

**September 25, 2006**

**REGULAR MEETING 1**

The City Council of the City of Sherwood met for a regular meeting on September 25, 2006, at 7:00 p.m. in the Council Chambers. Those present were Mayor Bill Harmon, City Attorney Steve Cobb, City Clerk Virginia Hillman, Aldermen Vassar, Fender, Davis, Sulcer, Stedman, and Brooks. Aldermen Rankin and Henry were absent.

Alderman Sulcer led in prayer and the Pledge of Allegiance was given to the flag.

A motion was made by Alderman Vassar to approve the minutes of the regular meeting on August 28, 2006, as transcribed. Alderman Sulcer seconded the motion and the roll call was six ayes to approve the minutes. Aldermen Rankin and Henry were absent.

Alderman Vassar presented pictures to the Council of the newly painted sanitation trucks and complimented the Public Works Department.

Alderman Sulcer announced that there would not be an October meeting of the Advertising and Promotions Commission.

**An ordinance No. 1712 entitled, "AN ORDINANCE CREATING ONE BUILDING MAINTENANCE/CUSTODIAN POSITION IN THE ADMINISTRATION DEPARTMENT; DECLARING AN EMERGENCY; AND FOR OTHER PURPOSES"** was read for the first time. A motion was made by Alderman Sulcer, seconded by Alderman Brooks, to suspend the rules and place the ordinance on the second reading. The roll call vote was 6 ayes; Aldermen Rankin and Henry were absent. The ordinance was read for the second time. Alderman Davis questioned whether or not we already have a maintenance position. The position was newly created and filled in January 2006. This ordinance will upgrade the position. A motion was made by Alderman Davis, seconded by Alderman Fender, to suspend the rules and place the ordinance on the third and final reading. The roll call vote was 6 ayes; Aldermen Rankin and Henry were absent. The ordinance was read for the third time. A motion was made by Alderman Sulcer, seconded by Alderman Fender, to adopt the ordinance. The roll call vote was 6 ayes; Aldermen Rankin and Henry were absent. The emergency clause passed by roll call vote of 6 ayes; Aldermen Rankin and Henry were absent.

Chief Nicholson addressed the Council regarding the three proposed patrol positions. No new officers have been added since 2002. The City has experienced, and continues to experience, rapid growth. The positions will not be filled until the 2007 budget. No new vehicles will be requested until 2008 for these new positions. If the new officers hired are already certified, they could be working the streets as early as March 2007.

**Ordinance No. 1713 entitled, "AN ORDINANCE CREATING THREE POLICE OFFICER POSITIONS IN THE POLICE DEPARTMENT; DECLARING AN EMERGENCY; AND FOR OTHER PURPOSES"** was read for the first time. A motion was made by Alderman Stedman, seconded by Alderman Sulcer, to suspend the rules and place the ordinance on the second reading. The roll call vote was 6 ayes; Aldermen Rankin and Henry were absent. The ordinance was read for the second time. A motion was made by Alderman Vassar, seconded by Alderman Davis, to suspend the rules and place the ordinance on the third and final reading. The roll call vote was 6 ayes; Aldermen Rankin and Henry were absent. The ordinance was read for the third time. A motion was made by Alderman Sulcer, seconded by Alderman Brooks, to adopt the ordinance. The roll call vote was 6 ayes; Aldermen Rankin and Henry were absent. The emergency clause passed by roll call vote of 6 ayes; Aldermen Rankin and Henry were absent.

**A proposed ordinance amending Ordinance No. 729 schedule of uses to remove churches, and other religious institutions along with their accessory buildings and uses, from the schedule of uses in C-3 and C-4 zones; and to remove educational institutions from C-4 and add them by right in O-1, O-2, C-1, and C-2 zones, and for other purposes, was read for the first time.**

Rick Elimon, a Sherwood resident and also a member of a local church, addressed the Council. He stated that the proposed ordinance appears to be an over riding blanket of

changes. Sherwood has a history of supporting churches. The proposed ordinance appears to ban or restrict churches currently in C-3 and C-4 and future churches that may desire to purchase properties in these zonings. Sherwood has forty plus churches with approximately one-third of them in commercial zones. Many churches in Sherwood originally met in strip shopping centers. The proposed ordinance appears to ban this. It appears that this would be a restriction on churches. It appears that churches currently zoned C-3 and C-4 would have to take a reduction to a different conditional zoning. It gives the appearance of changing the rules in the middle of the game.

Mayor Harmon stated that the churches would be grandfathered at the current zoning. Mr. Elimon questioned whether or not the proposed ordinance stated that. City Attorney Steve Cobb stated that zoning for property could not be taken away unless it is rezoned. Mayor Harmon stated that the City could not rezone property after it has been built on without a request. Mr. Elimon questioned that if the proposed ordinance passes as is, and churches are required to be C-2 and an existing church was C-3 or C-4, then the church would be in non-conformance. Would this not result in the church being lowered to a C-2 zoning or request additional approval if at anytime the church was to make changes to the property by adding or changing structures? Mayor Harmon stated that when you have non-conforming property, permission would have to be given by the Council to enlarge or change it. Mr. Elimon asked if whether or not the grandfather clause on the C-3 or C-4 zoning would make any difference if conditional approval would still be necessary from the Council. Mayor Harmon stated that approval would have to be granted by the Council. Mr. Elimon stated that this would not be acceptable if the zoning cannot be taken away yet permission must be granted to change the property.

Alderman Vassar stated it is the trend that churches are moving toward commercial properties. She has concern over whether or not the churches and schools abut residential property. If the churches or schools for whatever reason vacate the properties, then the abutting residential properties are subject to a business that might be less desirable than the churches or schools in regards to noise, etc. The main concern is the residences that may be affected if the properties cease to be a church or school. Mayor Harmon stated that Victory Baptist needs to properly zone their school. School zoning is currently C-3 in Sherwood. The residents surrounding the property oppose C-3 zoning because the property is subject to resale. This has already happened once. The result could be commercial development abutting residential. Alderman Sulcer asked what the zoning currently is for Victory Baptist? Since they are already a school, why would they need to change zoning. Michael Clayton stated that they are currently a R-3. Michael Clayton stated that they have school, educational, and church use in the zoning book and they are not consistent. The church wants to rezone the property for future church activities. The first zoning by right that would allow for the school and church is C-3. The proposal was to remove the C-3 and C-4 by right for both the church and school and allow it to go into a O-1 and O-2. The residents in the area of Victory Baptist have indicated that they can live with the proposal. If for some reason the church decided to sell the property, the property would be zoned O-1 or O-2. He also stated that the problem is zoning laws that were created in the 1980's were not faced with private schools. Over time the churches have evolved with private schools. The zoning laws were designed for public schools. This is why there were different classifications for churches as well as educational. Alderman Fender stated there was some misunderstanding as to where C-4 can actually be located in Sherwood. He asked if there was any C-4 at all along Arkansas State Highway 107 or Kiehl Avenue. Since there is not, no one would be granted C-4 unless it is along the interstate since that is the only place the Land Use Map provides for C-4 zoning. Mayor Harmon stated that the Land Use Map provided for C-3 in the area of Victory Baptist Church. Most business in Sherwood is a C-3. Alderman Fender stated that he had received calls that the C-4 zoning of churches already zoned C-4 would be rescinded, which is not correct.

Dwight Pattison, City Planner, addressed the Council. He stated that the City should not zone any property C-3 or C-4, which should not be zoned C-3 or C-4. The ordinance has had churches in C-3 and C-4 for many years. In actuality, that was forward thinking since during the past 20 years, churches are located more in commercial zones with high visibility. Churches typically do not have adverse impact in surrounding areas with C-3 and C-4 zones. The proposed ordinance cuts the churches out of C-3 and C-4 zones. He

cannot remember when property has been down zoned. There appears to be some concern regarding churches in C-3 and C-4 abutting residential. All C-3 zones along Kiehl Avenue and Arkansas State Highway 107 abut residential. The main thing is that the City should only zone property in accordance with the Land Use Map. However, if churches are not allowed in C-3 and C-4, where are they going to locate would be a problem. Most cities allow churches in most zones. He would recommend that the City leave churches in C-3 and C-4 but open up some additional areas such as O-1, O-2 and C-1, C-2, and R-3, where churches may locate. Schools are desired within neighborhoods; therefore, the zoning would be residential.

Mayor Harmon agreed with Mr. Pattison regarding property should only be zoned the proper zoning. Mayor Harmon recommended that the ordinance be tabled and the City Engineer bring something to the next meeting where church and school zoning are acceptable on Brockington. Alderman Stedman questioned if whether or not the zoning classification revisions should not come from the Planning Commission rather than the Council. Alderman Vassar asked about the distance required from churches and schools from restaurants that serve alcohol. Mr. Clayton stated typically 750 feet. Alderman Vassar made a motion, seconded by Alderman Brooks, to table the proposed ordinance. The roll call vote was 6 ayes; Aldermen Rankin and Henry were absent.

**Ordinance No. 1714 entitled, "AN ORDINANCE AMENDING ORDINANCE NO. 371, THE MASTER STREET PLAN OF SHERWOOD, REPEALING CONFLICTING CLAUSES; DECLARING AN EMERGENCY AND FOR OTHER PURPOSES"** was read for the first time. A motion was made by Alderman Vassar, seconded by Alderman Sulcer, to suspend the rules and place the ordinance on the second reading. The roll call vote was 6 ayes; Aldermen Rankin and Henry were absent. The ordinance was read for the second time. A motion was made by Alderman Vassar, seconded by Alderman Davis, to suspend the rules and place the ordinance on the third and final reading. The roll call vote was 6 ayes; Aldermen Rankin and Henry were absent. The ordinance was read for the third time. A motion was made by Alderman Brooks, seconded by Alderman Davis, to adopt the ordinance. The roll call vote was 6 ayes; Aldermen Rankin and Henry were absent. The emergency clause passed by roll call vote of 6 ayes; Aldermen Rankin and Henry were absent.

**Ordinance No. 1715 entitled, "AN ORDINANCE AMENDING ORDINANCE NO. 955 REVISING THE LAND USE MAP AS SHOWN ON EXHIBIT A, IN THE VICINITY OF HIGHWAY 107 AND WEST MARYLAND INTERSECTION AND FOR OTHER PURPOSES"** was read for the first time. Henry Walla, 303 East Maryland addressed the Council. His understanding is that the proposed ordinance will call for rezoning of four corners of Maryland Avenue and Arkansas State Highway 107. Portions of the proposed property is behind his home since his lot, as well as those of others, are deep lots of about 900' in depth. It is his understanding that 300' deep is as deep as the zoning is allowed along State Highway 107. Mayor Harmon stated that there is not a 300' depth limit. There is no ordinance limiting the 300' depth of zoning as has been patterned in the past. The City Engineer noted that the intent of the proposed ordinance is to re-evaluate the Land Use Map for three quadrants of Maryland Avenue and Arkansas State Highway 107. The Northeast Quadrant is not included in this proposed ordinance. This Northeast Quadrant may be reviewed at a later date. Mike Presson, 22 Cardinal Lane, asked to review the map Exhibit A. He requested another month to review the proposal. David Phillips, 222 E. Maryland Avenue asked what the depth of the property was considered for change. He asked if it would extend to Wesley Drive. Michael Clayton stated that he was not sure of the actual depth but his intent was for the creek to be the natural buffer. Mr. Phillips requested that action be postponed until next month for further study. Michael Clayton requested that the Southeast quadrant be removed totally from any action tonight. This would leave the Northwest and Southwest quadrants remaining on the proposed changes. Alderman Sulcer made a motion, seconded by Alderman Vassar, amend the proposed ordinance to include the Northwest and Southwest quadrants only. The roll call vote was 6 ayes; Aldermen Rankin and Henry were absent. The ordinance was read for the first time as amended. A motion was made by Alderman Sulcer, seconded by Alderman Brooks, to suspend the rules and place the ordinance on the second reading. The roll call vote was 6 ayes;

Aldermen Rankin and Henry were absent. The ordinance was read for the second time as amended. A motion was made by Alderman Davis, seconded by Alderman Fender, to suspend the rules and place the ordinance on the third and final reading. The roll call vote was 6 ayes; Aldermen Rankin and Henry were absent. The ordinance was read for the third time as amended. Alderman Fender, seconded by Alderman Brooks, made a motion to adopt the ordinance. The roll call vote was 6 ayes; Aldermen Rankin and Henry were absent.

**An proposed ordinance entitled, “AN ORDINANCE REZONING A PARCEL OF LAND NORTH OF 9400 ARKANSAS STATE HIGHWAY 107 FROM R-1 TO C-3; AMENDING THE ZONING MAP; DECLARING AN EMERGENCY; AND FOR OTHER PURPOSES”** was read for the first time. There was discussion regarding the 300’ depth. There is no ordinance prohibiting an excess of 300’. Mr. McGhee, 122 East Maryland addressed the Council. He expressed that the zoning just keeps going further down East Maryland. There is also a major drainage problem that needs to be addressed in the area. Mr. Williams also addressed the Council. He too feels that the zoning has gone far enough down East Maryland. Karen Wood, representative for the developer addressed the Council. Ms. Wood stated that the adjoining property on each side has already been zoned C-3. The developer has plans for a small upscale beautiful strip center that will face Arkansas State Highway 107. He assures the Council that the developer will comply with any drainage issues required. Alderman Stedman asked if the developer would be in favor of zoning the property 300’ deep and then the remaining back portion of the property C-1. Ms. Wood stated that she could not make that decision. The drainage problem was addressed again. Mr. Clayton stated that if the property in question were developed, drainage issues would have to be addressed at the time of development. It would be a good time to correct the drainage problems. A retention pond might be a good option for the area. Since the representative for the property was not available to answer more questions, the proposed ordinance was read only one time.

Alderman Fender announced that the traffic signal at Seminole and North Hills is anticipated to be operational within a month. Phase II and Phase III of West Maryland is in the plans for next year. Also, an updated title search is nearing completion for the Brockington Road widening. After the completion of the search, rights-of-way acquisition will begin. Alderman Sulcer addressed the problem of builders not placing fencing to keep dirt off of the streets. Apparently there is a law on the state books not being enforced.

Mr. Cobb gave an update on the Stonehill street failures. There will be a meeting with the attorneys of the bonding company next week to present evidence of the street failures. If a solution is not met, litigation is expected to begin. Alderman Sulcer would still like to study at what point in the process the streets are dedicated and accepted by the City. Mr. Clayton stated that we have inspectors on the job to review the streets. Most cities do not have an inspector on the job where Sherwood does. This area is an isolated case. When all new streets are considered, we have been successful with having really good streets.

Aldermen Fender stated that the leaf trucks would run from November to February.

**Ordinance No. 1716 entitled, “AN ORDINANCE ALLOWING FOR A SIGN VARIANCE OF 40’ IN HEIGHT FOR THE McDONALD’S RESTAURANT LOCATED AT 8400 WARDEN ROAD”** was read for the first time. The increased height is due to the overpass being raised in height. A motion was made by Alderman Davis, seconded by Alderman Sulcer, to suspend the rules and place the ordinance on the second reading. The roll call vote was 6 ayes; Aldermen Rankin and Henry were absent. The ordinance was read for the second time. A motion was made by Alderman Davis, seconded by Alderman Vassar, to suspend the rules and place the ordinance on the third and final reading. The roll call vote was 6 ayes; Aldermen Rankin and Henry were absent. The ordinance was read for the third time. A motion was made by Alderman Vassar, seconded by Alderman Davis, to adopt the ordinance. The roll call vote was 6 ayes; Aldermen Rankin and Henry were absent.

**September 25, 2006**

**REGULAR MEETING 5**

Linda Callahan, #7 Catterton addressed the Council regarding 2213 East Lee. Ms. Callahan distributed photos. The tenant of the property has continually placed and removed structures as well also covered with camouflaged tenting. Each time the structures are removed, rodents invade her house. The problem is not acceptable. Ms. Callahan has requested something in writing from the City. Mayor Harmon stated that a written report would be provided the next day. Mr. Cobb stated that the tenant has been summoned to court and sentenced to jail time and fines. The case has been appealed to circuit court. Condemnation proceedings for a nuisance will bring results from the landlord if the tenant does not correct the problem.

Mayor Harmon made the following announcements:

- Members of the Sherwood Youth Council were introduced.
- Sherwood Fire Department Firefest – Thursday, October 5<sup>th</sup>, Indianhead Shopping Center, 5:00 p.m. – 8:00 p.m.
- Sherwood Fest – October 21<sup>st</sup>, Sherwood Forest, 8:00 a.m. – 5:00 p.m.
- Sherwood Health Coalition will be distributing prescription bottles with emergency medical emergency at the Senior Potluck on Monday, October 2<sup>nd</sup>. Those unable to attend may pick up bottles at the front desk of the Bill Harmon Recreation Center.

A motion was made by Alderman Vassar to adjourn.

ATTEST:

Virginia Hillman  
City Clerk

Bill Harmon  
Mayor