Mr. Middleton told the staff "you have to do something". He said the staff felt coerced. He said he was threatened with violation of the prohibition and said there was talk about trying to get him removed. Ms. Henderson asked who is "they" and Mr. Middleton replied he did not want to mention the councilors name, but the information was brought back to him by the person upstairs. Mr. Middleton stated he believes this could be used as political motivation to get rid of anyone the council does not like. He provided another example of contacting the Public Works Director regarding a fallen tree in the park, he asked is this coercion if he tells the director to do work, he said technically yes. He said he believes this is where the language is too vague and would like to see it removed.

Mr. Shannon replied it's worth discussing and he would like to look at the current Council Rules and removal for cause of a councilor. Mr. Middleton commented regarding needing a majority of council, having a split council and commented regarding the language being vague and said he believes it is a very dangerous statement.

Ms. Kuiper asked what language Mr. Middleton was referring too. He said, "Violation of this prohibition is grounds for removal from office by a majority of the council after a public hearing". He said he did not believe the council would want to go to a public hearing on this. Discussion followed regarding a majority of the council removing someone that was voted in by the people.

Renee Brouse came forward and asked Vice Chair Shannon which has more authority, the charter or the council rules, Mr. Shannon replied the charter. She said having that information, she would suggest going back to Chapter III and the discussion regarding, "a majority of the council may cause an item to be added to the agenda of any meeting or to an agenda of a future meeting if needed to meet requirements for public notice." She said she has heard the committee and Councilor Henderson say the Council Rules can be changed and said she believes this would give it more credence if it were in the charter.

No other public comments were received.

Mr. Shannon referred to the committee's meeting calendar with June 19th being the next scheduled meeting. The City Recorder stated she has scheduled June 19th, June 26th, July 10th and July 15th. Mr. Shannon said the committee has 3 meetings to finalize everything and the 4th meeting would be a meeting with the City council.

Council Liaison Henderson replied she and the City Manager have a conflict on the 19th and cannot attend. The City Recorder shared the polled information she had for June 12th and indicated there doesn't appear to be a quorum. The Committee discussed meeting on the Wed, June 18th and asked the City Recorder to check meeting room availability. Mr. Shannon polled the current meeting attendees and all members were available to meet on June 18th. She confirmed she would leave the 19th and 26th pending on the calendar until she could confirm room availability on the 18th.

The City Recorder asked the committee what they wanted from staff for the next meeting. She asked if they wanted another charter with blue discussion notes or something more concrete. She said Chair Allen indicated as the committee went through this process, he wanted staff to build the ballot titles and she has begun doing that but does not have content yet.

Mr. Shannon replied he did not have anything specific beyond what the committee has discussed and what the City Manager was coming back with.

Ms. Kuiper said she would like to see the Mayors comments and Renee's comments added in as it's important to discuss those. She said also the Council Rules, she said Council Rules can change and if it is important for us to consider putting something in the charter then we can also consider whether or not council rules be changed. The committee discussed obtaining the Council Rules off the City website.

Mr. Stecher asked the City Recorder to share the utility board information with the City Manager and see if he feels it should be in the charter or just having the council approve the board. He said if he is unsure and believes it needs to be run by legal counsel then we should do that. She confirmed she would check with legal counsel to see if it was a charter requirement because it is a utility board.

The City Recorder stated she would draft an agenda based on the public comments, the discussion on the utility and look at the pending legal items the committee is waiting for. She confirmed the color-coded charter would not be amended and staff will come back with information. Mr. Shannon replied that would be fine but to leave the information on the document to be able to receive Chair Allen's opinion.

7. Adjourn:

Vice Chair Shannon adjourned the meeting at 8:25 pm.


Sylvia Murphy, MMC, City Recorder


Neil Shannon, Vice Chair