



AGENDA

CANBY CITY COUNCIL REGULAR MEETING

July 17, 2013

7:30 PM

Council Chambers

155 NW 2nd Avenue

Mayor Brian Hodson

Council President Tim Dale

Councilor Richard Ares

Councilor Clint Coleman

Councilor Traci Hensley

Councilor Greg Parker

Councilor Ken Rider

CITY COUNCIL REGULAR MEETING

1. **CALL TO ORDER - 6:00 PM – City Hall Conference Room** – The Council will immediately go into Executive Session with the Regular Session following at 7:30 PM in the Council Chambers.
2. **EXECUTIVE SESSION:** ORS 192.660(2)(i) Performance Evaluation Of Public Officer
3. **OPENING CEREMONIES -7:30 PM - Council Chambers**
 - A. Pledge of Allegiance and Moment of Silence
4. **COMMUNICATIONS**
5. **CITIZEN INPUT & COMMUNITY ANNOUNCEMENTS**

(This is an opportunity for visitors to address the City Council on items not on the agenda. It is also the time to address items that are on the agenda but not scheduled for a public hearing. Each citizen will be given 3 minutes to give testimony. Citizens are first required to fill out a testimony/comment card prior to speaking and hand it to the City Recorder. These forms are available by the sign-in podium. Staff and the City Council will make every effort to respond to questions raised during citizens input before tonight's meeting ends or as quickly as possible thereafter.)
6. **MAYOR'S BUSINESS**
7. **COUNCILOR COMMENTS & LIAISON REPORTS**
8. **CONSENT AGENDA**

(This section allows the City Council to consider routine items that require no discussion and can be approved in one comprehensive motion. An item may be discussed if it is pulled from the consent agenda to New Business.)

 - A. Approval of Minutes of the June 19, 2013 City Council Work Session and Regular Meeting
 - B. Appointment to Historic Review Board
9. **PUBLIC HEARING**
 - A. APP 13-02 Appeal of Planning Commission Decision of DR 13-01 for New Library
(WITHDRAWN – PUBLIC HEARING CANCELLED)

Pg. 1

10. RESOLUTIONS & ORDINANCES

- A. Res. 1170, Establishing a PERS Contribution Stabilization Reserve Pg.6
- B. Ord. 1383, Authorizing Lease with Zimmer Ventures, LLC for Rental of Property for Canby Area Transit Offices and Parking Pg.8
- C. Ord. 1384, Committing PERS Contribution Stabilization Reserve to be Used to Offset Future PERS Rate Increases Pg.33

11. NEW BUSINESS

- A. Appeal of Parks and Transportation SDC Calculation/Application Interpretation for SMS Auto Fabrics Pg.35
- B. Recommended Direction to Address LUBA Remand of TA 12-01 and ZC 12-01(adopted by Ordinance No. 1365) of the (Save Downtown Canby v. City of Canby, LUBA No. 2012-097) Pg.47

12. CITY ADMINISTRATOR'S BUSINESS & STAFF REPORTS

13. CITIZEN INPUT

14. ACTION REVIEW

15. EXECUTIVE SESSION: ORS 192.660(2)(h) Pending Litigation

16. ADJOURN

*The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired or for other accommodations for persons with disabilities should be made at least 48 hours before the meeting to Kim Scheafer, MMC, City Recorder at 503.266.0733. A copy of this Agenda can be found on the City's web page at www.ci.canby.or.us. City Council and Planning Commission Meetings are broadcast live and can be viewed on OCTS Channel 5. For a schedule of the playback times, please call 503.263.6287.

**CITY OF CANBY
APPLICATION
BOARD/COMMITTEES/COMMISSIONS/COUNCIL**

RECEIVED
JUN 21 2013
CITY OF CANBY

Date: June 19, 2013

Name: Carol S. Palmer

Occupation: Historian/Palmer

Research, LLC

Home Address: _____

Employer: Self

Position: _____

Daytime Phone: _____ Evening Phone: _____

E-Mail Address: _____

For which position are you applying? Historic Review Board

What are your community interests (committees, organizations, special activities)? In addition to the history of the city, I am interested in the library, sustainability initiatives, and parks/cemeteries.

Experience and educational background: See attached CV

Reason for your interest in this position: As a new resident, I want to learn more about the community and make a contribution. I believe my skills, experience, and education make me a good match for the Historic Review Board position.

List any other City or County positions on which you serve or have served: None

Information on any special membership requirements:

Referred by (if applicable):

Feel free to attach a copy of your resume and use additional sheets if necessary

THANK YOU FOR YOUR WILLINGNESS TO SERVE CANBY

*Please return to: City of Canby
Attn: City Recorder*

Carol S. Palmer

Education

PhD, Public History Program, Arizona State University, 2012. Dissertation: "Reimagining Surprise: The Evolution of a Twenty-First Century Boomburb, 1938-2010."

M.A., Public History Program, Arizona State University, 2007. Thesis: "Challenging Tradition: Arizona Women Fight for the Equal Rights Amendment."

MBA, Executive Management, University of Oregon, 1990.

B.A., Social Sciences and Secondary Education, Western Oregon University, 1970.

Employment

2008 to present:	Palmer Research, LLC: Historical research, writing, and consultation for corporations, government agencies, and individuals.
2003 to 2007	Research First Consulting: Strategic and operational analyses for <i>Fortune</i> 500 companies.
2000 to 2003	Qwest Communications: Senior Director, Billing, Collections, and Operations Support
1998 to 2000	USWEST Communications/Qwest Communications: Director of Operations Support and Merger Implementation
1971 to 1998	Pacific Northwest Bell/ USWEST Communications: Various customer service and management positions

Awards

- **Arizona State University Graduate School Dissertation Completion Fellowship**, 2012.
- **Lattie and Elva Coor Building Great Communities Graduate Fellowship**, 2010-2011.
- **Faculty Women's Association Distinguished Achievement Award**, Arizona State University, History Department Nominee, 2007.
- **Best Use of Archival Material**, Arizona History Convention, "Doing It for Our Daughters: Arizona Women and the ERA," 2006.
- **Graduate Fellowship**, Arizona State University Public History Program, 2005-2006.
- **Phi Alpha Theta**, 2005.
- **Council of Leaders**, USWEST Communications, 1992.
- **President's Club**, USWEST Communications, 1990, 1998, 1999, 2000.

Publications

- **The City of Surprise: A History in Progress** (Phoenix: Heritage Publishers, 2010).

Projects

2012	Developed proposal for a women's heritage trail as part of the City of Surprise's commemoration of its 75 th anniversary. After acceptance by the city council, conducted the research and wrote the narratives detailing the accomplishments of the women and the significance of each site.
2008 to 2012	Provided consultation, research, and written material for the City of Surprise and the Surprise Historical Society for exhibits and educational projects.
2010 to 2011	Conducted research, including oral histories, for the Senator Paul Fannin biography project.
2010	Provided consultation on the Arizona State University Public History Program proposal for the Sandra Day O'Connor House.
2008 to 2009	Conducted research, including oral histories, for the City of Surprise community history project. Wrote a popular history book, <i>The City of Surprise: A History in Progress</i> .

2006 to 2007	Contributed to the Arizona State Archives Legislative History Project, conducting oral history interviews with former state lawmakers.
2006	Developed a survey of Glendale, Arizona analyzing the community's economic, social, and cultural resources and proposing ways in which historically-based cultural institutions could strategically leverage this environment.
2005 to 2007	Developed an archival file for the Arizona State Archives on the state's debate over ratification of Equal Rights Amendment. This included primary and secondary research.
2005	Participated in a property survey of a 1950s Phoenix suburb for a National Historic Register nomination.
2003 & 2005	Conducted strategic alignment and operational effectiveness analyses of AT&T's business service and sales units.
2000	Directed the planning and implementation of the integration of the consumer and business marketing and service units for the USWEST and Qwest merger.

Conference Panels and Papers

“Defining Surprise: A Battle over Community Identity on the Urban-Rural Fringe.” Arizona Centennial Conference, Phoenix, Arizona: 2012.

“Public History and Sustainability.” Roundtable participant: Annual conference of the American Society for Environmental History, Phoenix, Arizona: 2011

“Recycling Buildings: Reframing Historic Preservation in the Language of Sustainability and the Green Economy.” Working Group Panel Participant: Annual Meeting of the National Council on Public History and the American Society for Environmental History, Portland, Oregon: 2010.

“The Surprise Women’s Club: Building Community Identity.” Arizona-Nevada History Convention, Laughlin, Nevada: 2010

“Doing it for Our Daughters: Arizona Women and the ERA.” Arizona History Convention, Tucson, Arizona: 2006.

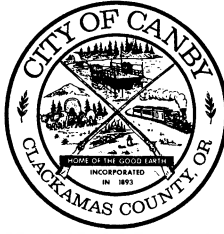
Teaching Experience/Preparation

- Taught the suburban/community history segment of the Arizona State University’s graduate course on Urban History, 2012.

- Completed the Preparing Future Faculty course offered by the Arizona State University History Department, 2010.
- Taught the community history segment of Arizona State University's graduate class on Public History Methods and Practices, 2009.

Professional Affiliations

- American Historical Association
- Organization of American Historians
- Arizona Archives Association
- Western History Association
- National Council on Public History
- American Association of State and Local Historians



MEMORANDUM

DATE: JULY 17, 2013
TO: HONORABLE MAYOR HODSON AND CANBY CITY COUNCIL
FROM: HALEY FISH, FINANCE DIRECTOR
THROUGH: GREG ELLIS, CITY ADMINISTRATOR
RE: PERS CONTRIBUTION STABILIZATION RESERVE

ISSUE: Establishment and commitment of PERS Contribution Stabilization Reserve (the Reserve)

SYNOPSIS: The City budgeted personal services to meet the PERS contribution rates issued in the Actuary Report dated September 28, 2012.

The Oregon Legislature passed Senate Bill (SB) 822 which included some cost savings due to changes in PERS benefits and a budget note requesting that an additional 1.9% of the previously issued rates be collared, or in other words deferred to future periods. The actuarial methodology used by OPERS also include a rate collaring provision. Therefore it is reasonable to expect that contribution rates, which are recalculated every 2 years, will increase, and that those rates will include contributions for benefits accrued now.

We are proposing that a PERS Reserve rate calculated as the difference in the rate issued in the Actuary Report dated September 28, 2012 and the post SB 822 rate, as outlined below, be charged to departments/funds as a benefit expense and be accumulated in the General Fund as the PERS Contribution Stabilization Reserve, established by approving Resolution No. 1170.

We then recommend that you adopt Ordinance No. 1384 which in accordance with GASB 54 commits the Reserve to be used for the purpose of offsetting future PERS contribution rate increases.

Payroll	Pre- SB 822 Rates	Post- SB 822 Rates	PERS Reserve Rate (difference)
Tier 1/ Tier 2	15.92%	11.96%	3.96%
OPSRP General Srv	11.57%	7.61%	3.96%
OPSRP Police & Fire	14.30%	10.34%	3.96%

Reserve as proposed is expected to generate a balance of \$238,596 in fiscal year 2013-2014.

RECOMMENDATION: Staff recommends that Council adopt Resolution No. 1170 and Ordinance 1384.

ATTACHED: Resolution No. 1170, Ordinance No. 1384

RESOLUTION NO. 1170

**A RESOLUTION ESTABLISHING A PERS CONTRIBUTION STABILIZATION
RESERVE**

WHEREAS, the City budgeted personal service expense, as adopted in Res. No 1162 on June 19, 2013, based on rates outlined in the actuary report dated September 28, 2012; and

WHEREAS, the Oregon Legislature passed Senate Bill (SB) 822 and the Oregon Public Employee Retirement System (OPERS) board adopted a rate reduction resulting from the passage of SB 822 and accompanying budget note at their May 31, 2013 meeting; and

WHEREAS, the accompanying budget note of SB 822 and the OPERS actuarial methodology both contain rate collaring provisions which defer current retirement benefit contributions to future periods indicating that contribution rates, which are recalculated every 2 years, will increase; and

WHEREAS, the Council would like to establish a reserve to offset future contribution rate increases; and

WHEREAS, funding for the reserve is available by charging benefit expense in the amount of the difference in the rate issued in the actuary report dated September 28, 2012 (pre- SB 822) and the reduced rate resulting from the passage of SB 822, herein known as the PERS Reserve rate.

IT IS HEREBY RESOLVED by the City of Canby Council that a PERS Contribution Stabilization Reserve be established to offset future PERS contribution rate increases, is adopted by the Canby City Council.

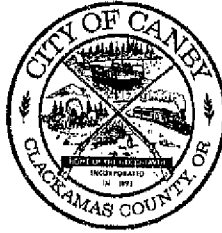
This resolution is effective retroactively to July 1, 2013.

ADOPTED by the Canby City Council on the 17th day of July 2013.

Brian Hodson
Mayor

ATTEST:

Kimberly Scheafer, MMC
City Recorder



MEMORANDUM

DATE: JULY 8, 2013
TO: MAYOR HODSON AND CANBY CITY COUNCIL
FROM: JULIE WEHLING, TRANSIT DIRECTOR
THROUGH: GREG ELLIS, CITY ADMINISTRATOR
RE: CANBY AREA TRANSIT SPACE LEASE

THIS HAS BEEN REVIEWED
BY THE FINANCE DIRECTOR

Halley J.

Issue: Authorization of lease agreement for Canby Area Transit.

Background: Over the years the CAT has outgrown its current office space and parking area. As early as 2007 CAT applied for federal funds to expand the existing fleet facility to add 2,500 square feet of office space for CAT and 2 additional maintenance bays. Several recommendations of property to purchase for a CAT facility have been presented to the City Administrator and Council over the years. Moving the CAT office to a space that can better accommodate our needs has been discussed a length by the Transit Advisory Committee and also during the transit planning meetings conducted in 2008 & 2009.

Since 2006 when CAT services expanded along 99E and 35 foot buses were added to the fleet finding adjacent parking for all vehicles has been a challenge. Since 2011, the CAT fleet includes: 3 coaches (35'), 9 cutaways (21'-26'), 2 staff cars and one minivan.

The lot behind the current building accommodates 7 cutaways and does not accommodate the larger vehicles. From 2006 until the construction of the theater the city had a lease agreement with the Cutsforth's for parking behind Thriftway near the loading dock. When this parking area was eliminated by the construction of the theater parking lot the buses were moved to the railroad parking lot along 1st Avenue until the redevelopment of 1st Avenue. Since then the large buses and overflow parking has been shuffled between the fleet facility and the transit center near Thriftway.

Additionally, the current office space is terribly inadequate. The dispatcher's office accommodates busy two-way radio and telephone traffic and serves as the lobby, public reception area, printer room and driver check-in area. The director's office serves as a small meeting room, fare counting area and houses the safe. All 4 rooms are small and there is little privacy for anyone. Three organizations operate from this very small space. There are often as many as 8 to 12 people doing different things in less than 800 square feet.

Over the years it has often been suggested that CAT move to the fleet facility when Canby Utility moves out. This is a reasonable suggestion although it is unlikely to happen for a number of years. CAT needs more space in the meantime.

The proposed lease is more than reasonable for a space that will accommodate CAT's needs for many years and solves several challenges CAT is facing in the downtown area. The cost of this lease and an additional parking space lease was included in the FY2013-14 budget.

Moving to 195 Hazel Dell Way will put the CAT operation closer to the fleet facility, provide parking options that are not available in the downtown area, provide a secure area for fare handling, and allow for future growth. This move will address the following:

- Central parking near the CAT offices reducing deadhead and thereby controlling the cost of the service.
- Position the CAT office and bus parking on the south side of the railroad tracks thereby improving route efficiency.
- Increase office space square footage to 1,750 in a configuration designed for CAT operation with a mix of private office space; separate driver and public reception areas; separate dispatch office; and a secure space for fare box handling.
- Improved security and safety for the handling of the fares and fare boxes.
- A lunch room large enough to double as a driver training room or meeting room. Currently driver trainings are held off site.
- Allow for service growth over time.
- Provide options for working toward compliance with the Federal Transit Administration (FTA) requirement that all vehicles purchased with FTA funds be maintained in a secure area.

Recommendation: The City Administrator is hereby authorized and directed to make, execute, and declare in the name of the City of Canby and on its behalf, the attached Lease Agreement with Zimmer Ventures, LLC. A copy of the Lease Agreement is attached hereto as Exhibit "A."

Motion: "I move 1383, AN ORDINANCE AUTHORIZING THE CITY ADMINISTRATOR TO MAKE, EXECUTE, AND DECLARE IN THE NAME OF THE CITY OF CANBY AND ON ITS BEHALF, A LEASE AGREEMENT WITH ZIMMER VENTURES, LLC. FOR CANBY AREA TRANSIT.

Attached: Exhibits "A"

ORDINANCE NO. 1383

AN ORDINANCE AUTHORIZING THE CITY ADMINISTRATOR TO EXECUTE A LEASE AGREEMENT WITH ZIMMER VENTURES, LLC, FOR THE RENTAL OF PROPERTY FOR CANBY AREA TRANSIT OFFICES AND PARKING; AND DECLARING AN EMERGENCY.

WHEREAS, Canby Area Transit has been desiring and planning to move their office space to a location closer to their fleet facility, reducing dead-head costs, and that also allows for greater potential parking options for their fleet; and

WHEREAS, the City of Canby desires to secure a cost effective lease with parking options and potential future parking expansion;

WHEREAS, Zimmer Ventures, LLC has office space available across the street from the Fred Meyer transit hub, is willing to upgrade the structure significantly at no upfront cost to the City, and is willing to lease said space to the City at a reasonable rental for a five year term; and

WHEREAS, the Canby City Charter requires an ordinance be approved for any contract exceeding \$50,000; now therefore

THE CITY OF CANBY, OREGON, ORDAINS AS FOLLOWS:

Section 1. The City Administrator is hereby authorized and directed to make, execute, and declare in the name of the City of Canby and on its behalf, the attached Lease Agreement with Zimmer Ventures, LLC. A copy of the Lease Agreement is attached hereto as Exhibit "A."

Section 2. Inasmuch as it is in the best interest of the citizens of Canby, Oregon, that the lease be completed as soon as possible in order to immediately effectuate many necessary agreed upon structural changes at the site and ensure minimal disruptions of necessary transit services to users of the service and CAT employees alike, an emergency is hereby declared to exist and this ordinance shall take effect immediately upon its enactment.

SUBMITTED to the Canby City Council and read the first time at a regular meeting therefore on Wednesday, July 17, 2013, and ordered posted in three (3) public and conspicuous places in the City of Canby as specified in the Canby City Charter and scheduled for second reading before the City Council for final reading and action at a regular meeting thereof on Wednesday, August 7, 2013, commencing at the hour of 7:30 PM at the Council Meeting Chambers located at 155 NW 2nd Avenue, Canby, Oregon.

Kimberly Scheafer, MMC
City Recorder

PASSED on second and final reading by the Canby City Council at a regular meeting thereof on the 7th day of August 2013, by the following vote:

YEAS _____

NAYS _____

Brian Hodson
Mayor

ATTEST:

Kimberly Scheafer, MMC
City Recorder

LEASE AGREEMENT

THIS LEASE is entered into this 13th day of June, 2013, between **ZIMMER VENTURES, LLC** ("Landlord"), and **CITY OF CANBY, an Oregon municipal corporation, acting on behalf of CANBY AREA TRANSIT** ("Tenant"). Landlord owns a building and other improvements on that certain property known as 195 S. Hazel Dell Way, Canby, Clackamas County, Oregon known as **THE SEQUOIA COMMERCE CENTER** (the "Property"). Landlord hereby leases to Tenant and Tenant hereby leases from Landlord certain space on the Property consisting of 1728 rentable square feet, as outlined on the attached Exhibit A (the "Premises") on the terms and conditions set forth in this Lease. The Property, as it may be expanded or otherwise reconfigured from time to time is sometimes referred to herein as **"Suite C of Lot 1 of the Zimmer Commerce Center"**.

1. TERM. The term of this Lease (the "Term") shall be for a period of Sixty (60) months, commencing on August 1, 2013, or Tenant's first day open for business to the public ("The Anticipated Commencement Date"), whichever shall first occur. The Term shall expire Sixty (60) months after the Commencement Date. Promptly following the Commencement Date, Landlord shall prepare, and the parties shall execute, an addendum to this Lease confirming the Commencement Date and Expiration Date of the Term.

2. RENT. Beginning on the Commencement Date and continuing during the entire Term, Tenant shall pay to Landlord as rent the "Base Rent" as defined in this section.

(a) Base Rent. The minimum monthly rent during the Term ("Base Rent") shall be:

- | | | |
|-------|---|---|
| (i) | Months 1 through 12 | \$2880 per month. |
| (ii) | Months 13 through 24
base rent plus \$86). | \$2966 per month (previous 12 months
base rent plus \$86). |
| (iii) | Months 25 through 36
base rent plus \$89). | \$3055 per month (previous 12 months
base rent plus \$89). |
| (iv) | Months 37 through 48
base rent plus \$92). | \$3147 per month (previous 12 months
base rent plus \$92). |
| (v) | Months 49 through 60
base rent plus \$94). | \$3241 per month (previous 12 months
base rent plus \$94). |

(b) Adjustments in Base Rent: The Base Rents referenced in paragraph "2 (a)(i)" (Months 1 through 12) above are based on an assumption that Landlord's costs, as outlined in paragraph 7-A(a) (LANDLORD IMPROVEMENTS AND ALTERATIONS) shall total \$130,000. To the degree that Landlord's cost are more than or less than

\$130,000, the monthly Base Rent shall be adjusted up or down respectively based on the following: The numerical amount by which the rent increases or decreases shall be amortized over a 60 month period at six percent (6%) per annum and that amount shall be added to (or deducted from) the Base Rent as illustrated in the following example. If, for example, the total "landlord improvements and alternations" shall be \$132,000 instead of \$130,000, the increase of \$2,000, when amortized at 6% per month over the five year period shall add \$38.67 per month to the Base Rent for months 1 through 12 so that the adjusted Base Rent would be \$2,918.67 per month. Future increases would then be increased accordingly as well at the rate of 3% per annum. Thus, instead of \$86 being the amount of increase for months 13 through 24, the new Base Rent increase would be \$87.56 with a similar percent increase in the following years.

(c) No Partnership Created. Landlord is not by virtue of this Section 2 a partner or joint venture with Tenant in connection with the business carried on under this Lease, and shall have no obligation with respect to Tenant's debts or other liabilities.

(d) Additional Rent. All references to "Rent" or "Rental" in this Lease shall mean Base Rent, and all other payments required of Tenant under this Lease unless otherwise expressly specified. All payments of Rent shall be made to Landlord without offset, abatement, or deduction.

3. SECURITY DEPOSIT (FIRST AND LAST MONTHS RENT). Upon execution of this Lease, Tenant shall pay to Landlord the sum of \$6121 which is equal to the first month's Base Rent of \$2880 and the last month's Base Rent of \$3241, as security for the full and faithful performance by Tenant of all of the covenants and terms of this Lease required to be performed by Tenant. Such security deposit shall be returned to Tenant after the expiration of this Lease, provided Tenant has fully and faithfully carried out all of Tenant's obligation hereunder, including the payment of all amounts due to Landlord hereunder and the surrender of the Premises to Landlord in the condition required in this Lease. However, Landlord, at its option, may apply such sum on account of the payment of the last month's Base Rent or other unpaid obligation of Tenant's. Such sum may be commingled with other funds of Landlord and shall not bear interest. In the event of a sale of the property on which the Premises are located, subject to this Lease, Landlord shall have the right to transfer the lease consideration to the purchaser to be held under the terms of this Lease, and Landlord shall thereupon be released from all liability for the return of the lease consideration. Tenant agrees to look solely to the new landlord for the return of the lease consideration.

4. TAXES; INSURANCE; AND OPERATING EXPENSES.

(a) Tenant's Taxes. Tenant shall be responsible for and shall pay before delinquent all taxes assessed during the Term against any leasehold or personal property of any kind owned by or placed upon or about the Premises by Tenant.

(b) Tenant's Share of Property Taxes. In addition to Base Rent, Tenant shall pay during each calendar year or part thereof during the Term, Tenant's Proportionate Share (as provided in Section 4(h)) of the total real property taxes and assessments levied, assessed or imposed during the Term upon the Property or the

use, occupancy or operations of the Property ("Taxes") for each such calendar year. PROVIDED, HOWEVER, IN THE EVENT THE PROPERTY TAXES ARE REDUCED BECAUSE OF TENANT'S NOT-FOR-PROFIT STATUS, TENANT WILL BE ENTITLED TO ALL CREDITS APPLICABLE TO SUITE C OF LOT 1 OF THE ZIMMER COMMERCE CENTER. **It is the assumption of both parties that Tenant will not have to pay these taxes.** Otherwise, in the interim, commencing with the payment due August 1, 2013, Tenant shall pay to Landlord an amount each month, which is equal to one-twelfth of Landlord's reasonable estimate of Tenant's share of the Taxes. Landlord shall notify Tenant of the estimated monthly amount to be paid, and of any changes in the estimated amount, and Tenant shall pay Landlord such estimated amount at the same time as and together with Tenant's Base Rent. When the actual Taxes are determined each year, Landlord shall furnish to Tenant a statement showing in reasonable detail the computation of Tenant's share of the Taxes, and the charge or credit to Tenant for any difference between the actual amount and the estimated amounts previously paid by Tenant. Any deficiency shall be reimbursed by Tenant within ten (10) days after Landlord gives Tenant notice thereof and any credit shall be applied to Tenant's next succeeding payment of Rent or other charges under the Lease. No interest or earnings shall be payable by Landlord to Tenant on any amount paid hereunder, and Landlord may commingle such payment with other funds of Landlord. Should there be in effect during the Term any law, statute, or ordinance which levies, assesses, or imposes any tax (other than federal or state income tax) upon rents, Tenant shall pay such taxes as may be attributable to the Rents under this Lease or shall reimburse Landlord for any such taxes paid by Landlord within ten (10) days after Landlord bills Tenant for the same.

(c) Insurance. During the Term, Landlord shall maintain in full force a policy or policies of fire insurance with standard extended coverage endorsements covering the building or buildings and other improvements (exclusive of Tenant's trade fixtures, tenant improvements and other property) situated on the Property. During the Term, Landlord shall maintain in full force a comprehensive liability insurance policy insuring Landlord against liability for bodily injury and property damage occurring in, on or about the Property. Landlord shall use its reasonable efforts to secure said insurance at competitive rates. Tenant shall pay Tenant's Proportionate Share of such insurance pursuant to the terms of Section 4(h) of this Lease, as part of Operating Expenses.

(d) Increases in Premiums. This Lease is entered into on the basis that Tenant's occupancy will not affect the Property's classification for insurance rating purposes. If Tenant's initial intended use of the Premises results in higher insurance premiums for any buildings situated on the Property, Tenant shall pay for the increased costs of the premiums for insuring any such buildings against loss by fire with standard extended coverage endorsements during the Term. If the insurance premiums on any such buildings are increased during the Term as a result of the installation of equipment on the Premises by Tenant, by reason of Tenant maintaining certain goods or materials on the Premises or as a result of other use or occupancy of the Premises by Tenant, Tenant shall pay the additional cost of the insurance for any such buildings (whether or not Landlord has consented to the activity resulting in the increased insurance premiums). Tenant shall refrain from any activity in its use of the Premises which would make it impossible to insure the Premises or the buildings situated on the Property

against casualty or which would increase the insurance rate of any such buildings or prevent Landlord from taking advantage of the ruling of the Insurance Rating Bureau of the state in which the Premises are situated or its successors allowing Landlord to obtain reduced premium rates for long term fire insurance policies, unless Tenant pays the additional cost of the insurance. All of Tenant's electrical equipment shall be U-L approved. If Tenant installs any electrical equipment that overloads the lines in the Premises or in any such buildings, Tenant shall at its own expense make whatever changes are necessary to comply with the requirements of the insurance underwriters and governmental authorities having jurisdiction. Any insurance premiums to be paid by Tenant by reason of its initial intended use of the Premises or any increase in fire insurance premiums attributable to Tenant's use or occupancy of the Premises during the Term shall be paid by Tenant to Landlord within thirty days after Landlord bills Tenant for the same.

(e) Indemnity; Tenant's Insurance. Tenant shall indemnify and save harmless Landlord from any and all liability, damage, expenses, attorney's fees, causes of actions, suits, claims or judgments, arising out of or connected with (i) the use, occupancy, management, or control of the Premises, (ii) any failure of Tenant to comply with the terms of this Lease, and (iii) the acts or omissions of Tenant, its agents, officers, directors, employees, or invitees; provided, however, that Tenant shall not be liable for claims caused by the negligence of Landlord. Tenant shall, at its own cost and expense, defend any and all suits which may be brought against Landlord either alone or in conjunction with others upon any such above mentioned cause or claim, and shall satisfy, pay, and discharge any and all judgments that may be recovered against Landlord in any such action or actions in which Landlord may be a party defendant. Neither Landlord nor any partner, director, officer, agent, or employee of Landlord shall be liable to Tenant or any person claiming through Tenant for any loss, injury, or damage whatsoever, including without limitation any loss, injury, or damage caused by other tenants or persons in or about the Business, except to the extent any such loss, injury, or damage is caused by or results from the negligent or willful act or omission of Landlord or its agents or employees. Except in cases of Landlord negligence, Landlord shall not be liable for consequential damages, including lost profits, of Tenant or any person claiming through Tenant, regardless of the cause of any loss, injury, or damage. Tenant shall at its own expense during the Term carry in full force and effect a comprehensive public liability insurance policy, with an insurance carrier satisfactory to Landlord, naming Landlord as an additional insured, with combined limits of not less than \$2,000,000 in bodily injury liability, and property damage liability, insuring against any and all liability of Tenant with respect to the Premises and under this Lease, or arising out of the maintenance, use or occupancy of the Premises. Such policy shall provide that the insurance shall not be cancelable or modified without at least ten (10) days' prior written notice to Landlord, and shall be deemed primary and noncontributing with other insurance available to Landlord. Tenant shall maintain, at Tenant's expense, insurance covering Tenant's personal property, furnishings, fixtures, and equipment; Landlord is not responsible therefore. On or before the Commencement Date, Tenant shall furnish Landlord with a certificate or other acceptable evidence that such insurance is in effect. Tenant shall also provide and maintain insurance to comply with Worker's Compensation and Employer's Liability Laws.

(f) Routine Operating Expenses. From and after the Commencement Date, Tenant shall pay to Landlord during each calendar year or part thereof during the Term, in addition to Base Rent and additional rent ("Additional Rent") Tenant's Proportionate Share of Routine Operating Expenses. Tenant shall pay to Landlord an amount each month, which is equal to one-twelfth of Landlord's reasonable estimate of Tenant's share of the Routine Operating Expenses. Landlord shall notify Tenant of the estimated monthly amount to be paid, and of any changes in the estimated amount, and Tenant shall pay Landlord such estimated amount at the same time as and together with Tenant's Base Rent. When the actual Routine Operating Expenses are determined each year, Landlord shall furnish to Tenant a statement showing in reasonable detail the computation of Tenant's share of the Routine Operating Expenses, and the charge or credit to Tenant for any difference between the actual amount and the estimated amounts previously paid by Tenant. Any deficiency shall be reimbursed by Tenant within ten (10) days after Landlord gives Tenant notice thereof and any credit shall be applied to Tenant's next succeeding payment of Rent or other charges under the Lease. No interest or earnings shall be payable by Landlord to Tenant on any amount paid hereunder, and Landlord may commingle such payment with other funds of Landlord. The term "Routine Operating Expenses" means all reasonable and routine expenses paid or incurred by Landlord or on Landlord's behalf and determined by Landlord to be necessary or appropriate for the efficient operation, maintenance, and repair of the Business, for those areas of the Business not reserved for exclusive use by a specific tenant, such as the driveways, parking areas, landscape areas, curbs, sidewalks, plazas, and refuse collection areas. Routine Operating Expenses shall include, but not be limited to, the following (to the extent not chargeable to a specific tenant):

(i) Salaries, wages, and benefits (including without limitation medical and other insurance, pension payments, payroll taxes, and worker's compensation insurance) for employees of Landlord, if any, engaged in the on-site repair, operation, maintenance, management, engineering, or security of the Business;

(ii) All expenses incurred for gas, electricity, heat, ventilation, air-conditioning, water, and other services or utilities furnished to the Business, together with any taxes thereon;

(iii) All repair, replacement, service, and general maintenance costs relating to the Business, including without limitation heating, ventilating, and air conditioning systems, sidewalks, landscaping, surface parking, service areas, refuse collection areas, mechanical rooms, roofs, and building exteriors, whether the work in question is done by Landlord or its agents, or by an independent contractor;

(iv) The cost of all insurance charges, including without limitation casualty, comprehensive liability, fire with extended coverage endorsement, boiler and machinery, rent loss, earthquake, flood, and such other policies of insurance as Landlord deems reasonable to obtain with respect to the Business;

(v) The cost or rental of all supplies, including without limitation cleaning supplies, light bulbs, tubes and ballasts, materials, and equipment, and all taxes thereon;

(vi) The cost of all charges for cleaning, sweeping, janitorial, and security services;

(vii) The cost of reasonable alterations and improvements to ZIMMER COMMERCIAL CENTER as required by any governmental authority or insurance underwriter or similar board or body;

(viii) Actual management fees paid to a third party with respect to the Business or, if no managing agent is employed by Landlord, a management fee not in excess of the then-prevailing management fees charged for comparable businesses in the Portland, Oregon metropolitan area;

(ix) Legal, accounting, and other professional fees incurred in connection with general, routine operations, maintenance, and management of the Business as it applies to Routine Operating Expenses;

(x) Any parking charges, utilities surcharges, or other costs levied, assessed, or imposed by or at the direction of, or resulting from statutes or regulations, or interpretations thereof, promulgated by, any governmental authority in connection with the use or occupancy of the Business or the parking facilities serving the Business;

(xi) All other expenses properly allocable to the operation, repair, and maintenance of the Business in accordance with generally accepted accounting principles.

(g) Net Lease. This Lease shall be an absolutely net lease and Rent shall be paid to Landlord absolutely net of all costs and expenses. The provisions for payment of Tenant's Proportionate Share of Taxes and Operating Expenses are intended to pass on to Tenant and to reimburse Landlord for all costs and expenses of the nature described in this Lease.

(h) Tenant's Proportionate Share. As of the date of this Lease, Tenant's Proportionate Share of Taxes, insurance, and Operating Expenses is twenty-five percent (25%). Tenant's Proportionate Share may be adjusted from time to time if the number of rentable square feet in the Business is remeasured or changes, so long as such adjustment is equitable.

5. PLACE OF PAYMENT. Tenant shall pay the Rent and other amounts required to be paid by Tenant hereunder to Landlord at the address for Landlord set forth on the last page of this Lease, or at such other place as Landlord may from time to time designate in writing.

6. USE OF PREMISES. The Premises shall be used for retail office space to support CANBY AREA TRANSIT (CAT) and for no other purpose without Landlord's written consent, which consent shall not be unreasonably withheld. In connection with the use of Premises or as a tenant or owner of any other parcel in the ZIMMER COMMERCE CENTER, Tenant shall:

(a) Conform to and comply with all applicable laws and regulations of any public authority affecting the Premises, the condition of the Premises, and the use of the Premises and correct promptly, at Tenant's own expense, any failure of compliance.

(b) Refrain from any activity which would be reasonably offensive to Landlord, to other tenants in any buildings situated on the Property, or to owners or users of the adjoining premises, or which would tend to create a nuisance or damage the reputation of the Premises or of any such buildings. Without limiting the generality of the foregoing, Tenant shall not permit any objectionable noise or odor to escape or be emitted from the Premises nor permit the use of flashing (strobe) lights;

(c) Refrain from loading the floors beyond the point considered safe by a competent engineer or architect selected by Landlord and refrain from using water, sewer, and plumbing systems in any harmful way. Tenant shall use hair interceptors, grease traps or other drain protection devices as needed to avoid such harmful use;

(d) Tenant, at its sole cost and expense, may install a sign on the fascia of the building at a location and of a style which meets the approval of the landlord (consent shall not be unreasonably withheld) and is in accordance with all appropriate government regulations. Tenant may also have signage at the existing pylon reserved for ZIMMER COMMERCE CENTER tenants. Tenant shall have use of the top lens panel on each side of the pylon for its exclusive use. Notwithstanding Landlord's consent to any signs, Tenant shall remove all such signs upon termination of the Lease and repair any damage to the Premises caused thereby, at Tenant's own cost and expense;

(e) Comply with any reasonable rules respecting the use of the Premises promulgated by Landlord from time to time and communicated to Tenant in writing. Of the twenty-eight (28) parking spaces allocated for Lot 1 of ZIMMER COMMERCE CENTER, Tenants normal use shall not exceed seven (7) of these spaces. It is understood by the parties that until occupied by future tenants, the remaining additional 14 spaces, for a total of 21 spaces, will be available for use by Tenant.

(f) Not permit any cash, credit card, or coin-operated vending, novelty or gaming machines or equipment on the Premises without the prior written consent of Landlord; and not to permit the use of any part of the Premises for a second-hand store, nor for an auction, distress or fire sale, or bankruptcy or going-out-of-business sale or the like;

(g) Not commit or suffer any strip or waste of the Premises including without limitation the improvements thereon or any part thereof; and Tenant shall keep the Premises in a neat, clean, sanitary, and orderly condition;

(h) Not display or sell merchandise outside the exterior walls of the Premises; and

(i) Shall not cause or permit any Hazardous Substance to be spilled, leaked, disposed of, or otherwise released on or under the Premises. Tenant may use

or otherwise handle on the Premises only those Hazardous Substances typically used or sold in the prudent and safe operation of the business specified in Section 6. Tenant may store such Hazardous Substances on the Premises only in quantities necessary to satisfy Tenant's reasonably anticipated needs. Tenant shall comply with all Environmental Laws and exercise the highest degree of care in the use, handling, and storage of Hazardous Substances and shall take all practicable measures to minimize the quantity and toxicity of Hazardous Substances used, handled, or stored on the Premises. Upon the expiration or termination of this Lease, Tenant shall remove all Hazardous Substances from the Premises. The term Environmental Law shall mean any federal, state, or local statute, regulation, or ordinance or any judicial or other governmental order pertaining to the protection of health, safety or the environment. The term Hazardous Substance shall mean any hazardous, toxic, infectious or radioactive substance, waste, and material as defined or listed by any Environmental Law and shall include, without limitation, petroleum oil and its fractions.

(j) Be subject to Declaration and Establishment of Protective Covenants, Conditions and Restrictions and Grant of Easements, Clackamas County Recorder's Fee No. 2007-081170, as amended in Clackamas County Recorder's Fee No. 2009-026540.

7. IMPROVEMENTS AND ALTERATIONS.

a. LANDLORD IMPROVEMENTS AND ALTERATIONS.

(i) Landlord shall be responsible for making alterations requested by Tenant in conformance with the attached Exhibit B (ceiling plan and floor plan). Construction notes have been enlarged for the convenience of Landlord and Tenant. Except for the alterations requested by the Tenant in the attached Exhibit B, Landlord shall not be required to make any further improvements or alterations to the premises.

(ii) Provided, however, Tenant shall obtain and pay for all developmental, design and architectural permits, fees and costs.

b. TENANT IMPROVEMENTS AND ALTERATIONS.

(i) When Tenant takes possession of the Premises, Tenant shall be deemed to have accepted the Premises and the Building in their current condition. Landlord makes no representations regarding the fitness of the Premises or the Building for any particular purpose.

(ii) Tenant shall make no improvements or alterations to the premises of any kind without the prior written consent of Landlord, which consent shall not be unreasonably withheld.

(iii) All work by Tenant shall be done in strict compliance with all applicable building, fire, sanitary and safety codes and other applicable laws, statutes, regulations and ordinances and Tenant shall secure all necessary permits for the same.

Tenant shall keep the premises free from all liens in connection with any such work. Landlord or Landlord's agents shall have the right at all reasonable times to inspect the quality and progress of such work.

(iv) All improvements, alterations and other work performed on the Premises by the Tenant shall be the property of Landlord when installed, except for Tenant's trade fixtures, and items marked on the Exhibit C to be removed at the conclusion of the Lease. All such improvements, alterations or other work to be performed by Tenant shall be at the Tenant's sole cost and expense.

8. REPAIRS AND MAINTENANCE.

(a) Landlord's Responsibilities. The following shall be the responsibility of Landlord, and Landlord shall maintain all of the following in good condition and repair:

(i) Structural repairs and maintenance and repairs necessitated by structural disrepair or defects;

(ii) Repair and maintenance of the exterior walls, roof, gutters, downspouts and the foundation of the building in which the Premises are located. This shall not include maintenance of the operating condition of doors and windows or replacement of glass, nor maintenance of the store front; and

(iii) Repair of interior walls, ceilings, doors, windows, floors and floor coverings when such repairs are made necessary because of failure of Landlord to keep the structure in repair as above provided in this Section 8(a).

(b) Tenant's Responsibilities. The following shall be the responsibility of Tenant, and Tenant shall maintain all of the following in good condition and repair:

(i) The interior of the Premises including any interior decorating;

(ii) Any repairs necessitated by the negligence of Tenant, its agents, employees and invitees and their use of the Premises;

(iii) Maintenance and repair of the heating, ventilating, and air conditioning systems, plumbing system, electrical system, and sprinkler systems, if any. However, Landlord reserves the right to contract with a service company for the maintenance and repair of the foregoing systems, or any of them; and Tenant's share of such expenses shall be paid by Tenant to Landlord monthly;

(iv) Maintenance and repair of the interior walls and floor coverings (both hard surfaces and carpeting);

(v) Any repairs or alterations required under Tenant's obligation to comply with laws and regulations as set forth in this Lease; and

(vi) All other repairs or maintenance to the Premises which Landlord is not expressly required to make under Section 8(a) above, which includes, without

limiting the generality of the foregoing, the replacement of all glass which may be broken or cracked during the Term with glass of as good or better quality than that in use at the commencement of the Term, wiring, plumbing, drainpipes, sewers, and septic tanks including without limitation, repairs outside of the Premises if the need for the repair arises from Tenant's use of the Premises. All of Tenant's work shall be in full compliance with then-current building code and other governmental requirements.

(c) Inspections. Landlord shall have the right to inspect the Premises at any reasonable time or times to determine the necessity of repair. Whether or not such inspection is made, the duty of Landlord to make repairs as outlined above in any area in Tenant's possession and control shall not mature until a reasonable time after Landlord has received from Tenant written notice of the necessity of repairs, except in the event emergency repairs may be required and in such event Tenant shall attempt to give Landlord appropriate notice considering the circumstances.

(d) Landlord's Work. All repairs, replacements, alterations or other work performed on or around the Premises by Landlord shall be done in such a way as to interfere as little as reasonably possible with the use of the Premises by Tenant. Tenant shall have no right to an abatement of Rent nor any claim against Landlord for any inconvenience or disturbance resulting from Landlord's performance of repairs and maintenance pursuant to this Section 8.

9. LIENS. Tenant shall keep the Premises free from all liens, including mechanic's liens, arising from any act or omission of Tenant or those claiming under Tenant. Landlord shall have the right to post and maintain on the Premises or the building in which the Premises are situated such notices of non-responsibility as are provided for under the lien laws of the state in which the Premises are located.

10. UTILITIES. Tenant shall pay promptly for all water and sewer facilities, gas and electrical services, including heat and light, garbage collection, and all other facilities and utility services used by Tenant or provided to the Premises during the Term. If the heating and air-conditioning systems are not on separate meters, Tenant shall pay its proportionate share of such charges based upon the actual use of the heat and air conditioning by Tenant and by the other tenants of the building in which the Premises are situated within ten (10) days after billings therefore. Tenant shall arrange for regular and prompt pickup of trash and garbage and shall store such trash and garbage in only those areas designated by Landlord. However, if Landlord elects to arrange for garbage collection on a cooperative basis for Tenant and other tenants, Tenant shall pay its proportionate share of the garbage collection charges, within ten (10) days after billings therefore. Landlord shall not be liable for any interruption of utility services to the Premises.

11. ICE. SNOW. AND DEBRIS. Tenant shall keep the walks in front of the Premises free and clear of ice, snow, rubbish, debris, and obstructions. Tenant shall save and protect Landlord from any injury whether to Landlord or Landlord's property or to any other person or property caused by Tenant's failure to perform Tenant's obligations under this Section 11. Tenant's obligations under this Section 11 shall be performed at Tenant's cost and expense.

12. WAIVER OF SUBROGATION. Neither party shall be liable to the other for any loss or damage caused by fire or any of the risks enumerated in a standard fire insurance policy with an extended coverage endorsement, including sprinkler leakage insurance, if any. All claims or rights of recovery for any and all such loss or damage, however caused, are hereby waived. Without limiting the generality of the foregoing, said absence of liability shall exist whether or not such loss or damage is caused by the negligence of either Landlord or Tenant or by any of their respective agents, servants or employees.

13. INJURY TO TENANT'S PROPERTY. Landlord shall not be liable for any injury to any property of Tenant or to any person in or upon the Premises resulting from fire or collapse of the building in which the Premises are located or any portion thereof or any other cause, including but not limited to damage by water, gas or steam, or by reason of any electrical apparatus in or about the Premises. Landlord shall not be responsible for securing the Premises or providing security to the Building.

14. DAMAGE OR DESTRUCTION.

(a) Partial Destruction. If the Premises shall be partially damaged by fire or other cause, and Section 14(b) below does not apply, the damages to the Premises shall be repaired by Landlord, and all Base Rent until such repair shall be made shall be apportioned according to the part of the Premises which is useable by Tenant, except when such damage occurs because of the fault of Tenant. The repairs shall be accomplished with all reasonable dispatch. Landlord shall bear the cost of such repairs unless the damage occurred from a risk which would not be covered by a standard fire insurance policy with an endorsement for extended coverage, including sprinkler leakage, and the damage was the result of the fault of Tenant, in which event Tenant shall bear the expense of the repairs. However, if the holder of any indebtedness secured by the Property requires that the insurance proceeds be applied to such indebtedness, then Landlord shall have the right to terminate this Lease.

(b) Substantial Damage. If the buildings situated on the Property or the building in which the Premises are located or the Premises, or any of them, are 50% or more destroyed during the Term by any cause, Landlord may elect to terminate the Lease as of the date of damage or destruction by notice given to Tenant in writing not more than 45 days following the date of damage. In such event all rights and obligations of the parties shall cease as of the date of termination. In the absence of an election to terminate, Landlord shall proceed to restore the Premises, if damaged, to substantially the same form as prior to the damage or destruction, so as to provide Tenant useable space equivalent in quantity and character to that before the damage or destruction. Work shall be commenced as soon as reasonably possible, and thereafter proceed without interruption, except for work stoppages on account of matters beyond the reasonable control of Landlord. From the date of damage until the Premises are restored or repaired, Base Rent shall be abated or apportioned according to the part of the Premises useable by Tenant, unless the damage occurred because of the fault of Tenant. Landlord shall bear the cost of such repairs unless the damage occurred from a risk which would not be covered by a standard fire insurance policy with an

endorsement for extended coverage, including sprinkler leakage, and the damage was the result of the fault of Tenant, in which event Tenant shall bear the expense of the repairs.

(c) Restoration. If the Premises are to be restored by Landlord as above provided in this Section 14, Tenant, at its expense, shall be responsible for the repair and restoration of all items which were initially installed at the expense of Tenant (whether the work was done by Landlord or Tenant) or for which an allowance was given by Landlord to Tenant, together with Tenant's stock in trade, trade fixtures, furnishings, and equipment; and Tenant shall commence the installation of the same promptly upon delivery to it of possession of the Premises and Tenant shall diligently prosecute such installation to completion.

15. EMINENT DOMAIN.

(a) Partial Taking. If a portion of the Premises is condemned and neither Section 15(b) nor Section 15(c) apply, the Lease shall continue in effect. Landlord shall be entitled to all the proceeds of condemnation, and Tenant shall have no claim against Landlord as a result of condemnation. Landlord shall proceed as soon as reasonably possible to make such repairs and alterations to the Premises as are necessary to restore the remaining Premises to the condition as comparative as reasonably practicable to that existing at the time of condemnation. Base Rent shall be abated to the extent that the Premises are untenable during the period of alteration and repair. After the date on which title vests in the condemning authority, Base Rent shall be reduced commensurately with the reduction in value of the Premises as an economic unit on account of the partial taking. However, if the holder of any indebtedness secured by the Property requires that the condemnation proceeds be applied to such indebtedness, then Landlord shall have the right to terminate this Lease.

(b) Substantial Taking of the Property. If a condemning authority takes any substantial part of the Property or any substantial part of the building in which the Premises are located, the Lease shall, at the option of Landlord, terminate as of the date title vests in the condemning authority. In such event all rights and obligations of the parties shall cease as of the date of termination. Landlord shall be entitled to all of the proceeds of condemnation, and Tenant shall have no claim against Landlord as a result of the condemnation.

(c) Substantial Taking of Premises. If a condemning authority takes all of the Premises or a portion sufficient to render the remaining Premises reasonably unsuitable for Tenant's use, the Lease shall terminate as of the date title vest in the condemning authority. In such event all rights and obligations of the parties shall cease as of the date of termination. Landlord shall be entitled to all of the proceeds of condemnation, and Tenant shall have no claim against Landlord as a result of the condemnation.

(d) Definition. Sale of all or any part of the Premises to a purchaser with the power of eminent domain in the face of a threat or probability of the exercise of the power shall be treated for the purpose of this Lease as a taking by condemnation.

16. BANKRUPTCY. Subject to Section 17, this Lease shall not be assigned or transferred voluntarily or involuntarily by operation of law. It may, at the option of Landlord, be terminated, if Tenant be adjudged bankrupt or insolvent, or makes an assignment for the benefit of creditors, or files or is a party to the filing of a petition in bankruptcy, or commits an act of bankruptcy, or in case a receiver or trustee is appointed to take charge of any of the assets of Tenant or sub lessees or assignees in or on the Premises, and such receiver or trustee is not removed within 30 days after the date of his appointment, or in the event of judicial sale of the personal property in or on the Premises upon judgment against Tenant or any sub lessees or assignee hereunder, unless such property or reasonable replacement therefore be installed on the Premises. To the extent permitted by law, this Lease or any sublease hereunder shall not be considered as an asset of a debtor-in-possession, or an asset in bankruptcy, insolvency, receivership, or other judicial proceedings.

17. DEFAULT. The following shall be events of default:

(a) Failure of Tenant to pay any Base Rent, or Additional Rent when due or failure of Tenant to pay any other charge required under this Lease when due.

(b) Failure of Tenant to execute the documents described in Section 21 or 22 within the time required under such Sections; failure of Tenant to provide or maintain the insurance required of Tenant pursuant to Section 4(e); or failure of Tenant to comply with any governmental law, order, rule, regulation, ordinance or directive applicable to the Premises within 24 hours within written demand by Landlord.

(c) Failure of Tenant to comply with any term or condition or fulfill any obligation of this Lease (other than the failures described in Sections 17(a) or 17(b)), within ten (10) days after written notice by Landlord specifying the nature of the default with reasonable particularity. If the default is of such nature that it cannot be completely remedied within the ten (10) day period, this provision shall be complied with if Tenant begins correction of the default within the ten (10) day period and thereafter proceeds with reasonable diligence and in good faith to effect the remedy as soon as practicable. Landlord shall not be obligated to give written notice for the same type of default more than twice; at Landlord's option a failure to perform an obligation after the second notice shall be an automatic Event of Default, without notice or an opportunity to cure.

(d) The abandonment of the Premises by Tenant or the failure of Tenant for fifteen (15) days or more to operate the business described in Section 6 of this Lease in the Premises unless such failure is excused under other provisions of this Lease.

(e) The bankruptcy or the occurrence of other acts specified in Section 16 of this Lease which give Landlord the option to terminate.

18. REMEDIES ON DEFAULT. In the event of a default, Landlord may, at Landlord's option, exercise anyone or more of the rights and remedies available to a

landlord in the state in which the Premises are located to redress such default, consecutively or concurrently, including the following:

(a) Landlord may elect to terminate Tenant's right to possession of the Premises or any portion thereof by written notice to Tenant. Following such notice, Landlord may re-enter, take possession of the Premises and remove any persons or property by legal action or by self-help with the use of reasonable force and without liability for damages. To the extent permitted by law, Landlord shall have the right to retain the personal property belonging to Tenant which is on the Premises at the time of re-entry, or the right to such other security interest therein as the law may permit, to secure all sums due or which become due to Landlord under this Lease. Perfection of such security interest shall occur by taking possession of such personal property or otherwise as provided by law.

(b) Following re-entry by Landlord, Landlord may relet the Premises for a term longer or shorter than the Term and upon any reasonable terms, including the granting of rent concessions to the new tenant. Landlord may alter, refurbish or otherwise change the character or use of the Premises in connection with such reletting. Landlord shall not be required to relet for any use or purpose which Landlord may reasonably consider injurious to its property or to any tenant which Landlord may reasonably consider objectionable. No such reletting by Landlord following a default by Tenant shall be construed as an acceptance of the surrender of the Premises. If rent received upon such reletting exceeds the Rent received under this Lease, Tenant shall have no claim to the excess.

(c) Following re-entry Landlord shall have the right to recover from Tenant the following damages:

(i) All unpaid or other charges for the period prior to re-entry, plus interest at a rate equal to six percent (6%) per annum.

(ii) An amount equal to the Rent lost during any period during which the Premises are not relet, if Landlord uses reasonable efforts to relet the Premises. If Landlord lists the Premises with a real estate broker experienced in leasing commercial property in the metropolitan area in which the Premises are located, such listing shall constitute the taking of reasonable efforts to relet the Premises.

(iii) All costs incurred in reletting or attempting to relet the Premises, including but without limitation, the cost of cleanup and repair in preparation for a new tenant, the cost of correcting any defaults or restoring any unauthorized alterations and the amount of any real estate commissions or advertising expenses.

(iv) Reasonable attorney's fees incurred in connection with the default, whether or not any litigation is commenced.

(d) Landlord may sue periodically to recover damages as they accrue throughout the Term and no action for accrued damages shall be a bar to a later action for damages subsequently accruing. To avoid a multiplicity of actions, Landlord may obtain a decree of specific performance requiring Tenant to pay the damages stated in

Section 18(c) above as they accrue. Alternatively, Landlord may elect in anyone action to recover accrued damages plus damages attributable to the remaining Term equal to the difference between the Rent under this Lease and the reasonable rental value of the Premises for the remainder of the Term, discounted to the time of the judgment at the rate of six percent (6%) per annum.

(e) In the event that Tenant remains in possession following default and Landlord does not elect to re- enter, Landlord may recover all back Rent and other charges, and shall have the right to cure any nonmonetary default and recover the cost of such cure from Tenant, plus interest from the date of expenditure at the Interest Rate. In addition, Landlord shall be entitled to recover attorney's fees reasonably incurred in connection with the default, whether or not litigation is commenced. Landlord may sue to recover such amounts as they accrue, and no one action for accrued damages shall bar a later action for damages subsequently accruing.

(f) The foregoing remedies shall not be exclusive but shall be in addition to all other remedies and rights provided under applicable law, and no election to pursue one remedy shall preclude resort to another remedy.

19. SURRENDER AT EXPIRATION

(a) Condition of Premises. Upon expiration of the Term or earlier termination Tenant shall deliver all keys to Landlord and surrender the Premises in first-class condition and broom clean. Except as provided in section 7 (see Exhibit C), improvements and alterations constructed by Tenant shall not be removed or restored to the original condition unless the terms of Landlord's consent provides otherwise or unless Landlord requests Tenant to remove such improvements or alterations, in which event Tenant shall remove the same and restore the Premises. Depreciation and wear from ordinary use for the purpose for which the Premises were let need not be restored, but all repair for which Tenant is responsible shall be completed to the latest practical date prior to such surrender. Tenant's obligations under this Section 19 shall be subject to the provisions of Section 14 relating to damages or destruction.

(b) Fixtures.

(i) Except as set forth in Exhibit C, all fixtures placed upon the Premises during the Term, other than Tenant's trade fixtures, shall, at Landlord option, become the property of Landlord. Movable furniture, decorations, floor covering other than hard surface bonded or adhesively fixed flooring, curtains, drapes, blinds, furnishing and trade fixtures shall remain the property of Tenant if placed on the Premises by Tenant; provided, however, if Landlord granted Tenant an allowance for improvements, installation, floor coverings, curtains, drapes, blinds or other items, such items shall at Landlord's option become the property of Landlord notwithstanding the installation thereof by Tenant.

(ii) If Landlord so elects, Tenant shall remove any or all fixtures which would otherwise remain the property of Landlord, and shall repair any physical damage resulting from the removal. If Tenant fails to remove such fixtures, Landlord may do so and charge the cost to Tenant with interest at the Interest Rate. Tenant shall

remove all furnishings, furniture and trade fixtures which remain the property of Tenant. If Tenant fails to do so, this shall be an abandonment of the property, and Landlord may retain the property and all rights of Tenant with respect to it shall cease. Landlord may effect a removal and place the property in public or private storage for Tenant's account. Tenant shall be liable to Landlord for the cost of removal, transportation to storage, with interest on all such expenses from the date of expenditure at the Interest Rate.

(iii) The time for removal of any property or fixtures which Tenant is required to remove from the Premises upon termination shall be as follows:

(1) On or before the date the Lease terminates because of expiration of the Term or because of a default under Section 17.

(2) Within 30 days after notice from Landlord requiring such removal where the property to be removed is a fixture which Tenant is not required to remove except after such notice by Landlord, and such date would fall after the date on which Tenant would be required to remove other property.

(c) Holdover.

(i) If Tenant does not vacate the Premises at the time required, Landlord shall have the option to treat Tenant as a tenant from month-to-month, subject to all of the provisions of this Lease except the provision for the Term, and except the Base Rent provided herein shall double during the period of the month-to-month tenancy. Failure of Tenant to remove fixtures, furniture, furnishings or trade fixtures which Tenant is required to remove under this Lease shall constitute a failure to vacate to which this Section 19(c) shall apply if the property not removed will substantially interfere with occupancy of the Premises by another tenant or with occupancy by Landlord for any purpose including preparation for a new tenant.

(ii) If a month-to-month tenancy results from a holdover by Tenant under this Section 19(c), the tenancy shall be terminable at the end of any monthly rental period on written notice from Landlord given not less than ten (10) days prior to the termination date which shall be specified in the notice. Tenant waives any notice which would otherwise be provided by law with respect to a month-to-month tenancy.

20. ASSIGNMENT AND SUBLETTING. Tenant shall not assign this Lease or sublet all or any part of the Premises without the written consent of Landlord, which consent will not be unreasonably withheld. Without limiting the generality of the foregoing, it shall not be unreasonable for Landlord to withhold its consent if the proposed assignee or sublessee does not have the net worth of Tenant and/or does not have an established record of high-quality operations. Tenant shall remain primarily liable, after any assignment or sublease, for the payment of all Rent and other charges under this Lease and for the performance of all of Tenant's obligations under this Lease, notwithstanding such assignment or subletting by Tenant.

21. SUBORDINATION. Tenant's interest hereunder shall be subject and subordinate to all mortgages, trust deeds, and other financing and security instruments placed on the Premises by Landlord from time to time ("Mortgages") except that no

assignment or transfer of Landlord's rights hereunder to a lending institution as collateral security in connection with a Mortgage shall affect Tenant's right to possession, use and occupancy of the Premises so long as Tenant shall not be in default under any of the terms and conditions of this Lease. The provisions of this Section 21 shall be self-operating. Nevertheless, Tenant agrees to execute and acknowledge an instrument in recordable form which expressly subordinates Tenant's interest hereunder to the interests of the holder of any Mortgage within ten (10) days after request by Landlord. As an accommodation to Landlord and at its request, Tenant shall furnish Landlord current and past balance sheets and operating statements certified as accurate and up to date by Tenant and in the form requested by the holder of any Mortgage to which Landlord applies for financing concerning the Property or any prospective purchaser of the Business.

22. ESTOPPEL CERTIFICATE. Tenant shall from time to time, upon not less than ten (10) days prior notice, submit to Landlord, or to any person designated by Landlord, a statement in writing, in the form submitted to Tenant by Landlord, certifying that this Lease is unmodified and in full force and effect (or if there have been modifications, identifying the same by the date thereof and specifying the nature thereof), that to the knowledge of Tenant no uncured default exists hereunder (or if such uncured default does exist, specifying the same), the dates to which the Rent and other sums and charges payable hereunder have been paid, that Tenant has no claims against Landlord and no defenses or offsets to rental except for the continuing obligations under this Lease (or if Tenant has any such claims, defenses or offsets, specifying the same), and any other information concerning this Lease as Landlord reasonably requests.

23. PERFORMANCE BY LANDLORD. Landlord shall not be deemed in default for the nonperformance or for any interruption or delay in performance of any of the terms, covenants and conditions of this Lease if the same shall be due to any labor dispute, strike, lockout, civil commotion or like operation, invasion, rebellion, hostilities, military or usurped power, sabotage, governmental regulations or controls, inability to obtain labor, services or materials, through acts of God, or other cause beyond the reasonable control of Landlord, providing such cause is not due to the willful act or neglect of Landlord. Tenant shall look only to Landlord's estate and property in the Property (or the proceeds thereof) for the satisfaction of any judgment against Landlord resulting from a default by Landlord hereunder, and no other property or assets of Landlord or its partners or principals, disclosed or undisclosed, shall be subject to levy, execution, or other enforcement procedure for the satisfaction of any such judgment.

24. LANDLORD'S RIGHT TO CURE DEFAULT. If Tenant shall fail to perform any of the covenants or obligations to be performed by Tenant, Landlord, in addition to all other remedies provided herein, shall have the option (but not the obligation) to cure such default after thirty days' written notice to Tenant. All of Landlord's expenditures incurred to correct the default shall be reimbursed by Tenant upon demand with interest from the date of expenditure at the Interest Rate. Landlord's right to cure defaults is for the sole protection of Landlord and the existence of this right shall not release Tenant from the obligation to perform all of the covenants herein

provided to be performed by Tenant, or deprive Landlord of any other right which Landlord may have by reason of such default by Tenant.

25. INSPECTION; CHANGES. Landlord, Landlord's agents and representatives, shall have the right to enter upon the Premises at reasonable times for the purpose of inspecting the same, for the purpose of making repairs or improvements to the Premises or the building in which the Premises are located, for showing the Premises during the final ninety days of the Term, or for any other lawful purpose.

26. FOR SALE AND FOR RENT SIGNS. During the period of ninety days prior to the date for the termination of this Lease, Landlord may post on the Premises or in the windows thereof signs of moderate size notifying the public that the Premises are "for sale" or "for rent" or "for lease".

27. ATTORNEY'S FEES. In the event a suit, action, arbitration, or other proceeding of any nature whatsoever, including without limitation any proceeding under the U.S. Bankruptcy Code, is instituted, or the services of an attorney are retained, to interpret or enforce any provision of this Lease or with respect to any dispute relating to this Lease, the prevailing or non-defaulting party shall be entitled to recover from the losing or defaulting party its attorneys', paralegals', accountants', and other experts' fees and all other fees, costs, and expenses actually incurred and reasonably necessary in connection therewith. In the event of suit, action, arbitration, or other proceeding, the amount thereof shall be determined by the judge or arbitrator, shall include fees and expenses incurred on any appeal or review, and shall be in addition to all other amounts provided by law.

28. NOTICES. Any notice required or permitted under this Lease shall be in writing and shall be deemed given when actually delivered or when deposited in the United States mail as certified or registered mail, addressed to the addresses set forth on the last page of this Lease or to such other addresses as may be specified from time to time by either of the parties in the manner above provided for the giving of notice.

29. BROKERS. Landlord and Tenant acknowledge and agree that TERRY N. TOLLS (T.N. TOLLS COMPANY) and ALLEN C. PATTERSON (CAPACITY COMMERCIAL GROUP) are the agents of both Landlord and Tenant (disclose limited agency) and that no other broker shall be entitled to a commission with this transaction; Upon execution of a Lease, Landlord shall pay a commission totaling six percent (6%) of the gross lease consideration to T.N. TOLLS COMPANY and to CAPACITY COMMERCIAL GROUP (split 50/50 between brokerage firms).

30. LATE CHARGES. Tenant acknowledges that late payment by Tenant to Landlord of any Base Rent due hereunder will cause Landlord to incur costs not contemplated by this Lease, the exact amount of which will be extremely difficult to ascertain. Such costs may include, without limitation, processing and accounting charges and late charges which may be imposed on Landlord under the terms of any Mortgage. Accordingly, if any Rent is not received by Landlord within ten (10) days after it is due, Tenant shall pay to Landlord a late charge equal to five percent (5%) of the

overdue amount. The parties hereby agree that such late charge represents a fair and reasonable estimate of the costs incurred by Landlord by reason of the late payment by Tenant. Acceptance of any late charge by Landlord shall in no event constitute a waiver of Tenant's default with respect to the overdue amount in question, nor prevent Landlord from exercising any of the other rights and remedies granted hereunder.

31. RULES AND REGULATIONS. Tenant and its employees and agents shall faithfully observe and comply with the rules and regulations for the Business attached as Exhibit D and such changes to such rules and regulations as Landlord may from time to time promulgate (the "Rules and Regulations"). Landlord shall not be liable to Tenant for any violation of the Rules and Regulations by any other person, including any other tenant.

32. MISCELLANEOUS PROVISIONS.

(a) This Lease does not grant any rights of access to light or air over any part of the Property.

(b) Time is of the essence of this Lease.

(c) The acceptance by Landlord of any Rent or other benefits under this Lease shall not constitute a waiver of any default. Any waiver by Landlord of the strict performance of any of the provisions of this Lease shall not be deemed to be a waiver of subsequent breaches of the same character or of a different character, occurring either before or subsequent to such waiver, and shall not prejudice Landlord's right to require strict performance of the same provision in the future or of any other provision of this Lease.

(d) This Lease contains the entire agreement of the parties. This Lease shall not be amended or modified except by agreement in writing, signed by the parties hereto.

(e) Subject to the limitations on the assignment or transfer of Tenant's interest in this Lease, this Lease shall be binding upon and inure to the benefit of the parties, their respective heirs, personal representatives, successors, and assigns.

(f) No remedy herein conferred upon or reserved to Landlord or Tenant shall be exclusive of any other remedy herein provided or provided by law, but each remedy shall be cumulative.

(g) In interpreting or construing this Lease, it is understood that Tenant may be more than one person, that if the context so requires, the singular pronoun shall be taken to mean and include the plural, and that generally all grammatical changes shall be made, assumed, and implied to make the provisions hereof apply equally to corporations, partnerships, and individuals.

(h) Section headings are for convenience and shall not affect any of the provisions of this Lease.

(i) If any provision of this Lease or the application thereof to any person or circumstance is, at any time or to any extent, held to be invalid or unenforceable, the remainder of this Lease, or the application of such provision to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby, and each provision of this Lease shall be valid and enforceable to the fullest extent permitted by law.

(j) All agreements (including, but not limited to, indemnification agreements) set forth in this Lease, the full performance of which are not required prior to the expiration or earlier termination of this Lease, shall survive the expiration or earlier termination of this Lease and be fully enforceable thereafter.

(k) Each person executing this Lease on behalf of Tenant hereby covenants and warrants that Tenant is duly incorporated and validly existing under the laws of its state of incorporation; Tenant has full corporate right and authority to enter into this Lease and to perform all of the Tenant's obligations under this Lease; and each person signing this Lease on behalf of the corporation is duly and validly authorized to do so.

33. ARBITRATION

a. Disputes to Be Arbitrated. If any dispute arises between the parties [as to a matter which this lease says should be arbitrated, or as to any other question involving apportionment or valuation], either party may request arbitration and appoint as an arbitrator an independent real estate appraiser having knowledge of valuation of rental properties comparable to the premises. The other party shall also choose an arbitrator with such qualifications, and the two arbitrators shall choose a third. If the choice of the second or third arbitrator is not made within 10 days of the choosing of the prior arbitrator, then either party may apply to the presiding judge of the judicial district where the premises are located to appoint the required arbitrator.

b. Procedure for Arbitration. The arbitrator shall proceed according to the Oregon statutes governing arbitration, and the award of the arbitrators shall have the effect therein provided. The arbitration shall take place in the county where the leased premises are located. Costs of the arbitration shall be shared equally by the parties, but each party shall pay its own attorney fees incurred in connection with the arbitration.

34. EXHIBITS AND ADDITIONAL PROVISIONS.

Exhibit A (Premises Outline);
Exhibit B (Transit Office Ceiling and Floor Plan);
Exhibit C (Improvements to Be Removed Upon Lease Termination);
Exhibit D (Rules and Regulations);
Exhibit E (Renewal Options); and

Exhibit F (Covenants, Conditions and Restrictions)

are attached hereto and by this reference incorporated herein.

IN WITNESS WHEREOF, Landlord and Tenant have executed this Lease as of the date first set forth above.

Landlord:
ZIMMER VENTURES, LLC

Tenant:
CITY OF CANBY, an Oregon municipal Corporation, acting on behalf of CANBY AREA TRANSIT (CAT)

By: Robert Zimmer

Title: OWNER / MANAGER

By:

Title: City Administrator

Address: 182 N. Holly

Canby, OR 97013

ORDINANCE NO. 1384

AN ORDINANCE COMMITTING PERS CONTRIBUTION STABILIZATION RESERVE TO BE USED TO OFFSET FUTURE PERS RATE INCREASES.

WHEREAS, the City Council established a PERS Contribution Stabilization Reserve (the Reserve) by adopting Resolution No. 1170; and

WHEREAS, the City plans to maintain the Reserve in the General Fund would like to commit the corresponding fund balance for the purpose of offsetting future PERS contribution rate increases; and

WHEREAS, the Governmental Accounting Standards Board (GASB) Statement No. 54, Fund Balance Reporting and Governmental Fund Type, paragraph 10 specifies that amounts that can only be used for specific purposes pursuant to constraints imposed by formal action of the government's highest level of decision-making authority should be reported as committed fund balance; and

WHEREAS, a City of Canby Ordinance is the highest level of decision-making authority; now therefore

THE CITY OF CANBY, OREGON, ORDAINS AS FOLLOWS:

Section 1. The PERS Contribution Stabilization Reserve is hereby committed to be used for the purpose of offsetting future PERS Contribution rate increases.

Section 2. Inasmuch as it is in the best interest of the citizens of Canby, Oregon, that the reserve be committed, an emergency is hereby declared to exist and this ordinance shall take effect immediately upon its enactment.

SUBMITTED to the Canby City Council and read the first time at a regular meeting therefore on Wednesday, July 17, 2013, and ordered posted in three (3) public and conspicuous places in the City of Canby as specified in the Canby City Charter and scheduled for second reading before the City Council for final reading and action at a regular meeting thereof on Wednesday, August 7, 2013, commencing at the hour of 7:30 PM at the Council Meeting Chambers located at 155 NW 2nd Avenue, Canby, Oregon.

Kimberly Scheafer, MMC
City Recorder

PASSED on second and final reading by the Canby City Council at a regular meeting thereof on the 7th day of August 2013, by the following vote:

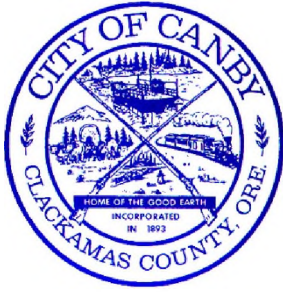
YEAS _____

NAYS _____

Brian Hodson
Mayor

ATTEST:

Kimberly Scheafer, MMC
City Recorder



City of Canby

To: Honorable Mayor Hodson and City Council

Date: July 17 2013

From: Bryan Brown, Planning Director

**RE: SMS Auto Fabric Appeal of Application of Parks & Transportation SDC for
Office/Warehouse Addition**

Background

This staff report is in response to an appeal made by Doug Pollock with SMS Auto Fabric pertaining to the application of the City's System Development Charge (SDC) specifically for Parks and Transportation which is proposed for a recently approved warehouse addition. City staff administratively approved an Intermediate Modification application (MOD 13-02) for a warehouse and parking addition on May 31, 2013. The evaluation, calculation, and collection of SDC's is triggered by new development which consists of a 14,400 square foot addition and new paving to accommodate 16 new parking spaces and one new loading berth to an existing 28,800 square foot business.

After several inquiries about the SDC calculation estimates and their applicability staff requested that SMS Auto Fabric provide a written request with supporting reasons why SDC's should not be calculated and collected in the standard manner for this development proposal upon which staff could provide a formal written response. A letter from Mr. Pollock was submitted on May 30 and staff provided a written response on June 6 outlining our position in the form of both an SDC application interpretation as applied to building additions and to the SMS project specifically. That written response is attached to this report and provides staff's position with regard to the applicants current appeal arguments. In summary, staff's response determined that:

- Negotiating the application of SDC's individually with each commercial/industrial development project applicant when the use category is not in question within the adopted methodology, always results in a somewhat arbitrary lowering of the fees collected. The result is transferring the burden of paying for identified growth related capital improvement plan projects **from developers to existing citizens/tax payers** as enough money will not be collected to complete the capital improvement projects which were the basis for setting the amount of the SDC's to be collected.
- This development is not exempt from Parks & Transportation SDC's with regard to the argument of "no impact on city facilities" for the proposed addition. The reason being that the adopted SDC Methodology for both Parks & Transportation is based on the premise that any new square footage of building results in a corresponding prorated calculation of the appropriate SDC amount to be collected along with the corresponding

type of land use category involved. The more square footage built, the greater the amount of SDC collected. Presumably the only way to justify “no impact” as indicated within CMC Section 4.20.120 (C) Exemptions is if no new square footage is constructed.

- There is merit in administrative efficiency to not calculate and collect SDC’s for every minor addition made. Other Cities sometimes have ordinances which specify an amount of square footage, over that currently existing, to serve as a trigger to when to apply SDC’s. However, our code only addresses exempting additions when “no impact” to city facilities is determined.
- Staff’s practice in the past has been to charge Park and Transportation SDC’s for additions using the same calculation methodology for new buildings on vacant tracts. My interpretation of a best practice way to handle the “no impact” provision of Section 4.20.120(C) would be to make additions of less than 25% the size of the existing building exempt while those between 25% to 50% the size of the existing use would start at 50% of the usual assessment incrementally increasing to full assessment when reaching 50% or more in size of the existing use. Application of this interpretation of “no to less impact” would result in a full charge scenario for the SMS Auto Warehouse addition which is equal to 50% of building area that already existed.
- Staff agreed to reduce the applicable Parks SDC by 50%, accepting that the applicant’s assessment of employment density for his business operation is more accurate than that provided within the adopted methodology for this use.

Decision Options

1. Uphold staff’s original standard SDC assessment made for this project.
2. Accept staff’s negotiated SDC assessment as reflected in the written interpretation and response to the applicant which provides a 50% reduction in the original calculated Parks SDC calculation and a 25% reduction in the Transportation SDC.
3. Accept the applicant’s basis or reasoning of “no impact” to City facilities from his development project as provided in Section 4.20.120(C), and direct staff to only collect the applicant agreed upon assessment for the Stormwater SDC.
4. Modify the SDC assessment based on your own determination of what is appropriate for this new building addition in consideration of the information presented and your understanding of what is appropriate.

Sample Motion

Should the Council choose Option 2 above, staff recommends the motion be made as follows:

I move to accept staff’s negotiated SDC assessment as reflected in the written interpretation and response to the applicant which provides a 50% reduction in the original Parks SDC calculation and a 25% reduction in the Transportation SDC.

Attachments:

- Written Response to Applicant - SDC Application Interpretation as Applied to Additions in General and specifically to SMS Auto Fabric’s Warehouse Addition and its attachments
 - Written request from Mr. Doug Pollock with SMS Auto Fabrics questioning the

- applicability of SDC's for his building project.
- Initial SDC Payment Calculation Worksheet for the SMS Auto Fabric Warehouse Addition
 - Section 4.20.120(C) Exemptions of the Systems Development Charge ordinance of the Canby Municipal Code pertaining to the exemption of SDC's for additions that do not increase the use of the public improvement facility.



City of Canby

Date: June 6, 2013

From: Bryan Brown, Planning Director

RE: SDC Calculation/Application Interpretation as Applied to Additions -

Prompted by SMS Auto Fabric Appeal of Staff Application of Parks & Transportation SDC for Office/Warehouse Addition

Introduction

Prior to and as part of SMS Auto Fabric's submittal of an intermediate modification application (MOD 13-02) for an office/warehouse addition and parking and loading area expansion at 350 S Redmond Street, staff prepared a system development charge estimate for the applicants use. The applicant's representative inquired about the city's adopted SDC methodology and the applicability of the SDC estimate as it pertained to the proposed new construction on a couple of occasions in which staff provided the requested information and an explanation.

A latter inquiry from the representative with the City Administrator involved seeking out what a possible appeal process might be and then latter visited with the Planning Director as to the applicability of collecting SDC's at all for an "addition" in light of the Exemption provisions of CMC Section 4.20.120 (C) which indicates that building additions that do not increase the parcel's or structure's use of the public improvement facility is exempt from all portions of the system development charge.

The Planning Director requested that the applicant provide a written request with supporting explanatory reasons why SDC's should not be collected for this particular new construction to provide a basis for a more formal staff response to the applicability of the fees.

Applicant's Request

The written request received from SMS Auto Fabrics dated 5.30.13 and submitted on 6.03.13 to the Planning Director, explains that the City's calculated Stormwater SDC is not being contested, nor the Wastewater SDC which staff had already indicated would not apply if the applicant could confirm that a new or additional water meter would not be necessary to serve the addition. The applicant has indicated in their calculation appeal request that they believe that most if not all of the Parks and Transportation SDC's should not apply to their proposed office/warehouse addition. The primary argument provided is that no additional employees are expected to be hired as a direct result of the proposed office/warehouse addition and thus no on-site increase in employee traffic will result. They also state that due to the "mail-order" nature of their business along with no anticipated change in their product line, no additional customer traffic will result from the warehouse addition. Noting that the park SDC is calculated based on a cost per employee, the applicant believes the park and transportation fee is not applicable since they have no plans to hire additional people for their business at this time. Since the applicant states there is no new employees or resulting traffic, their project should qualify for the exemption provision pertaining to additions that do not increase the use or impact of the public improvement.

Staff Response

Adopted SDC Methodology and its Recommended Calculation and Application Practice: The application of SDC's is not as straight forward and clear as staff and an applicant might hope or desire. The parameters and methodology established for the collection of SDC's is extensive with State Statute providing the bounds within which City's must operate in determining the amount, their collection, and how they are spent. Individualized SDC methodologies must be adopted by each local entity to demonstrate the rates that are necessary to pay for the identified capital improvements necessary to serve new growth. The capital improvement list is based service needs for a defensible population projection. The SDC fees are usually associated with new building construction and collected prior to issuance of a building permit.

The development of defensible SDC methodology is a very specialized skill for which consultants are almost universally called upon to assist local communities in assessing proper charges. The City of Canby has chosen for many years to collect the full amount of SDC that can be demonstrated to be related to the impacts of growth – not just a portion or percentage thereof.

The professional preparers of Canby's SDC methodology that staff implements comes with a pretty standard recommendation from the consultants that we avoid entering into individual negotiated SDC amounts with each and every project but rather use the cited determinants within the adopted methodologies for calculating the amount due for consistency, administrative efficiency, and to help assure that the full amount of funds determined to be needed to serve growth is collected and available to apply to the identified needed capital improvements to serve that growth. Negotiated SDC fee calculation due always results in a reduction from use of the provided standard calculation methodology based on factors that may legitimately put many individual use impacts below the otherwise average for similar uses which is the basis in using standard nationwide determinants outlined in the adopted methodology.

When a use is clearly unique or not "listed" within the standard determinants or categories provided within the adopted methodology, then staff should and does reach out to find the most similar use or category to place a new building construction project in. We also accept individual studies that might better document the actual traffic generated or employee density of an uncategorized use in order to fairly apply the fee determination.

Parks SDC: Our parks SDC utilizes a density study performed for the Portland Metro area which sets a basic average employee density for a given amount of building square footage for different types of land uses. This determinant is not a particularly scientific or accurate way to determine an average employee count for any given building project, but is generally used throughout the Portland area for lack of any better data or method variable. The applicant indicates that no new employees will be added as a result of their warehouse addition, which certainly may be true, but the recommended methodology is to utilize the average employee density for a given category of use from the study. Collecting fees based on the methodology rather than individualized circumstances is relevant and important if the City hopes to eventually collect the necessary fees needed to fund the capital improvement project list that was established based on utilizing the methodology collection determinants. Because the density study utilized to determine average employment density has weaknesses or accuracy concerns, staff has been open to a reasonable application of the "employment density" factor for various uses, blending the study results typically utilized (8.81 new employees for the SMS given use new square footage) with actual empirical evidence provided by the applicant (that there will be "no new employees") to arrive at

a suitable parks fee determination. In this instance, such a blending could justify reducing the parks SDC by at least one-half, without regard to the spirit or intent of Section 4.20.120(C).

Transportation SDC: The Transportation SDC utilizes a nationally derived data set which indicates the average level of increased trip-ends generated per given building square footage of various types of land uses. If staff does not utilize the adopted methodology to determine trip rates, then we risk each and every SDC collection becoming a negotiated reduced amount, as no one will argue that their use is above average. This threatens the SDC implementation process by reducing the overall fairness and effectiveness that we otherwise obtain by applying a rational and consistent method.

The applicant's warehouse use in this instance may not generate an "average trip rate" now, but things may change down the road for this business, or a subsequent business use of the same property might take advantage of the new warehouse space in a manner that meets or exceeds the standard trip rate. The City has no practical way of assessing and collecting park and transportation SDC fees other than at the point of new building construction. We therefore should strive to utilize the standard calculation method except in unique cases where the methodology does not provide a clear path or when other provisions of the City code come into play for consideration. The use is clear with this request and the standard rate to charge is equally clear. Uncertainty is raised by the potential exemption for "additions" raised by Section 4.20.120 (C) if no impact is determined as discussed below.

Staff does find merit in the owners argument that his "business use is a mail order operation" resulting in little to no additional customer traffic normally associated with a warehouse use. We would still expect to see additional shipments of their product from the new warehouse facility. In consideration that SMS Auto has a long history at this facility, and is likely to be around for many more years, staff has determined that it would be appropriate to recognize the below average traffic generation associated with this use and reduce the applicable Transportation SDC calculated amount by 25% on the reduced trip rate basis.

Exemption for Additions (Section 4.20.120): Staff's focus with this request to review the application of our SDC calculation has centered primarily with how to apply and implement the intent of Section 4.20.120 of the Code. The adopted methodology for calculating SDC fees for Parks and Transportation does not differentiate between new development on vacant property and new construction which may be an addition. However, Section 4.20.120 (C) introduces that consideration of no impact should be considered for additions. Clearly, this code section recognizes that small alterations, additions, and changes of uses often do not have a significant impact on a corresponding public improvement facility.

A search of a few other city SDC codes indicates that it is common practice to exclude minor changes and additions from the imposition of SDC's. It is less clear and varies as to when an addition is determined to be large enough to warrant the imposition of SDC's, therefore by our code considered to incrementally contribute to use of a public improvement. One code specifies that when an addition contributes more than 15% of the trips generated by the existing use, SDC's should be assessed. Our code does not provide any guidelines but leaves it up to staff to decide if no additional use will occur, and if so to exempt the addition. Staff weighs or views this determination the same way we determine if a new building on a property contributes to use of a public facility – namely using the adopted methodology determinants. When evaluating additions in this manner, the larger they get in relation to the existing use which is already in place, the more it makes sense that the standard SDC fee be collected.

When an addition to an existing facility gets into the range of a 50% increase or more it becomes very difficult to see how such an addition would not similarly impact public improvements similar to the existing facility in terms of how SDC collections are determined. The proposed SMS addition is 50% of that which currently exists (14,400 additions to a 28,800 sf. existing use). Staff would assert that a case could be made for assessing SDC's which are up to the standard amount for additions that are at least 50% in size of the existing use. Conversely, additions that are less than 50% of the size of the existing use would be subject to a potential graduated reduction from the full standard fee to be in keeping with the spirit of Section 4.20.120 (C) of the CMC. This interpretation seems appropriate for both the calculation of the Parks and the Transportation SDC fees as applied for the project use which prompted this interpretation and potentially for similar project additions in the future. These SDC's are already graduated in their application based on the size and scope of a project, being less when the size of the building project is smaller.

This interpretation of Section 4.20.120 represents a change in past practice and will impact the SDC calculations that will be made for future "additions" to existing uses. Each situation must still be evaluated as to its particular parameters, but in general smaller additions will be determined to be exempt if less than 25% of the size of the existing building, while additions from 25% to 50% of size of the existing use will be assessed a graduated fee starting at 50% of usual assessment up to the full fee amount when the addition reaches 50% of the size of the original structure.

Conclusion for SMS Auto Fabric Addition SDC Relief

The Parks SDC should be reduced by one-half in recognition that the applicant will not be adding any new employees, and there assessment of employee density is more accurate than that provided by the methodology. However, in alignment with staff's interpretation of the application of Section 4.20.120 (C) indicated above a full exemption does not seem warranted as the size of the addition would appear to offer this business or any subsequent business owner of this property an opportunity to expand operations in a manner that would result in either more employees, expanded distribution capabilities with newly introduced truck traffic, and general expansion capability of the operations. Staff would agree that a smaller expansion project would be subject to a further graduated reduction in the Parks SDC fee as indicated to be applied from the interpretation made above.

The Transportation SDC will be reduced by 25% based on the recognized below average traffic generation associated with the "mail order" nature of the business. However, in alignment with staff's interpretation of the application of Section 4.20.120 (C) indicated above a full exemption does not seem warranted as the size of the addition would appear to offer this business an opportunity to expand or evolve operations in a manner that would result in either more employees, expanded distribution operations, and general expansion capability of the business operations. Staff would agree that a smaller expansion project would be subject to a further graduated reduction in the Transportation SDC fee as indicated to be applied from the interpretation made above.

Attachments:

- Letter date 5.30.13 from SMS Auto Fabric
- Original SDC Calculation Worksheet Estimate
- Section 4.20.120 (C) of the Canby Municipal Code

May 30, 2013

Bryan Brown
Planning Director
City of Canby
Canby, OR 97013

Dear Mr. Brown:

My company is proposing to expand our existing warehouse at 350 S. Redwood St. We are doing this in order to spread out our existing inventory. This will help us to more efficiently fill customer orders. No new staff members will be added as a result of this expansion.

As I have researched this proposed addition and begun preparations to submit for permits, an estimate of SDC charges has been generated for the project by your office. This estimate is a significant amount of money charged to my business by the city for increases in estimated usage of city services and facilities due to this building addition; specifically, Stormwater, Wastewater, Parks, and Transportation. We feel these usage increase estimates are inaccurate and, therefore, most of the associated SDC charges should not apply. Here is our reasoning:

- 1) A Stormwater SDC fee is applicable to this proposed addition as we are adding impervious surface to the property in the form of building and parking.
- 2) A Wastewater SDC fee is not applicable nor a part of the estimate because the proposed water meter will stay the same size.
- 3) In regards to the Parks SDC fee, which is calculated by the number of employees a development will have, the proposed addition will not increase the number of people my company will employ and thus is not applicable and should not be charged.
- 4) With respect to the Transportation SDC fee, which is based on "Trip-Ends," the proposed addition will not increase the number of "Trip-Ends" my company generates because the size of my staff and product line will remain the same. Our company is a mail-order business so customer traffic is not an issue either. Thus, this SDC fee is not applicable and should not be charged.

This proposed addition will not increase the use of public facilities in regards to Parks and Transportation and thus should be exempted from these System Development Charges as stated in the Municipal Code. Applicable portions of the City's Municipal Code have been included below which give perspective and permission to exempt certain developments from SDC fees.

City of Canby Municipal Code; Title 4: Local Improvements; Chapter 4.20: System Development Charges; Article 4.20.010: Purpose, "The purpose of the system development charge is to impose all or a portion of the cost of capital improvements for wastewater treatment or disposal, transportation, drainage, flood control and parks upon those developments that create the need for or increase the demands on capital improvements."

City of Canby Municipal Code; Title 4: Local Improvements; Chapter 4.20: System Development Charges; Article 4.20.120: Exemptions; Section C, "An alteration, addition, replacement or change in use that does not increase the parcel's or structure's use of the public improvement facility is exempt from all portions of the system development charge."

I would also like to include excerpts from recent reports that determine the methodology to be used to calculate SDC fees.

Final Report for Parks & Recreation System Development Charge Study January 2013; Section V:SDC Calculation; Article D:Credit, Exemptions And Discounts, "The existing Canby SDC administrative procedures will continue to establish local policies for issuing credits and exemptions, annual adjustments, and other administrative procedures."

Final Report for Transportation System Development Charge Study January 2013; Section V: Summary; Article B: Credits, Exemptions and Discounts; Paragraph (2): Exemptions, "The City may "exempt" specific classes of development from the requirement to pay transportation SDCs."

It is obvious that my proposed addition serving my existing business, staff, and product line should be exempted from Parks & Transportation SDC fees as per the Code. Please get back to me regarding this issue with a revised SDC estimate.

Yours truly,



Doug Pollock

Owner
SMS Auto Fabrics
350 S. Redwood Street
Canby, OR 97013

CITY OF CANBY

Building Permit Payment Calculation Worksheet

*INCLUDES: SYSTEM DEVELOPMENT CHARGES, CANBY STREET CONSTRUCTION EXCISE TAX,
PLAN CHECK FEE, EROSION CONTROL FEE AND STREET OPENING PERMIT*

Name: SMS Auto Fabric	ESTIMATE	Type:	New Construction
Address: 390 S Redwood Stree	4.25.13	Commercial:	14,400 s.f.
Application Number:		Zoning/Size:	M1 Light Industrial

	Unit Rate	Total
Stormwater SDC	\$2,121.69	
<i>Notes: Type of Development: Non-Residential - Industrial Rate</i>		
<i>Notes: 14,400 (size)/1,000 = 14.4 X 147.34 (industrial rate/1,000 s.f.) = \$2,121.69</i>		
Improvement	100% \$2,121.69	Amount Due: \$ 2,121.69

Wastewater SDC	\$0.00	
<i>Notes: Assumed no new water meter installation or sanitary sewer connection to City main</i>		
Improvement	24% \$0.00	Amount Due: \$ -
Reimbursement	76% \$0.00	Amount Due: \$ -

Parks SDC	\$3,524.00	
<i>Notes: 2000(size of bldg.)/350(business service - office - employee factor) = 5.71 X \$400 (cost per employee) = \$2284</i>		
<i>Notes: 12,400(size of bldg.)/4,000(warehouse/distribution/storage-employ factor) = 3.1 X \$400(cost per employee) = \$1240</i>		
Improvement	100% \$3,524.00	Amount Due: \$ 3,524.00

Transportation SDC	\$25,796.80	
<i>Notes: Warehouse Land Use Category (12,400 sf) & General Office Category (2,000 sf)</i>		
<i>Notes: Warehouse is \$1,532 total SDC fee/1000 sf = (12,400/1000 = 12.4 X 1,532) = \$18,996.80</i>		
<i>Notes: General Office is \$3,400 total SDC fee/1000 sf = (2,000/1,000 = 2 X 3,400) = \$6,800</i>		
Improvement	92% \$23,733.06	Amount Due: \$ 23,733.06
Reimbursement	8% \$2,063.74	Amount Due: \$ 2,063.74
Total SDC:		\$ 31,442.49

Planning Plan Check Fee	\$ 215.00
Erosion Control Fee (ESPC Certification Assumed)	\$ 395.00
City of Canby Construction Excise Tax (Streets 100%)	N/A
Sanitary Sewer Tap Connection Fee	\$ 100.00
Street Excavation Fee (Assumes no street cut needed for sewer lateral installation)	N/A
AFD	\$0.00
Amount Due:	\$ 32,152.49

Construction Excise Tax (Residential Living Space Only)

Cost per square foot	Square Feet	Amount
\$0.25 first 1,000 s.f.		\$ -
\$0.50 next 500 s.f.		\$ -
\$0.75 next 500 s.f.		\$ -
\$1.00 above 2,000 s.f.		\$ -
Total		\$ -

Advanced Financing

Notes: N/A	
Principal Amount:	\$
Interest per day:	\$
Total through:	\$
Amount due:	\$0.00

*Building Permit/Inspection Fees and School Excise Tax collected by Clackamas County Building Codes Division

money to the developer, unless mutually agreed upon by the city and developer.

2. If no parkland dedication is required or requested by the city, the full amount of the park system development charge will be assessed and is due and payable at the time the first building permit(s) is/are issued.

§ 4.20.080 Expenditure restrictions.

A. System development charges shall not be expended for costs associated with the construction of administrative office facilities that are more than an incidental part of other capital improvements.

B. System development charges shall not be expended for costs of the operation or routine maintenance of capital improvements.

§ 4.20.090 Improvement plan.

The Council shall adopt a plan that:

A. Lists the capital improvements that may be funded with improvement fee revenues; and

B. Lists the estimated cost and time of construction of each improvement.

§ 4.20.100 Collection of charge.

A. The system development charge is payable upon issuance of:

1. A building permit; or

2. A permit to connect to the sewer system or stormwater system.

B. If no building or connection permit is required, the system development charge is payable at the time the usage of the capital improvement is increased.

C. If development is commenced or connection is made to the sewer system or stormwater system without an appropriate permit, the system development charge is immediately payable upon the earliest date that a permit was required.

D. The City Treasurer shall collect the applicable system development charge when a permit that allows building or development of a parcel is issued or when a connection to the sewer system or stormwater system of the city is made.

E. The Building Official shall not issue a permit or allow a connection until the charge has been paid in

full, or unless an exemption is granted pursuant to § 4.20.120.

§ 4.20.110 Delinquent charges; hearing.

A. When, for any reason, the system development charge has not been paid, the City Treasurer shall report to the Council the amount of the uncollected charge, the description of the real property to which the charge is attributable, the date upon which the charge was due, the name of the owner of the subject property and/or the name of the person responsible for incurring the charge, if different from the owner.

B. The City Council shall schedule a public hearing on the matter and direct that notice of the hearing be given to both the owner and the person responsible for incurring the charge, if different from the owner, with a copy of the City Treasurer's report concerning the unpaid charge. Notice of the hearing shall be given either personally or by certified mail, return receipt requested, or by both personal and mailed notice, and by posting notice on the parcel at least 10 days before the date set for the hearing.

C. At the hearing, the Council may accept, reject or modify the determination of the City Treasurer as set forth in the report. If the Council finds that a system development charge is unpaid or uncollected, it shall direct the City Recorder to docket the unpaid and uncollected system development charge in the lien docket. Upon completion of the docketing, the city shall have a lien against the described land for the full amount of the unpaid charge, together with interest at the then existing legal rate per annum and with the city's actual cost of serving notice of the hearing on the owners. The lien shall be enforceable in the manner provided in O.R.S. Chapter 223.

§ 4.20.120 Exemptions.

A. Structures and uses established and existing on or before October 16, 1991 are exempt from a system development charge, except sewer charges, to the extent of the structure or use then existing and to the extent of the parcel of land as it is constituted on that date. Structures and uses affected by this division shall pay the sewer charges pursuant to the terms of this chapter upon the receipt of a permit to connect to the sewer system.

B. Additions to single-family dwellings that do not constitute the addition of another bedroom are exempt from all portions of the parks system development charge under § 4.20.070.

C. An alteration, addition, replacement or change in use that does not increase the parcel's or structure's use of the public improvement facility is exempt from all portions of the system development charge.

D. A project financed by city revenues is exempt from all portions of the system development charge.

E. With City Council approval, housing specifically limited in occupancy to very low income persons or families, as defined by the most recent HUD (Federal Housing and Urban Development Department) criteria.

§ 4.20.130 Credits.

A. A system development charge shall be imposed when a change of use of a parcel or structure occurs, but credit shall be given for the computed system development charge to the extent that prior structures existed and services were established on or after October 16, 1991. The credit so computed shall not exceed the calculated system development charge. No refund shall be made on account of the credit.

B. A credit shall be given for the cost of a qualified public improvement associated with a residential development. If a qualified public improvement is located partially on and partially off the parcel that is the subject of the residential development approval, the credit shall be given only for the cost of the portion of the improvement not located on or wholly contiguous to the property. The credit provided for by this division shall be only for the improvement fee charged for the type of improvement being constructed and shall not exceed the improvement fee even if the cost of the capital improvement exceeds the applicable improvement fee.

C. Credit shall not be transferable from 1 development to another except in compliance with standards adopted by the City Council.

D. Credit shall not be transferable from 1 type of capital improvement to another.

E. Where a substantial private park and recreational area is provided in a proposed residential

development and the space is to be privately owned and maintained by the future residents of the development, partial credit, not to exceed 50%, may be given against the system development charge if the Planning Commission finds that it is in the public interest to do so and that all the following standards are met:

1. That yards, court areas and setbacks required to be maintained by the zoning and building ordinances and regulations shall not be included in the computation of the private parkland;

2. That the private ownership and maintenance of the parkland is adequately provided for by recorded written agreement, conveyance or restrictions;

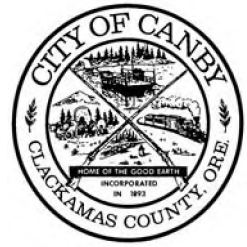
3. That the use of the private parkland is restricted for park and recreational purposes by recorded covenant, which runs with the land in favor of the future owners of property and which cannot be defeated or eliminated without the consent of the city or its successor;

4. That the proposed private parkland is reasonably adaptable for use for park and recreational purposes, taking into consideration such factors as size, shape, topography, geology, access and location;

5. That facilities proposed for the parkland are in substantial accordance with the provisions of the city master park plan; and

6. a. That the parkland for which credit is given is a minimum of 2 acres and provides a minimum of 3 of the local park basic elements listed below, or a combination of those and other recreational improvements that will meet the specific recreation park needs of the future residents of the area:

<i>Criteria List</i>	<i>Acres</i>
Children's play apparatus area	.50-.75
Landscape park-like and quiet areas	.50-1.00
Family picnic area	.25-.75
Game court area	.25-.50
Turf play field	1.00-3.00
Recreation center building	.15-.25



M E M O R A N D U M

TO: *Honorable Mayor Hodson and City Council*
FROM: *Bryan Brown, Planning Director*
THROUGH: *Greg Ellis, City Administrator*
DATE: *July 1, 2013 for July 17, 2013 Council Agenda*
RE: *Requested LUBA Remand Direction from Council (Save Downtown Canby v. City of Canby - LUBA No. 2012-097)*

Summary

This case involves a proposed Fred Meyer fuel facility for which the City Council approved a Text Amendment and Rezoning (TA 12-01 and ZC 12-01 (adopted by Ordinance 1365) which changed the subarea boundary designation of the Downtown Canby Overlay District from Core Commercial (CC) to Outer Highway (OHC) for the property at the Southwest corner of Locust Street and Hwy 99E. This case has now come back to the City Council following a remand from the Land Use Board of Appeals (“LUBA”) asking for the City to further consider whether the proposed development is subject to the Transportation Planning Rule (“TPR”) and for the City to consider any conflicts that might arise because of statements in the City’s Transportation System Plan (“TSP”) which call for a future pedestrian crossing in the vicinity of the property or explain why such conflicts need not be considered.

Since site design review of the Fred Meyer fuel proposal upon appeal has been remanded by the City Council to the Planning Commission following the Applicant’s revisions to the plans to respond to concerns raised by opposition to the project, administrative efficiency would best be served by having the LUBA remand considered by the Planning Commission as a part of the Site Design Review. The consideration of the design components and the remand issues from LUBA will be consolidated in a hearing before the Planning Commission for consideration and recommendation back to the City Council. The Commission hearing is presently set for July 22, 2013. Staff is requesting the Council use its authority with regard to the LUBA remand to direct review of the remand issues by the Planning Commission first at this time.

Recommended Council Action

Staff recommends and moves that the City Council:

- Direct review of the LUBA remand issues by the Planning Commission as part of the Site and Design Review on remand by the Council.

Alternative

1. As an alternative to the recommended action, the City Council may choose to review and address the LUBA remand issues under their purview directly at a future at a future meeting without input from the Planning Commission.

Attachments

1. LUBA Final Opinion & Remand

1 BEFORE THE LAND USE BOARD OF APPEALS

2 OF THE STATE OF OREGON

3
4 SAVE DOWNTOWN CANBY,

5 *Petitioner,*

6
7 vs.

8
9 CITY OF CANBY,

10 *Respondent,*

11
12 and

13
14 GREAT BASIN ENGINEERING,

15 *Intervenor-Respondent.*

16
17 LUBA No. 2012-097

18
19 FINAL OPINION

20 AND ORDER

21
22 Appeal from City of Canby.

23
24 E. Michael Connors, Portland, filed the petition for review and argued on behalf of
25 petitioner. With him on the brief was Hathaway Koback Connors LLP.

26
27 Joseph Lindsay, City Attorney, Canby, filed a joint response brief on behalf of
28 respondent.

29
30 Steven W. Abel and Elaine R. Albrich, Portland, filed a joint response brief, and
31 Steven W. Abel argued on behalf of intervenor-respondent. With them on the brief was Stoel
32 Rives LLP.

33
34 BASSHAM, Board Member; HOLSTUN, Board Chair; RYAN, Board Member,
35 participated in the decision.

36
37 REMANDED

06/04/2013

38
39 You are entitled to judicial review of this Order. Judicial review is governed by the
40 provisions of ORS 197.850.

NATURE OF THE DECISION

Petitioner appeals an ordinance approving a text and zoning map amendment from one commercial zone to another commercial zone with different site design standards, to facilitate approval of a fuel station.

FACTS

The subject property is a .75 acre tract located at the corner of Highway 99E and S Locust Street in the City of Canby. The property's base zone is Highway Commercial (C-2). The property and most of the surrounding land are also subject to the Downtown Canby Overlay (DCO) zone, which has several sub-areas. Each of the DCO sub-areas allow the same uses, which are determined by the base C-2 zone, but each DCO sub-area has slightly different site design review standards.

The DCO sub-area that applies to the subject property is the Core Commercial (CC) sub-area. The CC sub-area is intended to foster pedestrian-oriented development, and its design criteria generally reflect that intent. The subject property is the north-easternmost property from the city center that is zoned CC. Properties farther to the northeast are also within the DCO, but subject to the Outer Highway Commercial (OHC) sub-area, which is generally intended to foster more automobile-oriented development.

On February 28, 2012, intervenor-respondent (intervenor) had a pre-application conference with city staff concerning a site design review application for a proposed Fred Meyer fuel station on the subject property. City staff advised intervenor that placing a fuel station within the CC sub-area would pose problems in demonstrating consistency with the intent of the CC sub-area. City staff suggested that intervenor first apply to rezone the property from CC to OHC, which would basically involve a minor text amendment to the geographic descriptions of the DCO sub-areas, and a map amendment to shift the boundary

1 between the CC and OHC sub-areas approximately 150 feet southwestward to include the
2 subject property in the OHC sub-area.

3 Intervenor applied to rezone the property from CC to OHC, and for site design review
4 approval of a six-unit fuel station under the OHC design review criteria. The city planning
5 commission held a hearing on the proposed text and map amendments, and recommended
6 denial. Because the site design review application followed a different procedure, and was
7 dependent on the text and zoning amendments, the planning commission deferred hearings
8 on the site design review application until the city council reviewed its recommendation on
9 the text and zoning amendments. The city council held a hearing on the text and map
10 amendments, and on December 5, 2012, adopted Ordinance No. 1365, which approved the
11 text and map amendments. This appeal followed.

12 **MOTION TO DISMISS**

13 Intervenor moves to dismiss this appeal, arguing that Ordinance No. 1365 is not a
14 “final” decision and therefore not subject to LUBA’s jurisdiction.

15 ORS 197.015(10)(a) defines a “land use decision” as a final decision that concerns
16 the adoption, amendment or application of comprehensive plan provisions or land use
17 regulations. As noted, the planning commission deferred consideration of the site design
18 review application. Intervenor contends that the three applications for a text amendment,
19 map amendment, and site design review approval were consolidated pursuant to ORS
20 227.175(2), which requires the city to establish a consolidated procedure by which an
21 applicant may, at its option, seek approval for all permits or zone changes needed for
22 development approval. Because the three applications were consolidated, intervenor argues,
23 the adoption of Ordinance No. 1365 approving the text and map amendments was not a final
24 decision, but rather an interlocutory decision issued in the middle of a consolidated
25 proceeding on the three applications that has yet to be completed.

1 Petitioner responds, and we agree, that Ordinance No. 1365 is unquestionably a final
2 decision. The consolidation procedure at ORS 227.175(2) is available at the option of the
3 applicant, and intervenor consented to the planning commission's intent to process the text
4 and map amendment applications separately from the site design review application. In any
5 case, nothing in ORS 227.175(2) or elsewhere cited to our attention suggests that an
6 otherwise final decision is not final until all consolidated applications are finally decided.¹
7 The motion to dismiss is denied.

8 **FIRST ASSIGNMENT OF ERROR**

9 The Transportation Planning Rule (TPR) at OAR 660-012-0060(1) requires local
10 governments to determine if plan or land use regulation amendments would "significantly
11 affect" an existing or planned transportation facility. If so, the local government must adopt
12 one or more measures to prevent or offset impacts on the facility.² Canby Municipal Code

¹ We see no reason under state law why the city could not have issued an interlocutory decision on the text and map amendments and provided that the ordinance approving the text and map amendments would not become final until the city adopted a final decision on the application for site plan approval. But the city did not do so in this case.

² OAR 660-012-0060(1) provides, in relevant part:

 "If an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation (including a zoning map) would significantly affect an existing or planned transportation facility, then the local government must put in place measures as provided in section (2) of this rule* * *. A plan or land use regulation amendment significantly affects a transportation facility if it would:

 "* * * * *

 "(c) Result in any of the effects listed in paragraphs (A) through (C) of this subsection based on projected conditions measured at the end of the planning period identified in the adopted TSP. As part of evaluating projected conditions, the amount of traffic projected to be generated within the area of the amendment may be reduced if the amendment includes an enforceable, ongoing requirement that would demonstrably limit traffic generation, including, but not limited to, transportation demand management. This reduction may diminish or completely eliminate the significant effect of the amendment.

 "* * * * *

1 (CMC) 16.08.150(A) implements the TPR, and sets out a process and standards for
2 determining whether an amendment significantly affects a transportation facility.

3 In its findings, the city council concluded that CMC 16.08.150 has been satisfied and
4 the amendments will not significantly affect any transportation facility within the meaning of
5 the TPR. The city's primary basis for that conclusion is that the "amendments do not change
6 the underlying base zone or the overlay zone, but rather simply adjust the boundaries
7 between two design subareas of the [DCO] overlay zone." Record 21. According to the city,
8 the CC and OHC sub-areas of the DCO overlay zone "simply regulate[] the design of the
9 uses that are already allowed within the Property's base zone designation." *Id.* The city
10 concluded that the amendments "would not change the trip generation potential in the C-2
11 zone (the underlying base zone), so it would not cause any change in the performance of
12 existing or proposed facilities." *Id.* The city's reasoning on these points was based on a
13 September 4, 2012 letter from intervenor's attorney, which the city council adopted by
14 incorporation as additional findings. Record 19, 265-83.

15 Petitioner argues that the findings and record are insufficient to conclude that the
16 change from CC to OHC sub-areas of the DCO does not "significantly affect" any
17 transportation facility.

18 Where an amendment is a zoning map amendment, one option a local government has
19 to determine whether the amendment significantly affects a transportation facility within the
20 meaning of OAR 660-012-0060(1)(c) is to first evaluate whether the new zone authorizes

"(B) Degrade the performance of an existing or planned transportation facility
such that it would not meet the performance standards identified in the TSP
or comprehensive plan; or

"(C) Degrade the performance of an existing or planned transportation facility
that is otherwise projected to not meet the performance standards identified
in the TSP or comprehensive plan."

1 more traffic-intensive uses, compared to the old zone. *Barnes v. City of Hillsboro*, 61 Or
2 LUBA 375, 399, *aff'd* 239 Or App 73, 243 P3d 139 (2010); *Mason v. City of Corvallis*, 46
3 Or LUBA 199, 222 (2005). This initial, somewhat hypothetical, inquiry typically involves
4 comparing the most traffic-generative uses allowed in the two zones that could reasonably be
5 developed on the property in question. If those most traffic-generative uses allowed in the
6 two zones are the same, then the local government could easily conclude that new zone will
7 not generate any more traffic than the old zone and therefore no further inquiry is necessary
8 under the TPR. However, if the most traffic-generative uses are different, which is typically
9 the case, and the most traffic-generative use under the new zone would generate more traffic
10 than under the old zone, then further and more technical analysis is usually necessary to
11 determine if the amendment significantly affects a transportation facility and, if so, whether
12 and what measures may be required.

13 In the present case, we understand the city to have concluded that, based on the fact
14 that the uses allowed in the base C-2 zone are precisely the same both before and after the
15 change from the CC to OHC sub-area of the DCO overlay zone, the amendment does not
16 change the traffic-generative capacity of the uses allowed. Therefore, the city found, no
17 further analysis was necessary under the TPR, in order to conclude that the change did not
18 “significantly affect” any transportation facility. The only change, the city found, was to the
19 site design review standards, which differ slightly between the CC and OHC sub-areas, and
20 which do not affect traffic generative capacity of the uses allowed in the base C-2 zone under
21 any of the DCO sub-areas. Based on that finding, the city found that the TPR is satisfied,
22 without the need for further inquiry.

23 However, petitioner disputes that the different site design standards particular to the
24 OHC sub-area do not increase the traffic generative capacity of the uses allowed, compared
25 to the CC sub-area. Petitioner notes that under the design standards applicable in the CC
26 sub-area, the maximum building footprint size is 30,000 square feet, while the maximum

1 building footprint size in the OHC sub-area is 80,000 to 100,000 square feet. CMC
2 16.41.050(A)(2) (Table 3). According to petitioner, the footprint size of a commercial use
3 such as the retail uses allowed as permitted uses in the C-2 zone could easily increase its
4 traffic-generating capacity, compared to the same commercial use with a smaller footprint.

5 Further, petitioner argues, the differential maximum building footprint size in Table 3
6 is intended to affect the *types* of commercial uses allowed in each sub-area of the DCO.
7 CMC 16.41.010(C) states that one of the purposes of the different sub-areas in the DCO zone
8 is to:

9 “Ensure that building sizes reflect desired uses in the Core Commercial and
10 Transitional Commercial areas. Requirements limit the size of the building
11 footprint to 40,000 [sic] square feet in these areas. For the purpose of
12 understanding the scale of development, the proposed maximum allows for
13 the creation of a high end grocery store (e.g. New Seasons, Whole Foods or
14 Zupans). The proposed maximum differentiates development in this area
15 from those in the Outer Highway Commercial area. Maximum building
16 footprints are much larger in the [OHC] area.”

17 The differences in the site design standards between the CC sub-area and the OHC
18 sub-area almost entirely relate to the appearance of structures, which would seem to have no
19 apparent effect on traffic-generating capacity. Nonetheless, petitioner is correct that the two
20 sub-areas have different maximum building footprint sizes, with 30,000 square feet the
21 maximum in the CC sub-area, while the OHC sub-area allows a maximum building footprint
22 of between 80,000 to 100,000 square feet. The apparent intent of this difference is to foster
23 particular types of smaller scale commercial development in the CC sub-area, and allow
24 larger scale commercial uses in the OHC sub-area. The base C-2 zone allows various
25 commercial uses in all DCO sub-areas, such as a retail store, but the different maximum
26 building footprint standards means that in the OHC sub-area building footprints for a retail
27 store could be up to three times larger than an otherwise identical retail store located in the
28 CC sub-area.

1 That said, a building footprint size differential does not automatically translate into an
2 increase in traffic generating capacity. A maximum building footprint does not limit the total
3 square footage of the building, only its footprint. Multiple buildings, in the CC sub-area
4 could occupy the same footprint as a larger building in the OHC sub-area. But we note that
5 the CC sub-area has a maximum building height of 60 feet, while the OHC sub-area has a
6 maximum building height of 45 feet. The extra height allowed in the CC sub-area could
7 presumably increase the total square footage for a given footprint size. In addition, there are
8 different floor area ratio and setback standards between the two sub-areas, which would
9 presumably affect both the maximum footprint and total square footage practicable on the
10 subject property.

11 Most traffic engineers and local governments use the Institute of Transportation
12 Engineers (ITE) *Trip Generation* Manual to calculate the trip generation potential of various
13 types of uses. In the present case, the applicant's and city's engineers used the ITE Manual
14 to estimate the trip generation potential of the proposed fuel station. We note that, under the
15 ITE Manual, trip generation for most commercial use categories is calculated by multiplying
16 a certain trip rate per square footage. Thus, the total square footage of a building or use
17 seems to be a critical element in estimating trip generation for present purposes. In turn,
18 estimating total square footage would seem to require taking into account variables such as
19 maximum building footprints, maximum building height, floor area ratios, setbacks, etc. that
20 differ between the two zones being compared.

21 This suggests that one approach to determining whether the rezone from CC to OHC
22 could generate additional traffic and thus requires further analysis under the TPR would be
23 evaluate the square footage and hence the traffic generation capacity of the most traffic
24 intensive use allowed in the C-2 zone that could reasonably be constructed on the subject
25 property, given the different footprint, height, setback, and floor area ratios that would apply
26 in the two sub-areas. If that analysis showed that constructing the use under the OHC

1 standards would increase traffic generation compared to constructing the use under the CC
2 standards, then further analysis is necessary under the TPR. If not, then the city could
3 conclude that no further analysis is necessary, and the TPR is satisfied.

4 However, the record and the city's findings do not address these questions. The
5 applicant submitted a traffic impact analysis, but it analyzed only the traffic impacts of the
6 proposed fuel station under the ITE Manual, and did not purport to compare the different
7 traffic generating potential between uses allowed under the different CC and OHC sub-area
8 design standards.³ The city's conclusion that no further inquiry is necessary under the TPR
9 rests mainly on its finding that the uses allowed in the base C-2 zone have not changed.
10 However, that finding is not a sufficient basis for that conclusion, if in fact the different site
11 design standards that apply in the CC and OHC sub-areas affect the size or type of
12 development to an extent that would be significant under the ITE Manual. We conclude that
13 remand is warranted for the city to address this issue.

14 Petitioner also challenges under this assignment of error a finding that appears to
15 embody an alternative basis for concluding that the TPR is satisfied. The city noted that four
16 years ago the city adopted an ordinance that applied the DCO and its sub-areas to the
17 downtown area, and that ordinance was supported by a finding that "all required public
18 facilities and services either exist or will be provided concurrent with development." Record
19 21. Based on that referenced finding, the city concludes that "there was no change in
20 transportation impact by implementing the DCO, meaning there would be no impact in
21 changing the Property from CC to OHC." *Id.* Petitioner argues, and we agree, that this
22 finding is not sufficient to demonstrate that the TPR is satisfied. It does not necessarily
23 follow from the fact that the DCO as a whole complied with the TPR when it was adopted

³ The challenged ordinance does not limit or condition the zone change to allow only the proposed fuel station or otherwise limit the size or types of uses allowed on the subject property.

1 four years ago that rezoning property from one DCO sub-area to another will not increase
2 traffic generation, compared to the prior configuration of sub-areas, if in fact the different
3 sub-areas have different standards that result in higher traffic generation potential.

4 The only other argument presented in the first assignment of error that warrants
5 discussion is petitioner's argument that the city's findings regarding the TPR and a "public
6 need" standard are inconsistent. However, similar issues are raised under the second and
7 third assignments of error, and we address the inconsistency argument under those
8 assignments of error.

9 The first assignment of error is sustained.

10 **SECOND AND THIRD ASSIGNMENTS OF ERROR**

11 Under these assignments of error, petitioner argues that the city's findings of
12 compliance with three CMC criteria are inconsistent, and not supported by substantial
13 evidence.

14 **A. Inconsistency**

15 Petitioner contends that the city's findings addressing several criteria characterize the
16 subject property as essentially undevelopable under the CC sub-area. According to
17 petitioner, those findings conflict with the city's TPR findings, which as discussed above
18 conclude that the rezone from CC to OHC will not increase the traffic generative capacity of
19 the property. Petitioner contends that the city cannot have it both ways: either (1) the subject
20 property is undevelopable under the CC sub-area, and must be rezoned to OHC in order to be
21 developed, in which case the rezone will result in a net increase traffic compared to the CC
22 zone and thus potentially "significantly affect" transportation facilities under the TPR, or (2)
23 the rezone does not change the development potential of the property at all, in which case the
24 city's finding that the subject property is undevelopable under the CC sub-area is not
25 supported by substantial evidence, which undercuts the basis for concluding that the rezone
26 complies with other criteria.

1 The flaw in petitioner’s argument is that the city did not find that the subject property
2 is “undevelopable” under the CC sub-area or any words to that effect. CMC 16.88.160(D)(2)
3 is a text amendment standard requiring a finding that there is a “public need for the change.”
4 Petitioner cites to the following finding addressing CMC 16.88.160(D)(2):

5 “The public need for the change is evidenced by the fact that development has
6 not occurred on the Property over many years. The Property is located away
7 from the core area of the City and is on the edge of the OHC. The
8 amendments will make development and private investment on the Property
9 more attractive, and through private investment and redevelopment of the
10 Property, the downtown core will be enhanced. Without the amendments, the
11 attractiveness for the Property is diminished and the parcels are more likely to
12 remain undeveloped within the DCO, which will diminish the ability of the
13 downtown core to prosper. Accordingly, there is a public need for the
14 change.” Record 22.

15 Similarly, CMC 16.88.160(D)(4) requires a finding that the text amendment will “preserve
16 and protect the health, safety and general welfare of the residents in the community.” The
17 city’s findings addressing CMC 16.88.160(D)(4) state in relevant part that the change will
18 “facilitate development of underutilized land.” Record 22. In addressing Statewide
19 Planning Goal 9 (Economic Development), the city found that the amendment will “spur
20 development and commercial use of the Property, which will contribute to economic
21 development” of the city. Record 24.

22 However, fairly read, the above findings conclude that the subject property will be
23 more likely to be developed under the OHC sub-area, not that it is undevelopable under the
24 CC sub-area. There is no necessary contradiction or inconsistency in finding that the rezone
25 complies with the TPR, because it does not authorize uses with more traffic generative
26 capacity compared to the old zone, yet finding that the new zone will make it easier to
27 actually develop the property.

28 As explained above, where a local government determines that a zone change
29 complies with the TPR based on a comparison of uses allowed in the two zones, that
30 comparison is largely a hypothetical one, having little to do with actual development of the

1 property or whether the property is or is not likely to be developed under the old zoning. We
2 held above that the city's analysis was insufficient to establish that no further inquiry is
3 necessary under the TPR. However, we disagree with petitioner that the city is on the horns
4 of a dilemma, and that on remand if it again concludes that the rezone does not increase the
5 traffic-generative capacity of the subject property that the city will necessarily undercut the
6 evidentiary basis for concluding that the rezone complies with the "public need" standard at
7 CMC 16.88.160(D)(2), the "health, safety and general welfare" standard at CMC
8 16.88.160(D)(4), or Statewide Planning Goal 9.

9 **B. Substantial Evidence regarding Public Need**

10 Under the third assignment of error, petitioner asserts a substantial evidence challenge
11 to the city's finding that the CMC 16.88.160(D)(2) "public need" criterion is met because
12 the property "will not develop" under the CC sub-area. Petition for Review 22. According
13 to petitioner, the DCO with its sub-areas was first applied only four years ago, at the start of a
14 serious real estate recession. While the rezoning to the OHC sub-area may be useful to
15 facilitate the proposed fuel station, petitioner argues that there is no evidence or explanation
16 for why the property cannot be developed with other commercial uses under the CC sub-area.
17 For these reasons, petitioner contends that remand is necessary for the city to require
18 substantial evidence that there is a "public need" for the amendment.

19 As explained above, the city did not find that the subject property "will not develop"
20 under the CC sub-area, only that rezoning the property to OHC would facilitate or make it
21 easier to develop the property. Those findings are supported by testimony in the record.
22 Petitioner's arguments are based on a mischaracterization of the city's findings, and
23 accordingly do not provide a basis for reversal or remand.

24 The second and third assignments of error are denied.

1 **FOURTH ASSIGNMENT OF ERROR**

2 The city's Transportation System Plan (TSP) calls for a future pedestrian crossing of
3 OR 99E in the vicinity of the subject property. That future pedestrian crossing is included in
4 TSP Table 5-1, among a list of financially constrained solutions that "can be funded using
5 existing revenue streams through the year 2030." At the time the city issued its decision, it
6 was developing but had not yet adopted a OR 99E Corridor and Gateway Design Plan
7 (Gateway Plan) that identified the specific location of that future pedestrian crossing at S
8 Locust Street, approximately 100 feet from the subject property. The city's traffic engineer
9 testified that while the Gateway Plan has not yet been adopted, the location of the pedestrian
10 crossing identified therein is consistent with and clarifies the TSP. Further, the engineer
11 stated that when a pedestrian crossing is constructed in this area it would affect site access for
12 the fuel station and would "trigger the need to convert the proposed site access to right-
13 in/right-out." Record 346.

14 Petitioner argued below that a future pedestrian crossing at S Locust Street would
15 conflict with the proposed fuel station. The city's findings do not specifically address the
16 future pedestrian crossing listed in TSP Table 5-1 or identified in the Gateway Plan.
17 However, there is a finding under CMC 16.88.160(D)(1), which requires that the city "shall
18 consider" the comprehensive plan in adopting a text amendment, that the "99E Corridor and
19 Gateway Design Plan is not yet adopted and is therefore not a criterion for this application."
20 Record 22.

21 Petitioner argues that even though the Gateway Plan was not adopted and need not be
22 considered under CMC 16.88.160(D)(1), nonetheless the TSP itself calls for a future
23 pedestrian crossing in the vicinity of the subject property, and therefore the city is obligated
24 to consider and explain "why a pedestrian crossing in this area does not undermine the
25 justification and purpose for seeking the Amendments in the first place." Petition for Review
26 24.

1 Respondents contend that the CMC 16.88.160(D)(1) obligation to “consider” the
2 comprehensive plan does not convert a future pedestrian crossing listed in a TSP table into a
3 mandatory approval consideration or criterion that requires specific findings to explain why
4 the pedestrian crossing would not undermine the justification of the zone change to OHC. At
5 best, respondents argue, under CMC 16.88.160(D)(1) the city is required to consider relevant
6 comprehensive plan language and balance such language against other relevant
7 considerations.

8 The city’s findings do not appear to “consider” the conflicts, if any, between uses
9 allowed under the OHC sub-area and a future pedestrian crossing in the area, as
10 contemplated by the TSP, or explain why such conflicts need not be considered for purposes
11 of CMC 16.88.160(D)(1). Based on the city engineer’s testimony, the only consequence may
12 be that when the pedestrian crossing is eventually constructed that access to the station must
13 be converted sometime in the future to right-in/right-out. However, because the city did not
14 appear to consider the question at all, and the decision must be remanded in any event under
15 the first assignment of error, remand is also warranted under this assignment of error for the
16 city to adopt findings considering the future pedestrian crossing listed in the TSP to the
17 extent it is relevant to the amendment, and balancing that consideration against other relevant
18 considerations, or explaining why no such consideration is required under CMC
19 16.88.160(D)(1).

20 The fourth assignment of error is sustained.

21 The city’s decision is remanded.



City of Canby Bi-Monthly Report
Department: Administration
For Months of:
May and June 2013

To: The Honorable Mayor Hodson & City Council
From: Kim Scheafer, MMC, City Recorder
Prepared by: Erin Burckhard, Office Specialist II
Through: Greg Ellis, City Administrator
Date: July 8, 2013

1. **Business Licenses** – Forty-seven (47) new business licenses were issued during the months of May and June 2013. This compares to 42 new licenses issued during May and June 2012. Twenty-nine (29) business licenses were inactivated during the months of May and June 2013. This compares to 34 inactivated during the same period in 2012. Two hundred-thirty nine (239) business license renewals were sent out, compared to 236 in 2012. The total number of businesses licensed with the City of Canby is 1,144, of which 645 have Canby addresses.
2. **Complaints/Inquiries** – Five (5) complaints/inquiries were received during May and June 2013, all of which have been resolved. Three (3) follow-up cards were mailed and one was returned with Excellent and Good ratings. We received no Poor ratings during this tracking period.

Cemetery - Total property purchases recorded: 15
Total interments recorded: 10
3. **Training/Meetings** –
 - Kim Scheafer and Sue Ryan attended an LOC Ethics Class on May 20.
 - Kim Scheafer attended the City Benefits Advisory Committee Meeting on June 6.
4. **Special Animal Permits** – One permit was issued.
5. **Sidewalk/Park Vending Permit** – None.
6. **Liquor Licenses Processed** – Two liquor licenses were processed and taken to the City Council.
7. **Miscellaneous** – The City's electronic newsletter was distributed to 1,163 email addresses in May and 1,173 in June 2013.



M E M O R A N D U M

TO: *Honorable Mayor Hodson and City Council*
FROM: *Renate Mengelberg, Economic Development Director*
Jamie Stickel, Main Street Manager
THROUGH: *Greg Ellis, City Administrator*

RE: *BI-MONTHLY STAFF REPORT MAY – JUNE 2013*
ECONOMIC DEVELOPMENT DEPARTMENT

Economic Development Updates

The following projects are funded through Urban Renewal.

Business Recruitment:

Staff submitted the following proposals over the past two months:

- 4 site options to the consultant representing a manufacturer looking for a 4-6 acre sites in Canby. The manufacturer is currently located in Oregon City and has 50 employees.
- Project Freedom Update: Canby submitted an extensive proposal for this \$125 million 15 – 20 acre advanced energy plant – one of 15 the state received. The client has postponed their site decision for 6 months.

Staff researched but did not pursue the following leads:

- Project Cargo - an enclosed trailer manufacturer that needed a 40-50,000 square foot building that Canby does not have.
- Project MRC – a chemical and plastics manufacturer with 50 employees looking for 25 acres. They had very large water, sewer and natural gas needs that our utility providers could not accommodate.
- Project One – An Asian high tech manufacturer looking for 3,000-10,000 square foot distribution building with 4+ dock high doors for an R & D and sales facility. We did not have a building to meet loading their specifications.

Business Assistance: Staff successfully assisted Canby Rental in developing a \$5,000 grant for conceptual 3-D designs and preliminary size and cost estimates. Preliminary designs will be presented to the business on July 8th.

Industrial Site Certification: A second meeting of industrial and commercial property owners will be held July 31st to discuss implementation steps. The city, county and state are partnering to encourage all 19 owners of the 37 vacant industrial tax lots in the Canby Pioneer Industrial Park to participate in efforts to promote their property for development and job creation. They are encouraged to partner on state Decision Ready Site Certification and County GIS property promotion. All owners of vacant properties were invited. These programs attract county and state attention to Canby industrial sites.

Community Response Team: The quarterly Community Response Team meeting is scheduled for July 31st. Industrial land certification and roles that CRT members play in the process will be the focus of the meeting. At the May 1st meeting, City, County and State leaders met to talk about transportation projects in and around Canby on May 1st. Holding annual discussions to

coordinate efforts and share information was an action step identified in Canby's newly adopted Vision. The meeting was well attended. The county and state committed to regular meetings with city leaders to coordinate efforts.

GIS Mapping: Our GIS intern has developed several maps highlighting Canby in the context of the region for general business recruitment and marketing purposes. She will begin working on the development atlas next week.

Team Track Development: A team including the property owner, rail operator, and team track expert and city staff have developed a scope of work for a feasibility study to determine demand and potential features for the Team Track. This facility would open up rail shipping access to Canby companies and surrounding businesses. The team has assessed the site and developed a preliminary layout to determine if the concept can work. From a technical and logistics standpoint it has proven to be a strong concept. If potential demand is strong, the project will be positioned for a Connect Oregon grant funding in September.

Website Updates to www.CanbyBusiness.com:

- Film and Video - staff is working on expanding the database of sites and buildings listed as possible filming locations. See <http://www.canbybusiness.com/film&video.htm>
- The newly adopted Economic Development Strategy with all background studies is now online at http://www.canbybusiness.com/ec_dev_strategy.htm
- New information has been added on compelling reasons for choosing Canby as a business location. See: http://www.canbybusiness.com/ec_profile.htm

Main Street Updates

The following projects are funded through Urban Renewal.

Promotion

- **Downtown Canby First Friday and Cash Mob**– The May 3rd and June 7th First Friday program featured several businesses – including the addition of Red Door Antiques. First Friday businesses offer food specials, retail specials, drink specials and more! The Cash Mob returned in May 2013, although the process has been changed. Businesses will register to be part of the program as before but the Cash Mob location will be announced at noon via the Canby Main Street Facebook page on First Friday. Citizens will still be encouraged to meet in front of City Hall at 6:00 pm, and will walk to the Cash Mob location together to encourage community involvement, as well as helping to boost business. This new approach has generated more customers for the Cash Mob locations – Miss Adeline's and the Place to Be Café.
- **Garden Spot Run** – The Promotions Committee meeting is organizing a Fun Run/Walk on September 7th. The Garden Spot Run will feature a 10K/5K run, a kiddie run, and a doggie dash. Committee members continue to coordinate all efforts of this event, including music, children's activities, and vendors. The Promotions committee is currently looking for volunteers, vendors, and sponsors. For more information, visit www.GardenSpotRun.com or on Facebook at www.facebook.com/gardenspotrun.
- **Mother's Day** – Mother's Day was Sunday, May 12th. The Main Street program held a Mother's Day promotion. It was free for businesses to participate in and was marketed through the Main Street website, e-newsletter, Facebook page, and flyers dispersed to the

participating businesses. The Mother's Day promotion brought people to downtown, marketed local businesses, and encouraged a strong working relationship throughout the downtown business community.

- **Downtown Draw** – In May, the “Downtown Draw” program was launched to market downtown businesses. An in-depth article spotlights a downtown business and give a better insight into the businesses and the people who run them. It is featured on the Canby Main Street website, and in the e-newsletter. The May Downtown Draw was Puddin’ River Chocolates. In June, it featured new downtown business, Full Bloom Concepts.
- **“We Speak Cycling” Meeting** – The Canby Main Street program, Canby Area Chamber of Commerce, and Clackamas County Tourism & Cultural Affairs (CCTCA) held a presentation for Canby businesses to expand their outreach to tourists that cycle to or through Canby. The presentation was held on Monday, May 20th at 6:00 pm. CCTCA created a flier that was distributed to Canby businesses.
- **Pioneer Century** - Building off of the successful “We Speak Cycling” meeting above, Clackamas County Tourism & Cultural Affairs worked with the Main Street Program to provide an advertising opportunity for downtown businesses. Businesses were able to create a coupon, which was available via QR code at the Clackamas County Event Center during the Pioneer Century Ride. The coupon helped to market downtown Canby as a place to return to throughout the summer months for the riders who attended the Pioneer Century race.

Organization

- **National Main Street Conference** – The National Main Street was held on April 13th – April 17th in New Orleans. The opening ceremony included speaker Jeff Speck, who wrote “Walkable City: How Downtown Can Save America, One Step at a Time.” He spoke on how making towns more pedestrian and cyclist friendly can help boost the economy. Other highlights included information on volunteer recruitment and retaining the volunteers Main Street programs already have, branding and marketing small communities, and utilizing historic buildings to their full potential.
- **Historic Review Board** - The Historic Review Board met on Monday, June 3rd and identified first steps from the CLG grant that they wanted to work on, including looking at the 2009 reconnaissance level survey that was completed in Canby to identify which buildings would be best to begin the plaque program. The plaque program will provide pictures and history of historic buildings in Canby.
- **Parking** – On 1st Avenue, the new parking signs have been installed, which follows the recommendations from the parking study completed in Summer 2012. One of the parking recommendations was to form a Parking Committee comprised of downtown business owners. An informational sheet was passed out to downtown businesses. The Parking Committee will ensure that the city is responsive to the concerns regarding parking downtown. With the new hours set, more spaces should be available for patrons of downtown businesses.

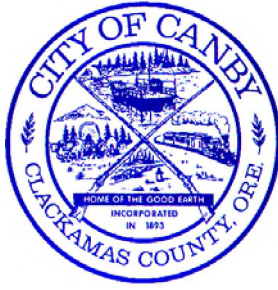
Economic Restructuring

- **Clackamas County Main Street Program** – On Tuesday, June 18th, at 6:00pm, the Clackamas County Main Street Program hosted a presentation by long time Main Street Manager Patti Webb. She shared insights on how to engage volunteers, how to ensure that all committees are active, and best practices for Main Street. This training was open to Main Street volunteers, downtown businesses, or anyone who wanted more information on the Main

Street program. Webb followed up with the Design Committee on Tuesday, June 25th and by accompanying them on their walking tour throughout downtown.

Design

- **Façade Improvement Program** –The City of Canby received a façade application from Anderson Properties for the Anderson Fair Place property – located at 687-703 SE 1st Avenue, along HWY 99. Anderson Properties will be removing the current sign and replacing it with a monument sign. The City of Canby’s façade improvement program will provide funds for the hardware and mounting materials for signs.
- **HWY 99 Banners** – New and replacement banners were hung on Highway 99 during the week of May 27th. The new banners include “Downtown”, “Experience”, “Taste”, “Mingle” and “Play” in different colors, but the same look as the Canby banners. These new banners help market the downtown commercial district to passing motorists.
- **Downtown Flower Program** - Downtown Canby received a color boost from hanging baskets on 1st and 2nd Avenues and dahlias planted on 2nd Avenue. On May 9th the flower baskets were hung. They were created by students at Canby High School as part of the partnership between the Canby High School and the City of Canby. The Canby Main Street program coordinates the downtown flower basket program. On May 15th, the City of Canby, the Canby Livability Coalition, Swan Island Dahlias, and Eccles Elementary “Lunch Bunch” gathered on 2nd Avenue in downtown Canby to plant dahlias and petunias in the planters between Ivy and the Canby Cinema Parking lot.



Bi-Monthly Finance Department Report

To: Mayor Brian Hodson & City Council Members
From: Haley Fish, Finance Director
Through: Greg Ellis, City Administrator
Covering: May & June 2013
Compiled by: Suzan Duffy

In addition to providing services and responding to inquiries from both internal and external customers, and performing the tasks listed statistically on the last page, the Finance Department reports the following items of interest this period.

- The **Proposed 2013-2014 Budget** was completed and discussed in a series of 3 budget committee meetings resulting in approval and ultimate adoption by the City Council on June 19th. A **Supplemental Budget for 2012-2013** was also approved by the Council on June 19th. All changes were posted in the accounting software. Citizen involvement on the budget committee and staff time and effort used to respond to additional information requests was much appreciated.

- **Purchasing and payment deadlines** were set to help in a smooth year-end process. Revenue and expense accruals will continue to be made through August 15th.

- An updated **Master Fee Schedule** was approved in May with changes effective July 1st. Notices of increased sewer rates were sent out with customer bills and included in the City newsletter.

- Increased time and effort was spent on **records retention** including re-boxing and labeling of files in preparation for a potential move.

- Several members of the Finance department completed the **Canby Walks America Challenge** and enjoyed a healthy lunch with other participants.

Statistics this period:

- **Accounts Payable**

Invoices:	691
Invoice entries:	1101
Encumbrances:	15
Manual checks:	13
Total checks:	463

- **Payroll**

Timesheets processed:	575
Total checks and vouchers:	661
New hires/separations:	1/8

- **Transit Tax Collection**

Forms sent:	788
Delinquent notices sent:	3
Non-filed notices sent:	408
Collection notices sent:	0
Accounts sent to collections:	0
Accounts opened/closed:	49/17
Returns posted:	354

- **Utility Billing**

Bills sent:	9048
Counter payments:	362
Accounts opened and closed:	176
Lien payoffs:	4
Lien payoff inquiries:	30
Collection notices sent:	0
Accounts sent to collections:	14

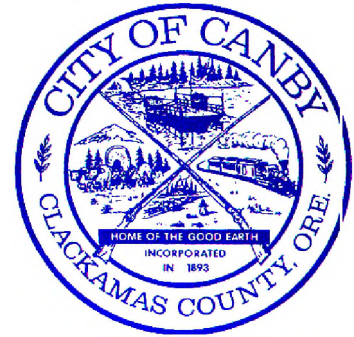
- **General Ledger**

Total Journal entries:	1203
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- **Cash Receipts Processed**

Finance:	800
Utility:	448

CANBY PUBLIC LIBRARY
BI-MONTHLY STAFF REPORT
May - June 2013



TO: Honorable Mayor Hodson and City Council

FROM: Penny Hummel, Library Director

THROUGH: Greg Ellis, City Administrator

DATE: July 1, 2013

New library planning. In late June, the Meyer Memorial Trust has awarded the new Canby Public Library a \$175,000 grant. This award follows in the footsteps of major grants already awarded to the City of Canby for this project by our state's three other major foundations: the Oregon Community Foundation (\$30,000), the Ford Family Foundation (\$200,000) and the Collins Foundation (\$50,000). This unanimous affirmation of our project from Oregon's philanthropic leaders underscores their understanding of the new library's potential to enhance learning, strengthen community and support economic development. In each case, the grant process is extremely competitive, we can all be proud that a Canby project has met with such success. My thanks go out to members of the Library Foundation as well as others in the community who participated in the process of making the case for our project.

At this point we have raised over \$621,000 towards our \$1 million fundraising goal. Anyone interested in the progress of the new library, or who would like to get involved, can find more information at the library's website at www.canbylibrary.org.

Summer Reading. The library's annual reading promotion program for children, teens and adults began in mid-June and is now in full swing. Our thanks to Fred Meyer, Roth Heating and Cooling and the Friends of the Library for their support of Summer Reading 2013. Upcoming events for children include:

- Traveling Lantern Theatre Company (July 5, 11 am)
- The Reptile Man (July 26, 11 am)
- Mad Science (August 9, 11 am)

Summer Readers of all ages are invited to join us at a final event: a Summer Reading Party on Saturday, August 17 at 2 pm, sponsored by Roth Heating & Cooling. We'll party with marimba music and summer refreshments.

Community involvement. Volunteers donated 520 hours in May and June, helping the library by pulling holds, sorting, shelving, processing and mending books, staffing the Friends of the Library Bookstore, and assisting with library programming and events.

PLANNING & DEVELOPMENT SERVICES MAY/JUNE 2013 BI-MONTHLY REPORT



TO: *Honorable Mayor Hodson and City Council*
FROM: *Bryan Brown, Planning Director*
DATE: *July 8, 2013*
THROUGH: *Greg Ellis, City Administrator*

The following report provides a summary of the Planning and Development Services activities for the months of May and June, 2013. Please feel free to call departmental staff if you have questions or desire additional information about any of the listed projects or activities. This report includes planning activities, a listing of land use applications and building permit site plan review coordination projects.

Planning Activities

- 1. Dog Park.** Revisions to the draft design plan were made as per the service provider meeting held. The Dog Park Advisory Committee is ready for the construction of the project to move forward.
- 2. Northwoods Park.** The final construction plans were completed and the preconstruction conference for final agency signoff is being scheduled at this time.
- 3. NE Canby Master Plan.** The current draft plan is to be revised to gain consensus on a new land use/zoning scheme around a new industrial access route to 99E. Staff has been exploring alternative access from OR 99E with property owners.
- 4. Buildable Land Analysis.** Staff is launching work on a new buildable land study in July with Senior Planner to identify and map re-developable and infill potential, current vacant parcels, and determine need for each land use type for next 20 year period based on new population projection just completed for the City.
- 5. North Redwood Master Plan.** A competitive TGM Grant application to secure planning assistance of the north Redwood Master Plan area within the Urban Growth Boundary, that is likely to see pressure towards annexation and future development in the near future, was submitted for possible funding on June 14th. The award criteria have become stricter in terms of assuring that projects have a strong transportation related component. We should know about funding by October 1, 2013.
- 6. Industrial Rail Spur (Teamtrack).** Staff has moved aggressively with an inquiry with officials of the TGM program about their support for submission of a Quick Response grant to fund a feasibility study for construction of an industrial rail spur within the Canby Industrial Park. There is no particular deadline, but staff expects to hear soon after holding a site visit with grant program officials of the grant submission possibilities.
- 7. SE 13th Avenue Safety Study.** The study, headed by DKS Associates, was completed and the final report submitted for review. A neighborhood meeting was

held to explain the results of the Study and possibly ways to move forward with implementation of recommendations.

8. **Community Park.** Wilderness International has crews working throughout the summer and into September to improve trails, remove invasive plants, prepare pond for future improvements etc. This grant funded activities were funded with a small contribution from the City.
9. **STIP S. Ivy Street Project.** The City is working towards placement of this project on the next Statewide Transportation Improvement Plan. This project made the 150% list and is going through the critical follow-up assessment review process to cull and choose final funded projects. The actual cost for the project has nearly doubled from what was originally submitted. The acquisition of easements necessary to accommodate drainage has been determined to be required. The County agreed to partner with the City as part of the STIP application. The Selection Committee submits projects for the 100% funding in September. The STIP goes to the Oregon Transportation Commission for approval on October 4, 2013. If S. Ivy Street project is not selected, the County will partner with Canby to complete the project.

Land Use Application Activity

PRA 13-03	City of Canby	Dog Park	East of Eco-Park on Territorial Road
PRA 13-05	Jason Bristol	Minor Subdivision	658 NE 10 th Avenue
APP 13-02	City of Canby	Library	N Half of Block on S Side of NW 2 nd Ave between Holly and Ivy

10. Pre-Application Conference(s):

- Jason Bristol submitted a pre-app for a Minor Subdivision to subdivide an R-1 zoned tract with an existing home into two lots with a 3rd access easement tract to allow construction of a new detached single family home as an infill project at 658 NE 10th Avenue.

11. Land Use Applications Submitted May 1 through June 30, 2013:

- The City of Canby appealed a decision of denial of a proposed new Canby Library on the north half of the block on the south side of NW 2nd Avenue between Holly and Ivy Streets which goes to a public hearing before the City Council on July 17, 2013.

12. Pre-Construction Conference(s) Held: A service provider meeting was held for the new Canby Dog Park to assist in finalizing the constructions plans.

13. LUBA Appeal:

- Oral arguments with LUBA was held in May, and a final decision and remand back to the City (Council) was received in June on the an appeal of Council decision to approve a Comprehensive Plan Text Amendment and Map

Amendment adjusting the boundary of the outer highway subarea of the Downtown Canby Overlay District to apply to the proposed site of a Fred Meyer Fuel Station at the SW/corner of SE Locust Street & Hwy. 99E. Staff is requesting that the Council direct review of this matter back to the Planning Commission to consider and make a recommendation at their July 22 meeting.

Permits Reviewed for County Approval

Site Plan Reviews for May and June

SP 13-31	AT & T Wireless	Additional Antenna (along w/ SP13-28)	1905 SE 4th
SP 13-32	Backstop Inc	Tenant Improvement	211 N Grant
SP 13-33	LES Inc	Single Family Residence	342 SE 16th Ave
SP 13-34	O.A.K. Custom Contractors/ Johnson Controls	1 story 2,970 SF building addition	800 SW 3rd Ave
SP 13-35	Gerald Ray	Connect to Sanitary Sewer	615 NW Territorial
SP 13-36	Arnold Schwartz	Connect to Sanitary Sewer	623 NW Territorial
SP 13-37	North Santiam Paving	Erosion Control for Sequoia Parkway	PO Box 516, Stayton 97383
SP 13-38	Pacific Life Style Homes	Single Family Residence	1763 N Ponderosa
SP 13-39	Canby Transit Office	Commercial Tenant Improvement	195 S Hazel Dell Way, Suite C
SP 13-40	Mark Huss - Precision Northwest	Covered Patio	1404 NE 13th Place
SP 13-41	Craytor Construction	Single Family Residence	1412 N Fir St
SP 13-42	L.E.S. Inc.	Single Family Residence	202 SE 16th Lot #9
SP 13-43	Pacific Lifestyle Homes	Single Family Residence	1355 NE 17th
SP 13-44	Pacific Lifestyle Homes	Single Family Residence	1366 NE 17th
SP 13-45	Wayne Layman	Storage Shed	1082 S Pine St
SP 13-46	Miguel Hernandez	Garage Alteration	341 N Cedar St
SP 13-47	Terrafirma	Foundation Underpinning	
SP 13-48	Michael Doty	Single Family Residence	512 NW 14 th St
SP 13-49	Trinity Church Counseling	New Church and Office	117 NE 3 rd Ave

Sign Applications Reviews for May and June

SN 13-08	Anderson Properties	Monument Properties	687-703 SE 1st
SN 13-09	Canby Clinic/Canby Property	Awning Sign	120 NW 1st Ave
SN 13-10	Holy Trinity Old Church	Pole Sign	117 NE 3rd

Active Permits Finalled by Clackamas County

May

- ✚ Dragonberry – Produce Distribution – Sequoia Parkway
- ✚ Physic Place – Exterior Remodel
- ✚ Snyder Construction – Single Family Residence

June

- ✚ Single Family Residence - Attached – Crisp Homes
- ✚ Single Family Residence – Dinsmore Estates
- ✚ Change of Occupancy – SOS Locksmith
- ✚ Interior Residential Remodel
- ✚ Tenant Improvement – Backstop Bar and Grill
- ✚ Single Family Residence Attached – Crisp Homes
- ✚ Single Family Residence – Pacific Lifestyle Homes
- ✚ Single Family Residence Attached – Crisp Homes
- ✚ Single Family Residence Attached – Crisp Homes



City of Canby Bi-Monthly Report
Department: Police
May-June 2013

To: The Honorable Mayor Hodson & City Council
From: Chief Bret Smith
Date: July 8, 2013

Monthly Stats

Description	April	May
Calls for Service	1137	1348
Juvenile Arrests	14	6
Adult Arrests	55	48
Accidents	8	12
Crime Reports	74	46
Traffic Citations	185	251
Parking Citations	20	18
False Alarm Calls	24	34
Abandoned Vehicle / Parking Complaints	17	40
Animal Complaints	7	15
Other Ordinance Viol. Complaints	5	7
Total Code Enforcement Calls for Service	19	56

Note: Beginning with this May-June 2013 report, monthly statistics (above) will be one month behind the bi-monthly reporting period. This will enable us to reflect more current information for each month as information continues to be submitted

Training

May 2013

Holstad	May 2	Alzheimer's Initiative	DPSST
All Officers	May 22	Department Firearms Training	CRGC
All Officers	May 28	Hearing Test	Canby PD
Krupicka, Wallbaum, Floyd, Macom Wasserberger, Kitzmiller Scharmota, Schoenfeld M. Smith, Ethington,	May 29-30	Frontline Warrior	Canby PD

June 2013

Green, Feters	June 3-4	Covert Entry Training	Woodburn
Murphy, Schoenfeld, Green Ethington, M. Smith Scharmota, Kitzmiller	June 12-13	MILO Instructor Course	Canby PD

Floyd	June 10-14	Surviving Mobile Forensics	Portland
All Officers	June 19	Fingerprint class	Canby PD

Meetings & Events Attended – Chief Smith / Lt. Tro

- Commander Mike Leloff, PPB
- Monthly Police Chief's Mtg. – Milwaukie PD
- Chief Jim Pryde – Gladstone PD
- Oregon Fallen Law Enforcement Officer Memorial – DPSST Aumsville
- Dragonberry Produce Grand Opening
- Clackamas County Sheriff's Office Law Enforcement Memorial – Clackamas
- Homeland Security Task Force Mtg. – CC EOC
- Capt. Ron Alexander Retirement – PB
- Canby Area Chamber of Commerce Luncheon
- Chief Rod Lucich – Molalla PD
- Todd Gary – Canby Fire
- Lt. Chris Davis - PPB
- J & J Liquidators Ribbon Cutting
- Canby Rotary – Lt. Tro
- Asst. Chief Jim Ferraris – Salem PD
- Metro Gang Task Force – Tigard PD
- Sergeant's Interview Panel – Oregon City PD
- The Canby Center Mtg.
- Clackamas County Mid-Manager's meeting
- Metro Gang Task Force – FBI Office
- Marty Moretty Retirement – Canby Library
- Cathi Bauer, Mary Butler Retirement – PPB Records
- Tony Crawford Award – Baker Prairie Middle School
- Commander Day – Central Precinct
- Citizen's Crime Commission 25th Anniv. Luncheon – Portland
- Chief Ed Boyd Retirement – Albany
- Public Works Department Work Day event
- Terrific Kids Luncheon – Knight Elementary School
- Canby Adult Center lunch service – Monthly
- C800 Meeting / Fire & Law Services Mtg. (CCOM – Clackamas County Dispatch)
- Clackamas County Communications (CCOM 911) User Meetings – Monthly

Detailed reports for specific departmental programs are attached, submitted by the program supervisor.

Memo

To: Lieutenant Jorge Tro
From: Detective Sergeant Frank Schoenfeld
Date: June 3rd, 2013
Re: Monthly Report for May 2013

Training Attended:

5/29-30/13 – Drug Interdiction Class/Mexican Cartels at Canby PD.

Meetings/Class instruction:

5/23/13 – MDT Meeting at Willamette Falls Training Center.

Details/Assignments:

5/28/13 – Mandatory Hearing Test at Canby PD.

5/31/13 – Meet with press regarding Bombing Homicide at Canby PD and crime scene.

Vacation:

5/3/13-5/14/13 – Spring Bear hunting and fishing vacation out of town.

*****See individual monthly reports attached for training and meetings attended by detectives, Evidence Technician, and SRO.*****

During the month of May, Patrol responded to a report of a Sodomy II involving a 23 year old suspect and a 13 year old and 14 year old victims. This case was assigned to Detective Ethington. Detective Ethington learned that the suspect was making contact with the juvenile victims via the internet and that they had met several times before this investigation started. This investigation revealed that the two female juveniles had performed oral sex on the adult suspect for payment that was agreed upon by both parties. After making contact with the suspect, the suspect had agreed to come to the Canby Police Department for an interview, but revoked his rights after arrival.

The suspect had already admitted to sexually abusing one of the victims, but became silent when asked about receiving oral sex from each. The suspect was arrested and lodged for Sodomy II, Sexual Abuse I, and Online Corruption of a Minor (x2). Subsequently a search warrant was obtained for the suspect's phone. After a forensic analysis, the phone revealed new information concerning the case such as sexually explicit messages and photos involving both victims.

During the month of May detective's investigated a runaway report that had initially been taken by patrol over a month ago. In an effort to adhere to Senate Bill 351 requirements for DNA collection, Detective Ethington made contact with the reporting party. Detective Ethington learned that the runaway was in fact in the custody of foster care when he ran away. By tracking down the biological father, Detective Ethington learned that the runaway probably had ran to an unknown location in California. By using an undercover Facebook account, Detective Ethington was able to befriend the runaway on Facebook and obtain recent photographs of the subject with friends that he was able to put in a report for DHS and California law enforcement.

A couple of more sex crimes were investigated this month. One patrol had responded initially and detectives were called out. After interviewing the 13 year old female victim, Detective Ethington contacted the 19 year old suspect who attends Canby High School. In an interview, the suspect admitted to sexual intercourse as well as oral sex with the victim. This suspect was also taken into custody for Rape II and Sodomy II and the case was forwarded to the Clackamas County District Attorney's Office.

At the end of the month, detectives contacted a female subject in Salem regarding merchandise that was being purchased online with a stolen credit card and name. Detectives quickly learned that the subject receiving the property that was obtained fraudulently, was deaf. With the use of a recently acquired Canby Police iPad, investigators were able to communicate with the subject (via typing). This worked excellent because not only did we obtain a hard copy of all communicated information, we were able to supply the subject with Consent Forms and other paperwork that was essential in the seizure of two brand new, illegally obtained TV's and some cell phones. Investigators also obtained signed consent for the subject's computer that was, with no doubt, used to fraudulently obtain the items. This computer will be examined for evidentiary purposes next week.

This month Detective Smith made the final arrest concerning the HOBZ case. As of this date, all HOBZ gang members who were indicted have been taken into federal custody. Some of these members have already proffered and are assisting the federal prosecutor with the convictions of this higher in the organization. As soon as court proceedings have been handled, this will tie up a three year investigation originally started by the South Metro Gang Task Force, Canby Police, and the FBI. We hope through future proffers in this case to develop more federal cases with good seizure potential.

This month Detective Smith developed an informant who has been involved in the sale of MDMA and LSD to local Canby High School students. With this informant's

cooperation, detectives learned that the source of supply lives at a location in Southeast Portland. On a recent drug purchase and surveillance of this SE Portland address, detectives observed three known Canby High School students leaving the location after purchasing quantities of MDMA. These subjects have been identified and we hope to have all or most involved in a conspiracy case by the end of next month. This should stop a continuous supply of MDMA and LSD into the city and high school.

This month Woodburn Police detectives provided Detective Smith with an informant who has been selling methamphetamine and heroin in the city of Canby. After a short interview of the informant, Detective Smith learned that the source of supply of heroin resides in Gladstone and the methamphetamine source is in Oregon City. Canby Police detectives have conducted one controlled drug purchase with this informant and hope to have search warrants for both locations by the end of June.

This month detectives assisted patrol with a stolen property case where multiple storage units had been broken into throughout the Clackamas County area to include Canby. Detectives assisted by helping Patrol Officer Stephanie Wasserberger author her first search warrant affidavit and execute the search warrant on a storage unit in Barlow where some of the property was being stored by the suspects. This stolen property was recovered and released to the victims affected. Since the execution of this search warrant, one of the suspects has been arrested and one is still outstanding. This case will be forwarded to the Clackamas County District Attorney's Office with others from outside agencies.

I was unable to get a monthly report from Detective Floyd as he was forced to take time off due to a death in his family. This month Detective Floyd has been very busy obtaining surveillance video, capturing stills, and writing subpoenas for patrol to get bank records. The number of cell phones seized department wide has increases over the last few months substantially, it is nothing for Detective Floyd to analyze on average, 3 phones a week. This month has proven to be no different.

*****See SRO and Property Room monthly report and stats attached*****

Memo

To: Lieutenant Jorge Tro
From: Detective Sergeant Frank Schoenfeld
Date: July 3rd, 2013
Re: Monthly Report for June 2013

Training Attended:

6/11/13 – Make-up Firearms Training at CRGC.

6/12-13/13 – MILO Instructors Course at CPD.

6/19/13 – Fingerprinting Training at CPD.

6/25/13 – TET/Tactical Trauma First Aid.

Meetings:

6/11/13 – MCT Supervisors Meeting at CPD.

6/19/13 – Vulnerable Adults MDT at Willamette Falls Training Center in Oregon City.

Vacation:

6/20,21&24/13

*****See individual monthly reports attached for training and meetings attended by detectives, Evidence Technician, and SRO.*****

Earlier this month we investigated a drive-by shooting at NE 9th and Pine here the residence received 9 bullet holes from what appeared to be a 9mm handgun. All but a couple of rounds penetrated the exterior walls as well as interior walls just missing the resident who was sleeping in his bed with his girlfriend and young child. This subject is a known leader of the Canby Norteno street gang. As we processed the scene, we could see that the rounds were fired, from what is most likely a moving car, near the corner of both streets. This was approximately 50 feet from the bullets point-

of-impact. Due to the early morning time this shooting occurred, we were unable to locate any witnesses who actually saw anything. The entire neighborhood heard the shots but nobody saw anything.

Detectives put out a press release as well as a multi-agency bulletin with contact information for any leads. Detectives are making some attempts to make contact with rival Sureno street gang members in an effort to figure out who was responsible, but nothing has developed as of yet. On the heels of this drive-by shooting, this Norteno gang leader that was target of the shooting has just been convicted on 2 counts of Delivery of a controlled substance within 1000' of a school. This subject will be looking at incarceration as well as probation. We predict some form of retaliation in the future.

This month was a busy month for detectives. Especially when it came to DHS referrals and person crimes cases. One of these referrals started with the investigation into a 13 year old boy groping his younger 10 and 9 year old sisters as well as their 10 year old friend. After the initial interviews of all three victims, a safety plan was implemented for the young suspect. This however; has created a great deal of follow-up interviews that will take us through July.

This month Detective Ethington closed out a case that was originally brought to us by DHS. This case was a difficult one due to the fact that the 9 year old boy that had allegedly been physically and possibly sexually abused by his parents has a severe case of ADHD. After interviewing the boy in great detail with DHS, we were unable to develop any evidence of a crime. We did however discover some questionable parenting skills that the parents are working with DHS to correct.

This month detectives received a report of a rape. The problem was that it was four days after the crime had occurred and this made evidence collection next to impossible. Due to some questionable statements by the suspect and the victim, the suspect was not arrested and the case was submitted to the DA for their review.

This month detectives arrested a known heroin user in the Canby area. This suspect has had a warrant for heroin use and during the course of arresting the suspect, Detective Smith was poked with a used, loaded syringe. We later determined that this syringe was loaded with heroin as well as the suspect's blood. Detective Smith and the suspect were immediately taken to the Canby Urgent Care where he was tested for the usual diseases. The suspect had to be moved to Willamette Falls Hospital in Oregon City because the Canby Urgent Care staff was unsuccessful with the blood draw due to collapsed veins. When a sample was successfully taken from the suspect, it was tested and there was no immediate signs of any disease. Detective Smith will have to return to the Urgent Care in the future for retesting.

Detective Smith and detective Ethington arrested another very well-known heroin user in Canby on a traffic stop. After talking with the suspect and her son for a brief moment on the roadside, the suspect agreed to turnover almost ½ ounce of heroin that she had concealed in her vagina. Both suspects were cooperative and agreed to help with the arrest of another heroin suspect in Canby.

We are one controlled purchase away from a search warrant in Southwest Canby. This case involves a few Canby High School students among others. We are confident that after we serve the search warrant and take the suspect into custody, we will gain his cooperation with his source of Methamphetamine supply in Southeast Portland. We should have a search warrant ready to go by the end of the first week in July.

This month Detective Floyd attended some valuable training that will advance our Computer Forensics Unit in the area of evidence extraction from cell phones and other digital devices. Detective Floyd also passed the testing requirements for the Cellebrite UFED Touch Ultimate. This was a 40 hour class that contained forensics extraction, decoding, analysis and reporting of mobile data. In this week-long class Detective Floyd performed physical and logical file system and password extraction of data from devices including portable GPS devices, tablets, and cell phones. After testing, Detective Floyd obtained the following 4 certifications:

1. Mobile Forensic Essentials
2. UFED Mobile Device Examiner Course
3. UFED Physical Device Examiner Course
4. Android, Apple iOS, and Blackberry Forensics

Detective Floyd is in the process of putting together a training module that we will share with the rest of the department during briefings in July.

Officer Larrison was assigned back to patrol for most of this month so I do not have any stats for the SRO assignment.

Canby Police Department

Monthly Traffic Report

06/13/13

Officer Jeremy Holstad

Month of April 2013

CITATIONS

TRAFFIC OFFICERS: 60

PATROL OFFICERS: 125

TOTAL CITATIONS FOR APRIL: 185

DUII ARRESTS

TRAFFIC OFFICERS: 0

PATROL OFFICERS: 1

TOTAL DUII ARRESTS FOR APRIL: 1

TRAFFIC CRIMES

TRAFFIC OFFICERS: 0

PATROL OFFICERS: 13

TRAFFIC CRIMES FOR APRIL: 13

TRAFFIC COMPLAINTS

TRAFFIC OFFICER: 2

PATROL OFFICERS: 7

TOTAL TRAFFIC COMPLAINTS FOR APRIL: 9

TRAFFIC CRASHES

TRAFFIC OFFICERS: 2

PATROL OFFICERS: 6

TRAFFIC CRASHES (INJURY): 3

TRAFFIC CRASHES (NON-INJURY): 5

TOTAL CRASHES FOR APRIL: 8

TRUCK INSPECTIONS

TRAFFIC OFFICER: 0

Canby Police Department

Monthly Traffic Report

06-27-2013

Sgt. Tim Green

Report for month of May 2013

Citations

Traffic Officers: 89

Patrol Officers: 162

Total Citations for May: 251

DUII ARRESTS

Traffic Officers: 1

Patrol Officers: 4

Total DUII for May: 5

Traffic Crimes

Traffic Officers: 0

Patrol Officers: 10

Total Traffic Crimes for May: 10

Traffic Complaints

Traffic Officer: 1

Patrol Officers: 5

Total Traffic Complaints for May: 6

Traffic Crashes

Traffic Officers: 1

Patrol Officers: 10

Traffic Crashes injury: 1

Traffic Crashes parked: 10

Total Traffic Crashed for May: 11

Truck Inspections

Traffic Officer: 1

Monthly Traffic Report

April 2013

Prepared by Sergeant Tim Green
Monday May 6, 2013

Traffic Report

172 Citations were written for the month of April, 117 of these were written by patrol and 55 were written by Traffic Officers.

There were 1 DUII arrests for the month, 1 by patrol 0 by Traffic officers.

There were 6 traffic crimes investigated by the police department, 6 of these were taken by patrol and 0 by Traffic Officers.

The department received 14 traffic complaints; 12 were investigated by patrol and 2 by the traffic Officer.

We had a total of 8 reported crashes for the month, 6 were investigated by patrol and 2 by Traffic Officers. 1 crash occupant reported injury.

Both patrol and traffic citations were down for the month. This is partially due to officers being gone for vacation and training.

Equipment and Uniforms

Patches have come in and are at Blumenthal Uniforms. Officer Booth was fully outfitted with his equipment and uniforms prior to attending DPSST. Other officers uniforms are being replaced as needed.

Bike Patrol

Bikes were not deployed in the month of April.

May 2013 Monthly K9 Report

Prepared by Sergeant Tim Warren
Wednesday June 5, 2013

K-9 Activity - Activity has slowed. We completed advanced training at the end of April first of May with the State K9 Seminar. K9's also did a two community presentations this month, one at Troast the other at Canby Christian.

MONTHLY SUMMARY:

Officer Warren / Freddy– One Narcotic K9 deployments in May. K9 was used in an area search for possible drug / paraphernalia that may have been tossed during a foot pursuit. No narcotics were located. K9 Freddy has also been training in US currency discrimination.

Officer Farmer / Deorak – K9 Doerak sustained an injury during training to his front shoulders at the end of May. Deorak is on light duty until the injury fully heals as to not tear open the tissue again.

Concerns / goals

Both K9's need to re-certify prior to end of August, arraignments have been made.

SCHEDULED TRAINING

May 2013

Holstad	May 2	Alzheimer's Initiative	DPSST
All Officers	May 22	Department Firearms Training	CRGC
All Officers	May 28	Hearing Test	Canby PD
Krupicka Wallbaum Wasserberger Kitzmiller Scharmota Schoenfeld M. Smith Ethington Floyd Macom	May 29-30	Frontline Warrior	Canby PD

June 2013

Green Fetters	June 3-4	Covert Entry Training	Woodburn, OR
Murphy Schoenfeld Green Fetters Floyd Vroman Koehnke	June 11	Make-up firearms training	CRGC
Murphy Schoenfeld Ethington M. Smith Scharmota Green Kitzmiller	June 12-13	MILO Instructor Course	Canby PD
Floyd	June 10-14	Surviving Mobile Forensics	Portland
All Officers	June 19	Fingerprint class	Canby PD
TET	June 25	(4) hr Training	Canby PD

July 2013

All Officers	July 8-26	Active Shooter	Canby and OC High Sch.
All Officers	July 31	Department Firearms Training	CRGC

To: Lt. Tro
From: Sgt. Kitzmiller
Date: 06-06-13
Re: May '13 Monthly Report

Tactical Entry Team

We did not conduct TET Training or serve any search warrants during the month of May.

Training

On May 22nd Officer Ethington and I instructed department firearms training. Officers completed the AR-15 patrol rifle qualification course then worked on several drills that focused on the manipulation of the rifle during reloads and malfunctions. We ended the training with two course of fire that were timed, and incorporated the above mentioned skills.

On May 29th and 30th Canby PD hosted an interagency training titled "Mexican Drug Cartels and You, The Front Line Warrior". The training focused on the Mexican drug culture and drug interdiction stops.

(See the attached training schedule for additional individual officer training).

Respectfully,



Sgt. Doug Kitzmiller

To: Lt. Tro
From: Sgt. Kitzmiller
Date: 07-03-13
Re: June '13 Monthly Report

Tactical Entry Team

On June 25th TET conducted a 4 hour training. TET Medics Tighe Vroman and John Stanislaw provided Tactical Combat Casualty Care training for the team. The training included basic life-saving skills that can be quickly learned and easily remembered in high stress situations, such as the use of combat applied tourniquets and combat dressings. TET Members were required to use those tactics and techniques during scenarios involving role players and Simmunitions. After the training each officer was issued a new first aid kit that was obtained by the medics on a grant.

Training

On June 11th Detective Ethington and I conducted a make-up firearms training for the officers that were unable to attend the May training.

On June 12th and 13th Canby PD hosted a multi-agency MILO Instructor Course. The course covered the setup, operation, and trouble shooting of the MILO interactive video system. Seven instructors from Canby PD participated in the training, which will now allow us to run our own use of force decision making training.

(See the attached training schedule for additional individual officer training).

Respectfully,

Sgt. Doug Kitzmiller

Year End Report

From: Eric Laitinen, Aquatic Program Manager

Date: July 8, 2013

Re: 2012-2013 Year End Report

The Canby Swim Center had another very good fiscal year. We collected \$204,000 in revenue, \$11,000 more than last year. Attendance was 1,200 swims ahead of last year, with 74,500 swims this year. During the September closure, David gave all the mechanical check and fresh coat of paint. He determined it was time for a new pool heater so that was replaced a little later in the fall without any other breaks in service to the community.

The Canby Swim Center continues to get busier with youth and adult swimming lessons, classes and programs. This summer public swims have started strong and we just started a penguin group that is bigger than it has been in several years with 60 swimmers involved. Swimming lessons are doing well and water exercise, lap swims and senior swims continue to be popular.

Nathan Templeman offered Tri-it class for triathletes that need to tune-up their swimming skills in preparation for the Gator Grinder and the triathlon season. It was a little smaller group this year so we will be looking to see if we need to change up the class for next year.

This was a very good start to a new five years of providing swimming to the community. We are happy to be able to continue service for another four years. This was our first year of the new Levy it began July 1, 2012 and goes through June 30, 2017.

FROM : ERIC LAITINEN, AQUATIC PROGRAM MANAGER
SUBJECT: MONTHLY REPORT FOR MAY 2013
DATE: YEAR END 2013

CANBY SWIM CENTER MAY 2013	ADMIT 2012	ADMIT 2013	PASS 2012	PASS 2013	TOTAL 2012	TOTAL 2013	YTD TOTAL II-12	YTD TOTAL I2-13
MORNING LAP	63	58	292	261	355	319	3580	3694
ADULT RECREATION SWIM	56	46	652	510	708	556	7029	5859
MORNING WATER EXERCISE	54	53	307	372	361	425	4558	4426
PARENT/ CHILD	272	204	0	0	272	204	2293	1640
MORNING PUBLIC LESSONS	282	165	0	0	282	165	4532	4196
SCHOOL LESSONS	1120	1063	0	0	1120	1063	2798	4511
NOON LAP	142	123	253	299	395	422	3828	3439
TRIATHLON CLASS	31	6	0	0	31	6	147	45
AFTERNOON PUBLIC	222	259	14	5	236	264	3495	3949
PENGUIN CLUB	0	0	296	342	296	342	1072	1727
CANBY H.S. SWIM TEAM	0	0	0	0	0	0	2723	2133
CANBY GATORS	0	0	1038	1083	1038	1083	8558	8505
MASTER SWIMMING	0	20	0	20	0	40	50	505
EVENING LESSONS	1403	1495	0	0	1403	1495	9775	11129
EVENING LAP SWIM	73	67	65	40	138	107	1300	1360
EVENING PUBLIC SWIM	430	540	58	22	488	562	5107	4782
EVENING WATER EXERCISE	131	48	50	70	181	118	1661	1228
ADULT LESSONS	4	0	0	0	4	0	112	76
GROUPS AND RENTALS	312	208	0	0	312	208	2984	3034
KAYAK	0	0	0	0	0	0	0	0
OUTREACH SWIMMING	0	0	0	0	0	0	523	488
TOTAL ATTENDANCE	4,595	4,355	3,025	3,024	7,620	7,379	66125	66726

FROM :
SUBJECT:
DATE:

ERIC LAITINEN, AQUATIC PROGRAM MANAGER
MONTHLY REPORT FOR JUNE 2013
YEAR END 2013

CANBY SWIM CENTER JUNE 2013	ADMIT 2012	ADMIT 2013	PASS 2012	PASS 2013	TOTAL 2012	TOTAL 2013	YTD TOTAL II-12	YTD TOTAL I2-13
MORNING LAP	44	31	317	302	361	333	3941	4027
ADULT RECREATION SWIM	55	34	609	454	664	488	7693	6347
MORNING WATER EXERCISE	59	38	346	438	405	476	4963	4902
PARENT/ CHILD	188	198	0	0	188	198	2481	1838
MORNING PUBLIC LESSONS	649	951	0	0	649	951	5181	5147
SCHOOL LESSONS	480	390	0	0	480	390	3278	4901
NOON LAP	88	77	220	279	308	356	4136	3795
TRIATHLON CLASS	0	0	0	0	0	0	147	45
AFTERNOON PUBLIC	423	490	27	26	450	516	3945	4465
PENGUIN CLUB	0	0	308	250	308	250	1380	1977
CANBY H.S. SWIM TEAM	0	0	0	0	0	0	2723	2133
CANBY GATORS	0	0	662	781	662	781	9220	9286
MASTER SWIMMING	0	0	0	0	0	0	50	505
EVENING LESSONS	1232	1304	0	0	1232	1304	11007	12433
EVENING LAP SWIM	36	59	53	60	89	119	1389	1479
EVENING PUBLIC SWIM	633	729	87	50	720	779	5827	5561
EVENING WATER EXERCISE	66	72	51	45	117	117	1778	1345
ADULT LESSONS	6	0	0	0	6	0	118	76
GROUPS AND RENTALS	526	725	0	0	526	725	3510	3759
KAYAK	0	0	0	0	0	0	0	0
OUTREACH SWIMMING	80	75	0	0	80	75	603	563
TOTAL ATTENDANCE	4,565	5,173	2,680	2,685	7,245	7,858	73370	74584

Department: Public Works
For Months of: May and June 2013
Date: June 3, 2013
Prepared by: Jerry Nelzen

1. Streets:

During the month of May the Public Works crew fixed banners, removed graffiti on SE 4th Avenue Bridge, mowed right-of-way along S Teakwood, put out barricades for Saturday Market at City's parking lot and swept swim center parking lot and bike route for the Gator Grinder fund raiser. The City Council appointed Thursday, May 23 as Public Works Day and the crews brought out equipment and vehicles for show to the public. Great day.

The crew received and located 121 locates for May.

Streets	Total Hours
Street Sweeping	73.5
Street Sweeping Maintenance	10
Street Maintenance	548.5
Sidewalk	2
Street Sign Manufacturing	10
Street Sign Maintenance	5.5
Street Sign Installation	12
Banners	6
Tree Trimming	4
Tree Removal	34.5

2. Sewer and Storm System:

The crew cleaned lift stations in Canby. Hydro cleaned sewer mains for inspections and repairs at 525 NW 9th Avenue, 615 NW Territorial Road and 1487 N Elm Street. We are replacing catch basins around town with G-2 catch basins to update our storm system and alleviate problem areas with standing waters.

Sewer	Total Hours
Sewer Cleaning	26.5
Sewer TV'ing	3
Sewer Inspections	7
Lift Station Maintenance	3
Locating Utilities	38
Vactor Usage	2
Storm	
Catch Basin Maintenance	132
Storm Line Maintenance/Cleaning	6
Storm Line Inspections	1
Vactor Usage	16

3. Street Sign/Trees/Lights:

The crew has replaced street signs and faded stops sign around town and removed a few hazardous trees. The crew fixed or repaired 5 street lights for May.

4. Miscellaneous:

Miscellaneous	Total Hours
Meetings	15.5
Equipment Cleaning	49
Other	13

June 2013

1. Streets:

The Public Works crew worked with ODOT and Clackamas County prepping, lowering and lifting manholes and catch basins, installing new catch basin, raking and paving 99E from S Birch Street to N Pine Street on the north and south bound lanes. The crew worked 201 hours doing this project. The crew took the Hi-Ranger to Wilsonville to help with wrapping the trees to prevent anymore loss of bees due to the insecticide used to detour aphids. Trimmed back blackberries shrubs out of the City's right-of-way, removed beaver dam debris out of Willow Creek to alleviate high water issues. Painted curb lines at the Police Department and N Cedar and NW 4th Avenue at the request of the Police Department. The crew received and located 96 locates for June.

Streets	Total Hours
Street Sweeping	38
Street Sweeping Maintenance	16
Street Maintenance	477.5
Sidewalks	8
99E Paving Project	201
Street Sign Manufacturing	13
Street Sign Maintenance	2
Street Sign Installation	1
Street Light Repair	6
Banners	1
Tree Trimming	31
Tree Removal	10
Dump Truck Usage	24
Vactor Usage	10

2. Sewer and Storm System:

The crews worked with Correct Equipment installing the new Programmable Logic Controller at Hazeldell lift station. Cleaned Knights Bridge lift station. Repaired sewer later at 604 NE 10th Avenue and cleaned sediment out of the drywell near 1400 S Elm Street.

	Total Hours
Sewer Cleaning	8
Sewer Maintenance/Repair	19
Sewer TV'ing	3.5
Sewer Laterals	34
Lift Station Maintenance	19.5

Locating Utilities	31
Vactor Usage	10
Storm	
Catch Basin Maintenance	22
Drywell Maintenance	9
Vactor Usage	7
Drying Beds	6

3. **Street Sign/Trees/Lights:**

The crew during the month of June fixed 5 street lights. Repaired dead end barricades on SE 14th Avenue, moved all the parking signs to new positions along NW 1st Avenue and repaired the flags at the City's parking lot entrance by Canby Cinema.

4. **Miscellaneous:**

Placed barricades at the NW 1st & N Elm Street parking lot entrance for an event put on by Canby Rental.

Miscellaneous	Total Hours
Meetings	9.5
Warehouse Maintenance	9
Equipment Cleaning	17
Work Orders	3
NW 1 st Avenue Irrigation	55
Street Sweeping Debris (yards)	50
Other	2

Department: Facilities Maintenance

For Months of: May and June 2013

Prepared by: Dan Mickelsen

The month of May started out as good as it gets. Nice warm temps. I put swamp coolers back in service and cleaned roof tops and parking lots of the last of winter leaves. Then the COTTON WOOD fury began. I have never seen anything like it. They could make a movie "Invasion of the Cotton Wood". The roof top and parking lots at the Police Department were disgusting with the stuff. I had to clean the cooling coils and outside air filters on a weekly basis until they were done dumping. Then it rained, and rained some more. After it was all said and done it was the third wettest May in history. More rain in nine days than in all of February and March put together. One interesting thing is when the cotton dumped on the roofs in warm temps and then with all that rain, when I got up on the roof to check filters again all those seeds had germinated. The roof top resembled a "Chia Pet". The road goes on forever but the party never ends.

Police Dept; 8 w/o requests. Usually first thing on Mondays I check the HVAC system from my computer and so far it has not missed a beat. The first week of May I had forgot and didn't check things until Wednesday morning. Sure enough the Community Room was in alarm. The temperature had dropped by ten degrees below set point. It was an easy fix; I just for a lack of words re-booted the PLC on one of the units. I don't know why this happened but I do check things a bit more often. Aside from cleaning the coils and outside

air filters at least once a week I also repaired some loose carpet tiles and repaired damage to the Community Room walls twice. 19.5 hrs total.

Adult Center; 6 w/o requests. I serviced the swamp cooler and put it back into service for the summer months. While I was at it I cleared the roof top of all the remaining leaves as well as blowing off the parking lot. Repairs were made to one of the can lights in the reception area as well as repairs on multiple exit and emergency egress lights. 19.75 hrs total.

City Hall; 5 w/o requests. If you are reading this you may know that there were some issues with the HVAC system that services the Council Chambers. The motor on one of the blower fans took a dump but it is all back to normal now. I also moved some file boxes, sprayed for weeds around the entire complex and took care of a small electrical problem as well. 9 hrs total.

Finance / Transit; 3 w/o requests. I treated for insects around doors and exterior lights, replaced lamps and did a repair on office furniture. 3.75 hrs total.

Library; 8 w/o requests. I finally got the paint put on the exterior of the building and have gotten a lot of positive comments. Currently I have gotten underway with getting a new sign for the building as well. Some of my time has been on trying to get the bugs worked out of the push plate for the ADA door opener. After having the Tech come out on three different occasions I think I have it narrowed down to the sending unit. I also sprayed weeds around the building and along curb lines so things would look better for the upcoming holiday. I also spent time talking to and figuring out a price quote for an ongoing insurance claim. I hung up some pictures, cleaned up a paint spill, replaced lamps and ballasts and re set thermostats for summer temps. 32.75

Planning / Building; 5 w/o requests. I did some furniture repair, lamp replacement and dealt with electrical problem in the cubicles twice to name a few jobs done. 6.75 hrs total

Shop Complex; 6 w/o requests. Mid month of May we all showed up to no phones. Well after studying the building plans, for what ever reason the outlets in the meter room are on the same circuit as some of the outlets in the main hallway. So the janitorial service took out our phone system with a floor polisher or something. I reset the breakers and then had a dedicated circuit installed for our phone system. I had previously built a new vanity for the men's room and had not got installed until this month. I cut the new sink holes out then demo'd the existing vanity and got it all installed and re plumbed. What an improvement! I also installed rebuild kits in the Sloan valves as well. I also continued working on the new rest room project for the collection crew. I finished up the materials list and got firm prices. I laid out wall and plumbing fixture locations the explained it to the crew for approval. The concrete is all cut and ready for excavation. I will be on the fast track to get permits secured and get this job knocked out while the weather is warm and the bay will not be needed for parking. The Fleet Dept had requested a covered entry above their office door. So recently I completed that for them while I had a bit of a lull in the storm. That highlights some of the things accomplished. 54 hrs total.

Public Works; 17 requests. Building seems to be making a steady recovery, though not like it was a few years ago. I did approve 17 Erosion and Sediment Control applications during the last couple months. I also attended and made comments at three pre-application meetings, Seq. Parkway Phase II, Northwoods Phase II and the Dog Park. I was asked to do a concrete inspection as more of a service than anything else as the site was private. 31.5 hrs total

Department: Fleet Services
For Months of: May and June 2013
Prepared by: Joe Witt

May 2013

Department	Work Orders	Labor Cost	Material Cost	Fuel Cost	Total Cost
Administration	4	\$566.25	\$1,559.07	\$101.52	\$2,226.84
Adult Center	1	\$326.25	\$22.02	\$652.03	\$1,000.30
Collections	2	\$405.00	\$72.55	\$420.80	\$898.35
Facilities	1	\$37.50	\$0.00	\$74.81	\$112.31
Fleet Service	1	\$18.75	\$0.00	\$136.02	\$154.77
Parks	6	\$1,136.25	\$920.64	\$1,287.61	\$3,344.50
Police	30	\$10,605.00	\$4,594.58	\$6,581.68	\$21,781.26
Streets	12	\$2,700.00	\$1,483.56	\$1,896.55	\$6,080.11
Transit (CAT)	27	\$10,364.00	\$4,579.00	\$7,976.91	\$22,919.91
Wastewater Treatment	4	\$836.25	\$121.93	\$240.96	\$1,199.14
Total Work Orders Processed for the Month	88	Totals*			\$59,717.49

*Total includes labor, materials and fuel for all departments:

June 2013

Department	Work Orders	Labor Cost	Material Cost	Fuel Cost	Total Cost
Administration	1	\$75.00	\$6.33	\$82.50	\$163.83
Adult Center	0	\$0.00	\$0.00	\$517.29	\$517.29
Collections	1	\$90.00	\$0.00	\$327.10	\$417.10
Facilities	1	\$63.75	\$0.00	\$86.47	\$150.22
Fleet Service	0	\$0.00	\$0.00	\$146.10	\$146.10
Parks	17	\$4,020.00	\$4,767.92	\$1,066.66	\$9,854.58
Police	21	\$6,765.00	\$2,842.14	\$6,184.72	\$15,791.86
Streets	14	\$2,883.75	\$6,755.70	\$1,581.71	\$11,221.16
Transit (CAT)	29	\$11,584.95	\$9,921.02	\$6,937.79	\$28,443.76
Wastewater Treatment	4	\$1,192.50	\$124.42	\$393.91	\$1,710.83
Total Work Orders Processed for the Month	88	Totals*			\$68,416.73

*Total includes labor, materials and fuel for all departments:

Fleet Service

Highlights

Fleet Service working with other City Departments kept the City's vehicles and equipment on the road performing their duties.

Department: Parks Maintenance
For Months of: May and June 2013
Prepared by: Jeff Snyder, Parks Maintenance Lead Worker

Park Renovations

The sealed bid opening for the Northwood Park playground project was held on Wednesday May the 8th @ 2pm in the Planning Department. After gaining Council approval it was moved to award CR Woods Trucking and Excavation Inc. with the Northwood Park playground project. Bonds still need to be received and review then a preconstruction conference will be set and the notice to proceed will then be given, more to come.

At Community Park containers were installed along the pond for the disposal of fishing line. The hope is that fishermen will utilize the containers, which in turn will keep the wildlife from becoming entangled. Two new BBQ pits were also installed at the park.

On June the 11th a pre-application meeting was held for the proposed Dog Park off of Territorial Rd. Details for the design of the Dog Park are still being ironed out, more to come.

We are still working with the Veterans Memorial Committee on their landscape and design improvements. Five new flag poles were offloaded @ the City shop complex. The five branches of the armed forces will fly on the poles once the Veterans Committee has them installed.

Park Maintenance

May started off with lots of mowing, string trimming, edging and fertilizing. This year in May staff was well into adjusting and repairing irrigation systems for the summer months. Shrub bed maintenance, weed spraying and pruning also dominated staff time. Valley Green was contracted to do weed control on the turf areas for the parks. The weed control application saves the department time as the summer gets under way; we are not spending so much time mowing just the weeds as things start to dry out. The John Deere flail mower was used to cut the Fish Eddy trail and control the brush along the Forest Rd. Walking Path.

At Community Park two porta potties were ordered to accommodate park users during the high use months. The buildings at Community Park were pressure washed and painted. Painting and pressure washing was also completed at S. Locust St. Park along with picnic table repair.

The Parks Department spent 15 hours addressing graffiti and vandalism the last two months. Regular maintenance was performed at the 30 areas the Parks Department is responsible for, the Adult Center, Arneson Gardens Horticultural Park, Baker Prairie Cemetery, City Hall, Community Park (River), CPIP sign, Eco Park natural area, Faist V property, Holly & Territorial welcome sign property, Hulbert's welcome sign property, Klohe Fountain, Library, South Locust Street Park, Logging Road Trail and Fish Eddy/Log Boom property, Maple Street Park, Nineteenth Loop Natural area, Northwood Estates Park, Police Department landscaping, Simnitt Property, Skate Park, Shop Ground, Swim Center, Legacy Park, Territorial Estates Future CLC Park, Transit Building, Transit Bus Stop, Triangle Park, Vietnam Era Veterans Memorial, Wait Park & Willow Creek Wetlands.

Meetings attended

We all attended the crew safety meeting
The crew attended the Public Works equipment display day at City Hall.

I met with Russ Hall the project manager for Wilderness International. Russ runs a Youth Conservation Corps. wetlands restoration project at Community Park.

For your Information

The Parks Department is responsible for 200 acres of property.
Clackamas County Master Gardeners have sponsored Gardening with Native Plants in the Native Plant Sanctuary at Community Park.

City of Canby Bi-Monthly Report

Department: Transit



For: the months of May & June, 2013

Date: July 8, 2013

Prepared by: Julie Wehling

Through: Greg Ellis, City Administrator

1) Funding Issues:

- a) Monthly Elderly and Disabled transportation reports were submitted to TriMet.
- b) Quarterly reports and reimbursement requests were submitted to ODOT.
- c) Grant agreement 12-0805 for Special Transportation Fund (STF) received though TriMet was amended to include \$115,704 which is the 2013 disbursement.
- d) ODOT Grant Agreement 29293 was executed which will provide \$242,411 over two years in grant funds for preventive maintenance (\$132,441) and elderly and disabled service operations (\$110,000).
- e) We expect the grant agreement from ODOT for 5311 program funding to be executed shortly.

2) Ridership:

Total ridership for FY 2012-13 is down by 17% as compared to the previous fiscal year. During this report period CAT provided:

- a) 9,606 rides in May (29 % fewer than May of 2012).
 - 1,563 demand responsive rides (Shopping Shuttle & Dial-A-Ride). This is 2.3% more rides than were provided during May of 2012.
 - 5,894 to Oregon City (30.5% fewer rides than May of 2012).
 - 2,149 to Woodburn (38.9% fewer rides than May of 2012)
- b) 8,555 rides in June (32.5% fewer rides than June of 2012).
 - 1,423 demand responsive rides (Shopping Shuttle & Dial-A-Ride). This is 6.8% more rides than were provided during June of 2012.
 - 5,031 to Oregon City 37% fewer rides than June of 2012)
 - 2,101 to Woodburn (40.5% fewer rides than June of 2012).

As expected ridership numbers are down due to the implementation of a \$1 fare on October 1st. Ridership for the 8 months since the fare was implemented is down by 22.75 percent which is just under the 25-40 percent drop that is usually expected.

3) Updates:

- a) On June 20th the Transit Advisory Committee held a regular meeting.
- b) A three year contract extension was negotiated with MV Transportation, Inc. to be effective from July 1, 2013 through June 30, 2016.
- c) Yajaira Pablo of Hubbard and Roger Pheil of Canby were selected as the riders of the month for May & June. Each rider was given CAT memorabilia and a free pass of their choice.

4) Collisions

- a) On May 23rd a CAT vehicle came in contact with the driver side door of a passenger vehicle. The incident is still under investigation.
- b) No collisions in June.

5) Training/Meetings/Conferences Attended: City staff, contractors and/or volunteers represented CAT at:

- a) On May 14th Julie Wehling participated as member of the Strategic Investment Workgroup for the Public Transit Advisory Committee (PTAC). The committee will recommend criterion for future grant funding processes.
- b) On June 17th Julie Wehling participated in a follow-up work session with the PTAC Strategic Investment Workgroup.



City of Canby Bi-Monthly Report

Department: Wastewater Treatment Plant

For Months of:

May & June 2013

To: The Honorable Mayor Hodson & City Council
From: Dave Conner, Lead Operator
Through: Greg Ellis, City Administrator
Date: June 25, 2013

Facility Operations & Maintenance

The water quality for the months of May and June remained excellent with no violations or interruption of services for either month. Plant Operators maintain daily operations of the plant as we continue our more stringent summer compliance monitoring.

Plant personnel are keeping up with all preventative maintenance, operations, laboratory testing and FOG abatement which include some of the following:

- Capital improvement construction on the flammable storage building and equipment shed was finished.
- Repaired electric monorail crane in RSP room.
- Repair tech out to fix new automated valve for north #2 aeration basin.
- 4 South automated valve installed and programming complete.
- Ordered equipment parts for peristaltic pump.
- Drained water from the N. and S. ponds.
- Inspected and repaired all emergency suction hoses.
- Pulled and down loaded temperature monitoring data from Vemco loggers.
- Switched out North recirculation pump and took to shop for rewind.
- Replaced burn out U.V. light.
- Yearly trimming of the ivy and hedges.
- Ordered and received 4 boxes of liners.
- Daily plant check, lab, and process control.
- Routine daily maintenance, repairs, and cleaning of plant.

FOG (fats, oils and grease) program

- **May**
- Pump Outs: 26
- Inspections: 10

- **June**
- Pump Outs: 21
- Inspections: 5

Biosolids Program:

- Belt ran 17 days in May
- 16 boxes to land fill / 189.99 wet tons in May.
- Belt ran 17 days in June
- 16 boxes to land fill / 186 (est.) wet tons in June

Daily Lab Activity

Monthly / Weekly NPDES Permit Tests

- TSS
- BOD
- CBOD
- Ammonia
- E-coli
- Alkalinity
- pH
- Total Flow
- UV Dosage

Monthly / Weekly Lab

- TSS
- Nitrite / Nitrate
- UV Transmittance
- Biosolids Testing

Meetings and Training Attended

These meetings, conference's or training were completed by either one or more of the wastewater treatment plant personnel (Dave Conner, Don Steiner, Bob Wengert, Bruce Shelquist or Dave Frahm)

- F.O.G Committee Meeting.
- In House Operations Training.
- Clackamas Community College plant tour.
- Fork lift refresher training.
- ORACWA Pretreatment Committee.
- PW Staff Safety Meeting

Management Team Meeting Minutes

June 17, 2013

2:00 PM

City Hall Conference Room

In attendance: Greg Ellis, Renate Mengelberg, Bryan Brown, Kim Scheafer, Bret Smith, Haley Fish, and Darwin Tramel.

Bret Smith

- Gave an update on how things are going at the PD
- Looking at additional directional signs to the PD for downtown
- *Oregonian* will be doing a series on the gangs and cartel. Bombing in Canby last year will be discussed.

Haley Fish

- Has several items on the CC Agenda Wednesday
- Working on year-end

Renate Mengelberg

- Working with contact on purchasing some property in the industrial park
- Will be hosting a Metals Summit the 2nd Week in July

Darvin Tramel

- Averaging 1-2 inspections per week
- Working on stormwater year-end report

Bryan Brown

- New zoning map has been published
- LOC's latest newsletter has a report on compression

Greg Ellis

- Out of office Wednesday. Will be back just in time for meeting.
- Wallflowers is having an event in Pioneer Plaza on the 4th of July
- Traffic Safety Commission will be meeting soon. The Traffic Officer will also be participating.
- Gave an update on current City projects

Minutes taken by Kim Scheafer

CITY COUNCIL / URA MEETING FOLLOW-UP ITEMS				
ORIG. CC / URA MTG. DATE	ITEM	STATUS	ASSIGNED TO	TARGET DATE FOR CC OR URA MTG.
July 11, 2012	Retail Business Recruitment Update	Begun	Jamie Stickel	TBD
	Dog Park Construction Contract	Engineering underway	Matilda Deas	October 2013
	New Tree Ordinance	Underway	Matilda Deas/Sol Jacobsen	August 2013
	Stormwater Master Plan Adoption	Consultant is working on plan	Darvin Tramel	Fall 2013
	Buildable Land Needs Study	Analysis underway	Matilda Deas	August 2013
	NE Canby Master Plan	1st meeting in March	Matilda Deas	December 2013
	N Redwood Master Plan	Not started (Need Funding)	Matilda Deas	June 2014

OTHER STAFF ITEMS				
DATE	ITEM	STATUS	ASSIGNED TO	TARGET DATE
	Maintain Police Accreditation - Police	On-Going	Melody Thompson & Lt. Jorge Tro	Next Assessment 2014
	Selling Property Partitioned Next to Maple Street Park (former location of Marshall House)	Waiting for better economic times to sell property		
	Participate as member of NW Regional Computer Forensic Laboratory - Police	Underway	Bret J. Smith	TBD
	Develop Dept Website - Police	Underway	Melody Thompson & Lt. Jorge Tro	June 2013
	Formalize Volunteer Program - Police	Underway	Melody Thompson & Lt. Jorge Tro	April 2014