

**December 22, 2008**

**REGULAR MEETING 1**

The City Council of the City of Sherwood met for a regular meeting on December 22, 2008, at 7:00 p.m. in the Council Chambers. Those present were Mayor Virginia R. Hillman, City Attorney Steve Cobb, City Clerk Angela Nicholson, Aldermen Vassar, Rankin, Fender, Davis, Sulcer, Henry, Brooks and Harmon.

Tim McMinn, Pastor of Sylvan Hills Community Church, led in prayer, and the Pledge of Allegiance was given to the flag.

Alderman Vassar, seconded by Alderman Sulcer, made a motion, to approve the minutes of the regular meeting on November 24, 2008, and the special called meeting on December 10, 2008, as transcribed. The roll call vote was unanimous.

Mayor Hillman presented a plaque to Alderman David Henry for his years of service and dedication to the City of Sherwood.

Jorden Pruitt, Mayor of Sherwood Youth Council, presented awards for Christmas Lighting to the following individuals: Debbie Ransom of 1211 Koehler Avenue, Sherwood, Ed & Joy Pilkington, 6757 Austin Bay Court, Sherwood, and Joe Riley of 1318 Alanbrook, Sherwood.

Tim McMinn stated the Mayor's Youth Council went out and purchased gifts for a family of four children and single mom. They were able to provide food and gifts for each family member.

Alderman Sulcer, Chairman of the Advertising and Promotion Commission, stated the meeting for January will be on Tuesday, January 6, 2009, at 3:00 p.m. at the Bill Harmon Recreation Center.

Alderman Rankin, Chairman of the Parks and Recreation Committee, reported that Penepime of Arkansas is working on the ball field at this time.

Alderman Vassar, Chairman of the Personnel Committee, stated the committee met and there were changes in the policy manual required by federal regulations. This will be on the January agenda. The meeting will be January 15, 2009.

Stephen Cobb, City Attorney, stated that the ordinance on the Land Use Map has been read twice, and Dwight Pattison has a revision he would like to discuss with the council. With council approval read as amended. Mr. Pattison stated the proposed change is a request to allow C-4 commercial in the area north of the north belt. The change will correct the land use indication on the land use map to be a highway strip development that would allow for open display. This would not be rezoning the area, but would allow the option of going from C-1 to C-4. Mayor Hillman asked if this was recommended at the planning commission level. Mr. Pattison stated no, that it had been discussed. Alderman Vassar stated that it was discussed at the council meeting. Alderman Harmon stated it was discussed at the August 25, 2008, meeting. His question was if the land use map in the council packet with the red strip that is marked as flood plan, north of Oakdale and Brockington, what is now marked red stripped development there is not anything on the legend now that is HSD. Would the strip marked red be changed to HSD? Mr. Pattison stated it would. Alderman Rankin asked about the boundaries that the city exercise for zoning ordinances and inspections five miles outside the city limits. Alderman Rankin stated he could see where it was incorporated into the city limits, but as far as five miles outside that area. Steve Cobb stated that is extraterritorial planning jurisdiction. Alderman Rankin asked if this needed to be with the land use map as far as boundaries go. Steve Cobb stated that this is the new annexed territory. Mr. Pattison stated that the city did not have that option. Mr. Cobb stated this ordinance is to get the Gravel Ridge annexation the zoning they need. Mr. Cobb stated the extra territorial jurisdiction is something that is set up by statute and is not anything that needs to be adopted by council. Alderman Harmon, seconded by Alderman Vassar, made a motion to amend the proposed land use plan to show this area as HSD. The roll call vote was unanimous. **Ordinance No. 1804, entitled, AN ORDINANCE AMENDING THE**

**LAND USE MAP FOR THE CITY OF SHERWOOD, ARKANSAS**” was read for the first time as amended. Alderman Harmon, seconded by Alderman Rankin, made a motion to suspend the rules and place the ordinance on the second reading as amended. The roll call vote was unanimous. The ordinance was read for the second time as amended. Alderman Vassar, seconded by Alderman Sulcer, made a motion to suspend the rules and place the ordinance on the third and final reading as amended. The roll call vote was unanimous. The ordinance was read for the third time as amended. Alderman Davis, seconded by Alderman Sulcer, made a motion to adopt the ordinance as amended. The roll call vote was unanimous.

Discussion was open for the ordinance amending the Master Street Plan for the City of Sherwood. The following discussion took place. *Lucien Gillham*: (Planning Commissioner) The master street plan, the planning commission worked on it. In Sherwood we changed to minor items. We changed Oakdale Road from a from a collector to a minor arterial, the main reason is because Brockington is a minor arterial it goes over to Kellogg Road, which is also a minor arterial. The Maryland/Hemphill connection is still in, we never considered taking it out. We added the north belt freeway on the location. It is shown on the environmental assessment. I would recommend for approval of this master street plan. I got out my 2002 road atlas and I found that 81 cities in the United States have a complete loop around the capitol of the major cities, and 33 have partial loop. Arkansas was one of three states without a complete loop around any city. I looked at my latest Arkansas map and found that Texarkana has a loop completely around it. I think Pulaski County, Little Rock and Sherwood need one too. *Richard McGee*: (Deputy Director of Metroplan) In terms of why Metroplan would want to speak on this issue as part of the CARTS agreement, which is the Central Arkansas Regional Transportation Study, which Sherwood is a signatory to that. As part of that agreement, the City agrees that when a major facility, in fact has environmentally gone through the processes that you will in fact reflect the record of decision on your master street plan. Obviously the north belt has had a long history. If you remember many years ago we stood with the City of Sherwood in the issue this agreement with the master street plan and the environmental impact statement. That process went through a long process of getting a new record of decision. That alignment is already reflected on the master street plan. The city council is on record of supporting that record of decision back in 2007. Again with the CARTS agreement you said that you would in fact make sure that those things were reflected on your current master street plan. So we would speak in favor of this master street plan amendment. I would entertain any questions you might have. *Mayor Hillman*: Any questions? *Alderman Vassar*: Not for you Richard. I have questions for the highway department. *Mayor Hillman*: Steve Mitchell. *Alderman Vassar*: So you are off the hook right now Richard. *Steve Mitchell*: (Senior Transportation Planner for the Arkansas Highway Department) I do not have to remind you, I am sure, that back in 2005 the Sherwood Council passed a motion approving the concept of the north belt alignment within the range through the city. The city engineer at the time, Michael Clayton, had presented that to the council and we had worked with him. Through our environmental studies we identified a number of alignments and then we came down to the final assessment. We brought our preferred alignment to the council. The council passed a resolution in 2007 approving that alignment. At that time we felt comfortable going forward and selecting that alignment and finalizing the environmental document. Shortly after that time the city approached us, along with several developers about the interchange at highway 107. We met with them and heard their concerns. We re-designed the interchange. We found money that we had the Metroplan Board amend into the transportation improvement program for the region. So we, this was all in advance of finalization of the environmental impact statement. We got the federal highway administration to grant us approval for advance acquisition and many things in motion way before the record of decision was issued in September of this year. We actually had appraisals to two of the property owners back in July. There has been some disagreement over the value of the property and we have been back and forth over all that. I am sure you all have heard about that. We do have a third appraisal that is being finished up by the end of this calendar year, which is very soon. Assuming that we cannot come to an agreement after that appraisal, then we intend to condemn that property in January. We feel that this is absolutely necessary to go forward with this. The council has previously

been on record that the alignment that was selected was within the spirit of the master street plan. It is the alignment that we can build at this point and time. All the ensuing years, for various reasons, there has been development in the area. It is this line or nothing. We need to be able to tell people, other developers and future people, that this is where it is. This re-finalment will help avoid further confusion or disagreements in the future. I think it is very important for you to go on record with this. I think if this is delayed or you do not amend your plan, it sends the wrong message to the commission and we have no other place to go and it could very easily kill this project. *Alderman Harmon*: Let us get the dates, so we can get the calendar right, when did you receive the record of decision? *Mr. Mitchell*: The record of decision is dated September 23, 2008. *Alderman Harmon*: Okay. Prior to that you all had to receive special permission, if I am correct, from federal government, to negotiate for right of ways, prior to receiving a record of decision. *Mr. Mitchell*: They gave us approval for advanced acquisition, yes. *Alderman Harmon*: So that was just for what we call the four corners area. *Mr. Mitchell*: I believe that is correct. *Alderman Harmon*: So you actually applied for and received permission for the advanced acquisitions prior to that, and you started negotiations prior to receiving the record of decision? *Mr. Mitchell*: Yes. *Alderman Harmon*: The (inaudible) approval was received May 29, 2008. You say you should have the appraisal back by the end of the year and previously I had been told mid-January is the latest you should have the appraisal back? *Mr. Mitchell*: The contract is through the end of this calendar year. *Alderman Harmon*: Okay. *Mr. Mitchell*: Then after the holidays and when he gets back and looks at this appraisal and evaluates it, you know about a week or two before everybody gets back together. *Alderman Harmon*: Okay. *Mr. Mitchell*: Definitely it is a priority to get to this tonight. *Alderman Harmon*: The standard procedure, to my understanding, the typical procedure with the highway department is that you would make an offer for a right of way and then the land owner would either accept that offer or counter offer, then you would look at their counter offer and either accept it or say that is not acceptable and then you would condemn. In this case that did not happen. In this case you went the extra step in getting another appraisal, which has kind of made the process take longer. *Mr. Mitchell*: It has taken a little bit longer. That is because of the extreme difference in the two appraisals. One is around ½ square foot to 5 square foot. It is several times difference. When we file condemnation, we tell the court this is what we believe the fair market value for this property is. When we have two appraisers that come to us with such disparate evaluations of the property, then we feel that we owe it to everybody to have a third party, before we go to court and state that this is the market value. If we had not had such a big difference we would have gone with our original appraisal. *Alderman Vassar*: I want both. I want development and I want the highway too. You can look in West Little Rock and they have got both. So I want to make sure that we move traffic. By the same token, I think that the four-corner area out there is our potential retail corridor, if you will, and it is essential to grow in this area. So I hope I am not being overly selfish when I ask for both, however, my question tonight is, are we holding up too much if we wait for your appraisal? I would like to see this second appraisal before we pass this tonight. *Mr. Mitchell*: Frankly, I really am concerned that you are connecting these two issues. I do not think they should be connected whatsoever. What you are doing by holding that up, is further delaying the process and what you are doing is sending a message to the department that the council is not so sure about this alignment, so why should we be buying this property. *Alderman Vassar*: A matter of weeks on your appraisal will hold that up? *Mr. Mitchell*: It is not so much the time. We have developers that are complaining about the delay and here we are talking about more delay. And I, I am not in control, but I do think it sends the wrong message. As I said, the alignment is what has been selected through the environmental process. We are boxed in by development and by environmental concerns, and topography and all these things. *Alderman Vassar*: We can have a special council meeting.... *Alderman Rankin*: That is right. *Alderman Vassar*: Thirty minutes after you get that appraisal. *Alderman Rankin*: Exactly. *Alderman Vassar*: So if there is a problem as far as our scheduled council meetings, that is not a problem. *Alderman Harmon*: Another thing to understand is nothing has been held up at this point. Tonight is the third reading of this ordinance as scheduled. Tonight would be the normal day that we would be passing this ordinance on this master street plan. So nothing has been delayed on the passage of this ordinance. If we were to table this ordinance tonight, it would be the only delay that has ever occurred

on the consideration on this ordinance or the master street plan. All we would be saying is that we wanted to wait two weeks, three weeks. What we would be saying is, yes we are giving consideration to the highway department because we consider the north belt loop to be extremely important to Sherwood and we consider the four-corner development extremely important to the City of Sherwood. We have got two things out here that when they are working together, the north belt loop and the four-corners developed, fully developed, we think it is going to be theoretically the center of Sherwood. So we want to do what is necessary to make it work and to make it work together. And if it means postponing this for two weeks and calling a special meeting and us all coming back in here at lunch one day, we are willing to do it. *Mr. Mitchell:* I just do not understand what you think you are gaining. So the appraisal comes in, say it is higher than what our original appraisal was, but it is still very different from the developers appraisal, so it is condemned and goes to court. Then the court will decide what the value is. If you do not like that, then what do you do. I mean do you amend the master street plan or not. It seems to me that you are going to have to make a decision one way or another. Delaying does not remove you from making that decision, or make it any easier, I think. *Alderman Vassar:* I think this body is accustomed to the parties concerned working something out. I do not think it is beyond the scope to hope that the appraisal is going to come back somewhere closer to, and things can be worked out more amicably than we are looking at right now. We, you are right, we are going to have to step up to the plate and make a tough decision, and we will do that, but I would like to have all the facts and figures before I do it. *Alderman Harmon:* I tend to disagree. I would probably lean more towards your way and more toward one that and do not really care as much what the number is. If the number comes back and it is different and you have to condemn the property and you go to court. What I am looking for is, I want something to happen. I would like to see two weeks from now you get the appraisal, it is now moving because the complaint I am hearing is that nothing is happening. All I want to see is something has happened. Then we can go ahead and adopt the master street plan and put the highway, the north belt loop in the correct position on the master street plan. I am of the theory that simply because the north belt loop shows on the master street plan in another location, that is simply an estimate of where it is. Once we adopt the resolution saying that we approve the location then theoretically, and I think Ellen can explain this better than I can, the master street plan is where is it, now that the location has been approved. She explained this to us at a meeting the other day. I also have a little bit of a problem in that this sounds like a dispute between parties as to the value of property. I am not exactly certain that it is the city council's place to be put in the middle of a dispute between parties as to the value of property. It is our place to approve or not approve the master street plan, it is not our place to consider, and either approve or not approve plats when they are brought to us. It is not to our place to be placed in a dispute as to the value of property. There are state statutes of that nature that deal with that. That handles disputes as to the value of the property and handle condemnation. We are here now, if we can just have the two weeks, or the thirty days or whatever, and see something happen. Once something happens I think everybody would be comfortable and to pass the master street plan with the north belt in the correct location. I am only speaking for myself here. *Alderman Fender:* Mr. Mitchell, is there any money set aside right now for this thing to move forward if we voted tonight? There isn't, is there? No money has been appropriated for this. *Mr. Mitchell:* There is money appropriated for right of way acquisition, but not for construction at this time. The commission is working on their next state transportation improvement program, which could include a portion of this, we do not know at this time. Right as we stand now, there is no schedule beyond some right of way acquisition. *Alderman Fender:* Thank you. *Dwight Pattison:* I would like to speak basically in support of what Steve just said. If the council would approve this, then they are re-emphasizing the fact that they would like to see the north belt there in that location. Therefore, that would give more emphasis to the highway department to move in that direction as far as acquiring the property. The fact that, with the additional appraisal it is going to set an additional value. The highway department is still going to agree or condemn the property. So whether the master street plan is adopted or not, is not going to effect it that way, but it will act as an indication of the intent of the council to move in that direction. That it is going to reserve it now and as quick as possible. It would be better, in my opinion, to have it indicated before the property, before they additional

action is taken on the property, to reinforce this is where the council would like the highway to go. *Alderman Vassar*: Dwight, so you are saying that regardless, we should not be concerned about the second appraisal period? *Mr. Pattison*: Exactly. *Alderman Vassar*: We are out of that loop, and so all we are doing is reinforcing the fact that there is a need for the north belt loop. *Mr. Pattison*: Exactly. *Alderman Vassar*: Once we say that, then the parties, the developers and the highway department go from there and they work out their differences. *Mr. Pattison*: Yes. Otherwise we would be looking at the next parcel and the next parcel as we go along. Because that is going to be further negotiations in the future as the highway department gets appraisals done and moves on. *Alderman Vassar*: Certainly the developers know we want the north belt loop. The problem is between those two entities. *Alderman Sulcer*: And we do not need to be involved in that. *Alderman Vassar*: That is right. *Alderman Sulcer*: That is not any of our business at all, our business is to represent that taxpayers. *Alderman Vassar*: Like I said, we have made our wishes known. We want development and we also want the loop. *Alderman Davis*: If the highway department goes through the developers will want to develop it, so we need to move forward. *Mr. Pattison*: In the condemnation process it is okay here it is, we are taking this property and then you still go to court and spend all the time you want going back and forth on the value. The council does not have to be involved. *Alderman Vassar*: Steve Deere wants to talk. I see him moving around back there. Get up here and (inaudible). *Mayor Hillman*: (to Steve with highway department) Steve you may want to stay close. *Steve Deere*: (developer) I think one thing that we are dealing with here is that they want you all to approve the right of way and that is fine. If they want the right of way approved and build the north belt that is fine. (speaking to Mr. Mitchell) You all say you had money for acquisitions, but I do not think you all came clear and really state the facts about how much money you have for acquisitions and how much of the right of way you are willing to purchase and over what time period. My engineer, Mike Marlar, I don't guess Mike is here tonight, last Friday had a conversation with Frank Vozele, who is the Chief Engineer with the Highway Department and Frank told him, as far as except for the two corners, except for the intersection, that they did not have any time frame in the next ten years to buy any right of way. (speaking to Mr. Mitchell and Mr. McGee) Can you all confirm or deny that? *Mr. Mitchell*: I spoke earlier that we had four million dollars now and that is all we have at this point and time, and depending on the value that is determined for the Ashley's and these properties on how far it will go. *Alderman Rankin*: Did you say ten years? *Mr. Deere*: He said he does not have a time frame from one year, five years, or ten years. That is the thing we have been dealing with in every meeting. I think Rick, Brad, Byron and myself and even the Mayor was there. I don't think they have ever wavered from that they have no time frame on money on what they are going to buy, when they are going to start it, when they are going to build it, or what right of way they are even going to purchase, except for the four million dollars that Metroplan gave them for the intersection. I know everybody wants to get this behind them, and set. I mean do you want it set with no time frame. I mean if they are going to build it and they have the record of decision let them buy the right of way. I am not talking about the twelve or fifteen acres of right of way. I mean the whole right of way. That way we can develop around it. We know where accesses are going to be, where overpasses are going to be. We can go on and everybody can work around it. This thing of here we set the intersection, to me just buying the intersection that is kind of condemning my land to the west without ever buying it. I don't know. I don't think they have ever come clear and said when they will buy all the right of way. You know. I think that is something that needs to be addressed. *Rick Ashley*: (represents Brockington Partners, owner of NE corner of Brockington and Highway 107) Alderman Vassar I would like to say we want both also. We think it would be great for north Pulaski County. *Alderman Vassar*: I knew you all were in support of the highway because you have got to get people in there to shop at your retail development. So it is something that we all want. I just want it worked out. *Mr. Ashley*: We feel like that is a good corner. When we started the process of buying that property, we did not ever think the north belt would come to the forefront any time soon. That was the reason we purchased the property. We just need closure on it. From the day we bought the property we began to talk to national retailers, regional retailers and to get interest in the property and when the north belt resurfaced it began to put doubt in the retailers on what is going on in that intersection. It has kind of got us stand still. When we talk to those retailers

they want to know where we are at on the north belt. Our first plan that was approved by your planning commission and I assume the city council as well, did not include the north belt. Because we had no idea it was going to be coming through our property. Again, we are not against the north belt, but we need some closure on it. In roughly the middle of 2007 the highway department approached the City of Sherwood about restricting development in that proposed right of way. We had some conversations with the highway department, they sent us a letter in November 2007, and told us they intended to purchase, that there was money set aside, they intended to purchase that right of way on the property we own in the first half of 2008. We finally received an offer in July 2008, in September 2008 we received our own independent appraisal, sent this to the highway department and it has been set on since then. They did finally send us a letter saying they were going to have their own independent appraisal done. That was the appraisal that Keith (actually meant Steve) was referring to that we all received in July. Hopefully you all received the letter I sent out. Understanding my request I would like for you to delay the approval of the master street plan until March. If they do receive their appraisal, we will sit down and negotiate with them immediately. They do have the right of condemnation, and they can condemn the property, and we can allow a judge to decide the price of the property at that point, but it would give us closure and allow us to move forward with knowing they are going to own the property. We can move forward and talk to our retailers and try to plan a development at that intersection. *Alderman Fender:* Mr. Ashley if you know the four million dollars that has been designated from Metroplan, was that money earmarked for just the four corners right of way for that, or was that just four million dollars for them to acquire right of way forever? *Mr. Ashley:* I do not know that for sure. I have been told that was for that intersection. Our property as well as Byron McKimmey's property that he and his partnership controls across the street. *Mayor Hillman:* At that same meeting I would add that when it was appropriated through Metroplan, the residents farther west who are now in the same boat as Steve Deere, there were no allocations made for them. They were very upset that the committee even considered not going with them. They were really trying to help out the City of Sherwood by doing the commercial development that was right there in that corridor. (to Mr. Mitchell) Am I correct? So there were people upset at that meeting out west, numerous residents, because they felt like they were being left out because no money was being appropriated for them. *Alderman Fender:* Did Metroplan specify how that four million was to be used? *Mr. Ashley:* I cannot answer that. *Mr. Mitchell:* First of all Metroplan approved the TIF, they did not give the department the money. They have to place any federal funded project on a regional transportation improvement program. This four million dollars could be spent anywhere. The restriction was that we started this process long before the record of decision. So the federal highway administration gave us approval for advanced acquisition to start these processes for that specific area. But if money is left over from that it can be spent elsewhere. Given the appraisals that the developers have presented if we are anywhere near that, there will not be money left over. If we go with our appraisal there will be plenty of money to do that and purchase farther to the west. *Alderman Vassar:* Rick, are you saying it is both a blessing and a curse that you bought that property when you did... *Mr. Ashley:* Yes. *Alderman Vassar:* not knowing that the highway department was coming through. And the curse part is that you cannot develop it right now, and the blessing is one of these days there is going to be millions of cars running right through it. Is that what you are saying? *Mr. Ashley:* That is correct. We would like some closure on it. We would not be here tonight if the highway department had acted to condemn the property, and they have the ability to do that. That is all we ask. I think it is a good idea to wait and see what this appraisal, we are only talking about two to three weeks, it sounds like. *Alderman Vassar:* But you are not going to be happy either when it comes in, is that what you are saying? *Mr. Ashley:* Well I do not know. *Alderman Vassar:* If it is not going to change your mind... *Mr. Ashley:* I think it will at least move toward the condemnation. That is what we are asking is that it moves. You all cannot get involved in that. *Alderman Vassar:* That is what I am saying, now that I have heard all of this, my thoughts were originally to encourage us to hold off and wait for that appraisal, but we do not have anything to do with that anyway. *Mayor Hillman:* We do not have any leverage in this. *Mr. Ashley:* What we were concerned with, they have asked you all, over a year ago, roughly a year ago, to set that right of way aside and not let any development on it. It is going on a year and a half and they have nothing

yet. If you pass that master street plan, they do not have to act for a year. It basically gives them a free option on that property for a year. All we want is to act. If they want the property, if they need our intersection, condemn our property, if we cannot agree on a price. *Alderman Harmon*: On what do you base that? *Mr. Ashley*: A letter from, Greg you may, I noticed you....*Alderman Harmon*: If we pass this that somehow they do not have to do anything for a year. *Mr. Ashley*: I guess we are saying that if it is on the master street plan, and the four million dollars does not do it, you know, and they do not move toward condemnation, then what happens. (tape stops and picks up with *Alderman Harmon* saying "we do record these meetings") *Mr. Ashley*: I found my notes here. There is letter here from Robert Wilson, the Chief Counsel of the highway department, and the letter to us on November 14, 2007, you all have this letter in front of you. We asked the City of Sherwood act in accordance with Arkansas Code 14-56-412, which provides for a one year period for a public commission to execute a written option or to file suit for a condemnation to acquire an area within the bounds of a proposed public used facility or a mapped street. This letter was written on November 14, 2007, they have already had over a year, and they have not bought the property, or condemned the property. Again, this process was started prior to this letter being read. This letter was written to us, and a response request to you all a few months prior to that. *Alderman Fender*: Nobody is saying it, but what I am getting out of this, can you start your development over there before they buy your right of way? Can you start developing your property over there tomorrow? Are you waiting for them to do this condemnation, or whatever it is they are going to do? *Mr. Ashley*: We can have a totally different development plan if they do not purchase the property and we would oritate that property toward highway 107 and just recently we asked for curb cuts, which they refused because they said that is where the north belt freeway was going to be placed. They have us tied up in that respect, as well as, again, our plan, our development plan would be totally different if they go, if the north belt goes, than if they do not. We are stuck in not starting development. *Alderman Fender*: Even when the right of way if acquired by the highway department, there is no money available, which is what I asked awhile ago, there is no money set aside to build the north belt. There is not timetable at all. *Mr. Ashley*: No, but we can set our boundaries and developer our site plans and try to finish up our negotiations with our tenants. *Alderman Vassar*: Rick, let me ask you something, you are dealing with tenants now that are seriously interested in this development, is that correct? *Mr. Ashley*: Yes. *Alderman Vassar*: I believe you. You live here and certainly want to take care of what is here. I know you own shopping centers in other states in other areas. They are closing stores all over these United States. What makes you think that the development that you are planning right here at this point and time is going to take off 90 mph now with the economy like it is. *Mr. Ashley*: I cannot tell you that. But I can tell you this, I cannot finish up with them until we either find out if the north belt is going or not going. *Alderman Harmon*: Going or not going, or you are going to or not going to get your right of way purchased. I mean those are two different things. *Mr. Ashley*: We cannot finalize a site plan on that property until we know whether we are going to own that property. *Alderman Harmon*: If you own the right of way or they are going to own the right of way. *Mr. Ashley*: They are going to own the right of way. *Alderman Harmon*: Gotcha. *Alderman Vassar*: Is there anything we can do as far as a resolution to encourage the highway department to move on this, to move the twelve-month period up? *Mr. Mitchell*: The best thing you can do is amend the master street plan. *Alderman Vassar*: Besides that. I mean..... (developer in background "condemn our property") *Alderman Vassar*: I would encourage you to move, if we move you move, condemn the property. This twelve-month period has me concerned. I mean we have only waited twenty years I do not know why another twelve months would be that bad, but... *Mr. Mitchell*: I should point out that we did have appraisals to the parties on both sides of the interchange in July of this year. It was eight months after that letter. They did not accept that. Since then we have been bickering back and forth. *Alderman Vassar*: Come on Byron.... *Mr. Ashley*: I would say that was an in house appraisal they had, not an independent appraisal. Roughly a month and a half later we furnished them with an independent appraisal. *Mayor Hillman*: Can I ask one question, how close was the in house to your, you just purchased the property in the last two years? Was that appraisal pretty close to what you.... *Mr. Ashley*: Probably three and half years ago. *Mayor Hillman*: Were those anywhere in line? *Mr. Ashley*: It was, the offer was less than what we have in the

property. *Mayor Hillman*: Less than your purchase price? *Mr. Ashley*: Yes. *Mayor Hillman*: per square foot? *Mr. Mitchell*: I would not agree with that. *Alderman Harmon*: This is what I said that we are getting in the middle of a dispute. *Alderman Davis*: Yes. *Byron McKimmey*: (developer) First of all I want to echo everything that Rick said for the other side of 107 and Oakdale, 107 LLC. What I wanted to remind you all, we said this before at the planning commission also, is that we met, I am pretty sure Keith was there, Steve was there, Mayor I know you were there, we set down in good faith and said okay how much time we want, that was when they were trying to get you all to do the one year moratorium. We said we will sit back and the appraisal that they did in house was less than the purchase price. I can furnish you all the documents. So to me, I do not think we are asking anything unreasonable tonight. All we are saying is if something is going to happen we are for that, we have not been against that. We have not been in here on every meeting, saying you all are not doing us right. We have sat very patient, so my goodness how much is it going to cost anyone after all this delay to wait and see if there is some action in the next 30 days. That is all we are asking you for. So it is not like we are asking for something unreasonable. So that is we are asking, is what our letter said. Just give us some time to see that really something happens. Because if you all put this on the master street plan how long is it going to be there? How can we ever get it off? If this negotiations does fall down, it does not really happen, you know, what if the other appraisal is again below our value. We do not know that. We have got Tom Firstal, who all of you have used. *Alderman Vassar*: We have not used him. *Mr. McKimmey*: I do not mean the city. I meant, most of you all are familiar with Tom Firstal. He has been in this business of appraising for years. So at least maybe you have heard of him if you have not used him. So I mean we did not direct him in what to do, we just said we want an appraisal. He did one. We thought it was a very fair appraisal and nothing happened. So here we are. The last thing I would like to remind you of, I am in one other partnership with Tommy Eanes, Jim Rodgers, and Doug Morgan, and that is some property of 300 plus acres that will be even west of where we are talking about now and the highway department for two years plus held up the Camp Robinson, they needed the property that we ended up trading with them for, for new helicopters that they brought into Camp Robinson, and for two years they tried to give a right of way, not sell it, they tried to give the right of way to the highway department for this loop. And they offered to give them a six hundred foot wide, however much they want, take anything you want to before we trade this property. After two years the Camp finally said we cannot get a decision, so how are we going to just, we have got to have a helicopter land now, so they went on gave us, now they (highway department) have got to buy that right of way in addition to everything else we are talking about here. So if they are really serious about doing something, they can do something within the next 30 days. Thanks. *Alderman Vassar*: So you think that if we wait the two weeks until the appraisal comes back and have a special council meeting that is going to make everybody happier, right? *Mr. McKimmey*: Sure, because that way there is some good faith there. Right now we got one appraisal from their in house staff of less than what we paid for the property. Then we have got Tom Firstal's appraisal that they do not agree with. I do not know whom they are getting to do their appraisal, which I understand is not in house this time. So if they do that and they show us, and it is somewhere in the ballpark then that makes sense. *Mayor Hillman*: Did you have another comment for closing arguments? It is time to wrap this, let us move one-way or the other, it is getting close to the end here. *Mr. Mitchell*: As to the right of way donation that he brought up, that was proposed to us at a time when we were still considering alternatives and federal regulations will not allow us to accept that right of way when there are still alternative alignments in question, because then you are being biased in terms of selecting the alignment. I would be happy to accept it if it is still available. My information is that their appraisal for part of their property that we need was more than what they paid for the full cost of the parcel. *Alderman Vassar*: That being said, Mayor, I do not believe this council should have to make a decision based just on the comments that we have heard tonight. I really think if we put this off until the appraisal comes back, if it comes back within the 30-day period, and that is when you say it will definitely be back. Is that correct? *Mayor Hillman*: That is what he said. *Alderman Vassar*: The appraisal will be back within a 30-day period, but you are thinking in about two weeks, is that right? *Mr. Mitchell*: It will be back shortly, and then we will have to review it. We are intending to take action January. *Alderman Vassar*: So it will be

December 22, 2008

REGULAR MEETING 9

within 30-days. *Mayor Hillman*: What is your pleasure? *Alderman Vassar*: My feeling leads me to the fact that we could have a special council meeting with an hours notice to the press. I honestly feel like this is something, this big....(Alderman Vassar is informed the press needs two hours notice) we can do it fast. I really think to look at this situation it will give us that additional time, I would move that we delay this decision until we get the appraisal. Alderman Harmon seconded the motion. The roll call was 7 ayes, and Alderman Sulcer no.

**Ordinance No. 1805, entitled, "AN ORDINANCE AMENDING THE ZONING MAP FOR THE CITY OF SHERWOOD"** was read for the third time. Alderman Harmon, seconded by Alderman Vassar, made a motion to adopt the ordinance. The roll call vote was unanimous.

A resolution entitled, "A RESOLUTION ACCEPTING THE RECOMMENDATION OF THE SHERWOOD WASTEWATER UTILITY COMMITTEE AND AUTHORIZING THE ENTERING OF A CONTRACT BETWEEN THE CITY OF SHERWOOD AND CRIST ENGINEERS, INC., FOR ENGINEERING CONSULTING SERVICE" was read. Alderman Rankin asked the Mayor what the amount of the contract was. The contract was not available. Ellen Norvell, City Engineer, advised that the amount was less than \$125,000. The contract is written for specific items because the city is under a consent order with ADEQ. Alderman Rankin stated he did not have a copy of the contract. Larry Carpenter, Attorney for the Sewer Committee, addressed the council and stated he did not bring the contract. Alderman Brooks, seconded by Alderman Harmon, made a motion to table the resolution until a special meeting is called. The roll call vote was unanimous. The deadline is January 9, 2009, and if information is not received to ADEQ the city will receive additional fines.

Steve Cobb, City Attorney, stated that Item B "*A resolution authorizing the purchase of land contiguous to the Sherwood North Treatment Facility and necessary to wastewater utility operations*". The wastewater utility committee has a resolution that did not make it on the agenda regarding the contract for cleaning. Ellen Norvell addressed the council, stating that there are several streets in the old sewer system where a four-inch service line was extended and additional houses were put on it. Sealed bids were received to replace that line with a new eight-inch sewer line to provide better service to the residents. Alderman Vassar, seconded by Alderman Brooks, made a motion to consider the resolution. The roll call vote was unanimous. **Resolution No. 26-2008, entitled, "A RESOLUTION ACCEPTING THE RECOMMENDATION OF THE SHERWOOD WASTEWATER UTILITY COMMITTEE AND AUTHORIZING THE ENTERING OF A CONTRACT BETWEEN THE CITY OF SHERWOOD AND ARKANSAS CLEANING AND TELEVISIONING FOR A COMMUNITY SERVICE ELIMINATION PROJECT"** was read. Alderman Fender asked if this was something we could do in house. This is in the Lake Cherrywood area. Mrs. Norvell stated that it was not something that could be done in house. Alderman Vassar, seconded by Alderman Rankin, made a motion to adopt the resolution. The roll call vote was unanimous.

Steve Cobb stated to the council that budget items on the agenda were read one time last month, and the budget committee has changed the numbers. The ordinance will need to be amended.

Alderman Sulcer, seconded by Alderman Brooks, made a motion to amend the general fund budget ordinance. The roll call vote was unanimous. **Ordinance No. 1806, entitled, "AN ORDINANCE PROVIDING FOR THE ADOPTION OF A GENERAL FUND BUDGET FOR THE CITY OF SHERWOOD, ARKANSAS, FOR THE TWELVE MONTH PERIOD BEGINNING JANUARY 1, 2009, AND ENDING DECEMBER 31, 2009; APPROPRIATING MONEY FOR EACH AND EVERY ITEM OF EXPENDITURE THEREIN PROVIDED FOR; DECLARING AN EMERGENCY; AND FOR OTHER PURPOSES"** was read as amended. Alderman Vassar asked if the new police cars would be green and not blue. Chief Kel Nicholson stated the officers like the blue paint, but they will be painted green. Alderman

Vassar stated she was unaware the last time the vehicles were change to blue. Chief Nicholson advised that the change was in the council packet. Alderman Vassar stated she would like for the information to be in the minutes. Alderman Harmon, seconded by Alderman Rankin, made a motion to suspend the rules and place the ordinance on the second reading as amended. The roll call vote was unanimous. The ordinance was read for the second time as amended. Alderman Sulcer, seconded by Alderman Brooks, made a motion to suspend the rules and place the ordinance on the third and final reading as amended. The roll call vote was unanimous. The ordinance was read for the third time as amended. Alderman Vassar, seconded by Alderman Davis, made a motion to adopt the ordinance as amended. The roll call vote was unanimous. The emergency clause passed with a unanimous roll call vote.

Alderman Harmon, seconded by Alderman Rankin, made a motion to amend the street fund budget. The roll call vote was unanimous. **Ordinance No. 1807, entitled, "AN ORDINANCE PROVIDING FOR THE ADOPTION OF A STREET DEPARTMENT BUDGET FOR THE CITY OF SHERWOOD, ARKANSAS, FOR THE TWELVE MONTH PERIOD BEGINNING JANUARY 1, 2009, AND ENDING DECEMBER 31, 2009; APPROPRIATING MONEY FOR EACH AND EVERY ITEM OF EXPENDITURE THEREIN PROVIDED FOR; DECLARING AN EMERGENCY; AND FOR OTHER PURPOSES"** was read as amended. Alderman Vassar, seconded by Alderman Davis, made a motion to suspend the rules and place the ordinance on the second reading as amended. The roll call vote was unanimous. The ordinance was read for the second time as amended. Alderman Sulcer, seconded by Alderman Rankin, made a motion to suspend the rules and place the ordinance on the third and final reading as amended. The roll call vote was unanimous. The ordinance was read for the third time as amended. Alderman Rankin, seconded by Alderman Vassar, made a motion to adopt the ordinance as amended. The roll call vote was unanimous. The emergency clause passed with a unanimous roll call vote.

An ordinance entitled, "AN ORDINANCE PROVIDING FOR THE ADOPTION OF A WASTEWATER BUDGET FOR THE CITY OF SHERWOOD, ARKANSAS, FOR THE TWELVE MONTH PERIOD BEGINNING JANUARY 1, 2009, AND ENDING DECEMBER 31, 2009; APPROPRIATING MONEY FOR EACH AND EVERY ITEM OF EXPENDITURE THEREIN PROVIDED FOR; DECLARING AN EMERGENCY; AND FOR OTHER PURPOSES" was read for the second time.

**Ordinance No. 1808, entitled, "AN ORDINANCE PROVIDING FOR THE ADOPTION OF A SHERWOOD POLICE DEPARTMENT LOCAL DRUG FUND BUDGET FOR THE CITY OF SHERWOOD, ARKANSAS, FOR THE TWELVE MONTH PERIOD BEGINNING JANUARY 1, 2009, AND ENDING DECEMBER 31, 2009; APPROPRIATING MONEY FOR EACH AND EVERY ITEM OF EXPENDITURE THEREIN PROVIDED FOR; DECLARING AN EMERGENCY; AND FOR OTHER PURPOSES"** was read. Chief Kel Nicholson explained to the council that this is required by legislative audit. This money is received from drug arrests. Alderman Vassar, seconded by Alderman Davis, made a motion to suspend the rules and place the ordinance on the second reading. The roll call vote was unanimous. The ordinance was read for the second time. Alderman Sulcer, seconded by Alderman Brooks, made a motion to suspend the rules and place the ordinance on the third and final reading. The roll call vote was unanimous. The ordinance was read for the third time. Alderman Harmon, seconded by Alderman Davis, made a motion to adopt the ordinance. The roll call vote was unanimous. The emergency clause passed with a unanimous roll call vote.

**Ordinance No. 1809, entitled, "AN ORDINANCE PROVIDING FOR THE ADOPTION OF AN ADVERTISING AND PROMOTION COMMISSION BUDGET FOR THE CITY OF SHERWOOD, ARKANSAS, FOR THE TWELVE MONTH PERIOD BEGINNING JANUARY 1, 2009, AND ENDING DECEMBER 31, 2009; APPROPRIATING MONEY FOR EACH AND EVERY ITEM OF EXPENDITURE THEREIN PROVIDED FOR; DECLARING AN EMERGENCY; AND FOR OTHER PURPOSES"** was read. Alderman Vassar, seconded by Alderman

December 22, 2008

REGULAR MEETING 11

Sulcer, made a motion to suspend the rules and place the ordinance on the second reading. The roll call vote was unanimous. The ordinance was read for the second time. Alderman Harmon, seconded by Alderman Henry, made a motion to suspend the rules and place the ordinance on the third and final reading. The roll call vote was unanimous. The ordinance was read for the third time. Alderman Vassar, seconded by Alderman Rankin, made a motion to adopt the ordinance. The roll call vote was unanimous. The emergency clause passed with a unanimous roll call vote.

Mayor Hillman thanked the budget committee for their time preparing the 2009 budget.

**Ordinance No. 1810, entitled, "AN ORDINANCE AMENDING THE 2008 GENERAL FUND BUDGET ORDINANCE NO. 1760 AND THE 2008 STREET FUND BUDGET ORDINANCE NO. 1761; DECLARING AN EMERGENCY AND FOR OTHER PURPOSES"** was read. Alderman Vassar, seconded by Alderman Henry, made a motion to suspend the rules and place the ordinance on the second reading. The roll call vote was unanimous. The ordinance was read for the second time. Alderman Sulcer, seconded by Alderman Brooks, made a motion to suspend the rules and place the ordinance on the third and final reading. The roll call vote was unanimous. The ordinance was read for the third time. Alderman Vassar, seconded by Alderman Davis, made a motion to adopt the ordinance. The roll call vote was unanimous. The emergency clause passed with a unanimous roll call vote.

**Resolution No. 27-2008, entitled, "A RESOLUTION APPOINTING RODNEY FREEMAN, REPLACING RAY HARRISON, TO THE PLANNING COMMISSION AND BOARD OF ADJUSTMENTS"** was read. Mayor Hillman announced that Mr. Harrison felt after ten years it was time to resign. Mr. Freeman is a resident of the newly annexed Gravel Ridge area. Alderman Sulcer, seconded by Alderman Davis, made a motion to adopt the resolution. The roll call vote was unanimous.

**Ordinance No. 1811, entitled, "AN ORDINANCE ADOPTING FOR THE CITY OF SHERWOOD, ARKANSAS, THE 2007 EDITION OF THE ARKANSAS FIRE PREVENTION CODE; COMPROMISED OF VOLUME 1-FIRE, VOLUME 2-BUILDING, AND VOLUME 3-RESIDENTIAL; AS AMENDED, REPEALING CONFLICTING ORDINANCES"** was read. Steve Cobb advised the council that this was necessary to bring the City of Sherwood up to date on the codes. Andy Wilson, Code Enforcement, stated no fees would change. This is the minimum state law that has been updated. Alderman Vassar asked what the notification process was. Mr. Wilson stated that people are told when the City of Sherwood will be on board with the new codes. A handout is given to persons who pull a permit that gives a listing of the current codes that will apply to that permit. Alderman Vassar, seconded by Alderman Sulcer, made a motion to suspend the rules and place the ordinance on the second reading. The roll call vote was unanimous. The ordinance was read for the second time. Alderman Rankin, seconded by Alderman Sulcer, made a motion to suspend the rules and place the ordinance on the third and final reading. The roll call vote was unanimous. The ordinance was read for the third time. Alderman Davis, seconded by Alderman Brooks, made a motion to adopt the ordinance. The roll call vote was unanimous.

**Ordinance No. 1812, entitled, "AN ORDINANCE ADOPTING FOR THE CITY OF SHERWOOD, ARKANSAS, THE 2006 ARKANSAS PLUMBING CODE, AS AMENDED, REPEALING CONFLICTING ORDINANCES"** was read. Alderman Vassar, seconded by Alderman Rankin, made a motion to suspend the rules and place the ordinance on the second reading. The roll call vote was unanimous. The ordinance was read for the second time. Alderman Sulcer, seconded by Alderman Rankin, made a motion to suspend the rules and place the ordinance on the third and final reading. The roll call vote was unanimous. The ordinance was read for the third time. Alderman Brooks, seconded by Alderman Davis, made a motion to adopt the ordinance. The roll call vote was unanimous.

**Ordinance No. 1813, entitled, "AN ORDINANCE ADOPTING FOR THE CITY OF SHERWOOD, ARKANSAS, THE 2006 ARKANSAS FUEL GAS CODE, AS AMENDED, REPEALING CONFLICTING ORDINANCES"** was read. Alderman Vassar, seconded by Alderman Sulcer, made a motion to suspend the rules and place the ordinance on the second reading. The roll call vote was unanimous. The ordinance was read for the second time. Alderman Rankin, seconded by Alderman Sulcer, made a motion to suspend the rules and place the ordinance on the third and final reading. The roll call vote was unanimous. The ordinance was read for the third time. Alderman Brooks, seconded by Alderman Rankin, made a motion to adopt the ordinance. The roll call vote was unanimous.

**Ordinance No. 1814, entitled, "AN ORDINANCE ADOPTING FOR THE CITY OF SHERWOOD, ARKANSAS, THE 2008 EDITION OF NFPA NATIONAL ELECTRIC CODE, AS AMENDED, REPEALING CONFLICTING ORDINANCES"** was read. Alderman Harmon, seconded by Alderman Sulcer, made a motion to suspend the rules and place the ordinance on the second reading. The roll call vote was unanimous. The ordinance was read for the second time. Alderman Vassar, seconded by Alderman Henry, made a motion to suspend the rules and place the ordinance on the third and final reading. The roll call vote was unanimous. The ordinance was read for the third time. Alderman Rankin, seconded by Alderman Davis, made a motion to adopt the ordinance. The roll call vote was unanimous.

**Resolution No. 28-2008, entitled, "A RESOLUTION ACKNOWLEDGING REVIEW OF ASSESSMENTS FOR PULASKI FIRE PROTECTION DISTRICT NO. 5, THE SHERWOOD FIRE DEPARTMENT"** was read. Mayor Hillman stated that this is something that the city has no control over this is just an acknowledgement of what Fire District No. 5 has presented. Alderman Sulcer asked if this is saying this will go to \$300 a house. Alderman Harmon stated the rate is the same. Larry Carpenter, Attorney, stated the cap would be \$300,000.00. Alderman Harmon, seconded by Alderman Sulcer, made a motion to adopt the resolution. The roll call vote was unanimous.

**Resolution No. 29-2008, entitled, "A RESOLUTION ACCEPTING THE ANNEXATION OF CERTAIN LANDS INTO THE CITY OF SHERWOOD, ARKANSAS, AND FOR OTHER MATTERS"** was read. Steve Cobb stated that this is the council's acceptance of the annexation that went to the State Supreme Court. Alderman Vassar, seconded by Alderman Brooks, made a motion to adopt the resolution. The roll call vote was unanimous.

Alderman Sulcer stated that Scotty Thurman telephoned her and wanted to meet on ways to expedite getting traffic through in the Stonehill subdivision. In other old business Alderman Sulcer stated the Trail of Lights has been a success this year.

Alderman Vassar asked when the water main would be fixed on Country Club. Fire Chief Frank Hill stated that Central Arkansas Water would be contacted for an update.

Mayor Hillman stated that due to the damage of the tornado of April 3, 2008, the insurance has expended what they are going to pay on claims. There is a possibility that more funds will be received from FEMA. The mayor and Sonny Janssen, Parks and Recreation Director, met with the CARMA board and it was decided that CARMA would advance the city the money to pay off the final bill for the damage. If the city receives money from FEMA, the money will need to be reimbursed to CARMA. Alderman Vassar, seconded by Alderman Brooks, made a motion to accept this agreement. The roll call vote was unanimous.

Alderman Fender informed the council that during budget process the Mayor would contact the insurance company and make sure that the city was adequately covered. Mayor Hillman advised that this has already been taken care of.

**December 22, 2008**

**REGULAR MEETING 13**

Alderman Sulcer stated that there was approximately \$80,000 of displays that were destroyed from the tornado that has not been replaced yet. Mayor Hillman stated that this is in process.

Mayor Hillman made the following announcement:

- Swearing in ceremony for newly elected officials will be January 1, 2009, at 9:00 a.m. in the City council chambers.

Alderman Henry made a motion to adjourn.

**ATTEST:**

---

Angela Nicholson, City Clerk

---

Virginia R. Hillman, Mayor