

AMENDED AGENDA

CANBY CITY COUNCIL REGULAR MEETING

August 19, 2009

7:30 PM

Council Chambers

155 NW 2nd Avenue

Mayor Melody Thompson

Council President Walt Daniels

Councilor Robert Bitter

Councilor John Henri

Councilor Wayne Oliver

Councilor Jason Padden

CITY COUNCIL REGULAR MEETING

- 1. CALL TO ORDER (City Hall - 6:00 PM – 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 (Council Chambers 7:30 PM)**
 - 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 August 5, 2009 City Council Work Session & Regular Meeting

9. PUBLIC HEARING

- A. Request for Single Day Noise Variance by Canby Utility for Construction Work at 440 SW 13th Avenue Pg. 58

10. RESOLUTIONS & ORDINANCES

- A. Res. 1038, Adopting Collective Bargaining Agreement with Canby Police Association for a Period from July 1, 2009 – June 30, 2012 Pg. 1
- B. Res. 1039, Adopting the City of Canby Neighborhood Traffic Calming Program Pg. 27
- C. Res. 1040, Creating Fees for Permits for Operating Sidewalk Cafés and Use of the Public Right-of-Way for Sidewalk Cafés Pg. 39
- D. Res. 1041, Authorizing Transfer of Appropriations from an Existing Category to Other Existing Categories Within the General Fund; and Authorizing a Transfer from the General Fund to the Library Fund Pg. 41
- E. Ord. 1316, Authorizing Sidewalk Cafés, Establishing a Policy for Permits and Uses of Sidewalk Cafés, Repealing Section 12.12.035 of the Canby Municipal Code, Amending Section 9.24.060 of the Canby Municipal Code (2nd Reading) Pg. 43
- F. Ord. 1317, Authorizing Contract with Eagle-Elsner, Inc. for the 2009 Street Maintenance Program (2nd Reading) Pg. 52
- G. Ord. 1318, Authorizing Contract with Owen Equipment for Purchase of One 2009 Elgin Crosswind J Street Sweeper for the Public Works Department and a Contract with Ford Motor Credit for a Five Year Lease Purchase for the Street Sweeper Pg. 54

11. NEW BUSINESS

- A. Previous City Council Decision Regarding Baker Street

12. CITY ADMINISTRATOR’S BUSINESS & STAFF REPORTS

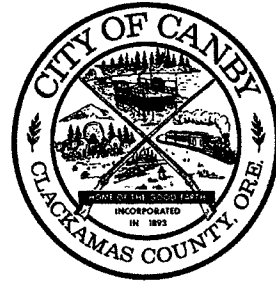
13. CITIZEN INPUT

14. ACTION REVIEW

15. EXECUTIVE SESSION: ORS 192.660(2)(d) Labor Negotiations, ORS 192.660(2)(h) Pending Litigation, and ORS 192.660(2)(i) Performance Evaluation of Public Officer

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 at 503.266.4021 ext. 233. 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.



MEMORANDUM

To: Honorable Mayor Thompson and Canby City Council
From: Amanda Klock, Human Resource Director
Date: August 19, 2009
Through: Mark Adcock, City Administrator
Re: Resolution No. 1038

Background Summary

The Agreement between the City of Canby (City) and the Canby Police Association (Union) expired on June 30, 2009. The City and Union have bargained the terms and conditions of a new contract and have tentatively agreed to a package settlement of all outstanding issues relating to collective bargaining between the parties. The contract agreement is retroactive to July 1, 2009 and expires on June 30, 2012.

Recommendation

Staff recommends that the Council approve Resolution 1038, ratifying and approving the tentative agreement and adopting the Collective Bargaining Agreement between the City and Union.

Attached

Resolution No. 1038

RESOLUTION NO. 1038

A RESOLUTION ADOPTING A COLLECTIVE BARGAINING AGREEMENT BETWEEN THE CITY OF CANBY (CITY) AND THE CANBY POLICE ASSOCIATION FOR THE PERIOD FROM JULY 1, 2009 THROUGH JUNE 30, 2012.

WHEREAS, the City has recognized the Canby Police Association as the sole collective bargaining agent for all regular employees, as noted in the Agreement between the parties, attached hereto as Exhibit "A".

WHEREAS, the collective bargaining agreement between the City and the Association expired on June 30, 2009, and;

WHEREAS, the City and the Association have bargained the terms and conditions of a new collective bargaining agreement to be retroactive to July 1, 2009 and to expire on June 30, 2012, now therefore,

IT IS HEREBY RESOLVED by the City of Canby Council as follows:

1. That the attached collective bargaining agreement, marked as Exhibit "A" and by this reference incorporated here, is adopted between the City and the Police Association for the period of July 1, 2009 through June 30, 2012.
2. That the City Administrator is directed to take the necessary action to implement the terms of the said contract.
3. That the Mayor and City Administrator are authorized to sign the collective bargaining agreement on behalf of the City.

This resolution shall take effect, retroactively, to July 1, 2009.

ADOPTED this 19th day of August, 2009, by the Canby City Council.

Melody Thompson, Mayor

ATTEST:

Kimberly Scheafer, CMC
City Recorder

**Agreement
between
City of Canby, Oregon
and
Canby Police Association
2009-2012**

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AGREEMENT

by and between

City of Canby, Oregon

and

Canby Police Association

The CITY OF CANBY, OREGON, hereinafter referred to as the "City" and the CANBY POLICE ASSOCIATION, hereinafter referred to as the conditions relating to wages, benefits, hours, and working conditions for all employees hereinafter classified and identified in this Agreement.

ARTICLE 1 - RECOGNITION

Section 1. The City does hereby recognize the Association as the sole collective bargaining representative for all regular employees classified and identified in this Agreement, as noted herein and on Schedule "A" attached hereto.

Section 2. New classifications may be developed by the City, and assigned a wage scale by the City. The City shall forward to the Association the new classification and wage scale. If it has been agreed or established that the new classification appropriately belongs in the bargaining unit and if the Association provides a written request to the City to bargain the wage rate for the classification, the wage scale for the new classification shall then be subject to negotiations and statutory impasse procedures.

ARTICLE 2 - EMPLOYEE RIGHTS

Section 1. It shall be the right of all employees subject to the terms of this Agreement to elect membership in the Canby Police Association, or not to elect membership in such Association. Employees shall not be required to join in any organization or association as a condition of continued employment with the City.

Section 2. In the event of layoff or new hire, one or more part-time employees performing bargaining unit work shall replace no full-time employee. No part-time employees will be hired or used if previously hired, as long as a full-time employee is on layoff status and is eligible for recall, except when the laid off full-time employee has refused the recall opportunity to full or part-time work.

ARTICLE 3 - CIVIL RIGHTS

Section 1. No employee shall be discriminated against or discharged because of his membership or non-membership in the Association or because of activities he may engage in on behalf of the Association, provided, that such activities do not interfere with the employee's performance of work assignments or the operation of the Department.

Section 2. There shall be no discrimination with regard to the hiring or tenure of the employees by reason of their race, color, creed, national origin, physical handicap, gender, sexual orientation, or age. All references to employees in this agreement shall designate both genders, and wherever the male gender is used, it shall be construed to include male and female employees.

ARTICLE 4 - MANAGEMENT RIGHTS

Section 1. The City Administrator and department heads exercise responsibility under the authority of the City Council, for management of the City and the direction of its workforce. To fulfill this responsibility, the rights of the City shall include, but are not limited to; establishing and directing activities of the City's departments and its employees; determining standards of service and methods of operation, including subcontracting and the introduction of new equipment; establishing procedures and standards for employment, promotion, layoff and transfer; to discipline or discharge for just cause; determine job descriptions, work schedules, and assign work; and any other rights except as expressly limited by the terms of this Agreement.

ARTICLE 5 - SENIORITY

Section 1. The principle of seniority shall be observed with regard to all layoffs and recalls of regular employees, provided that employees to be recalled are competent to perform the work required. The Association recognizes the City's right to retain "special skill" employees without regard to seniority when layoffs are necessary. (Examples: canine officer, bilingual, etc.)

Section 2. Lateral hire employees shall be deemed "Regular Employees" for purposes of this Article upon satisfactory completion of a twelve (12) month probationary period following their last date of hire. New recruits shall be required to complete an eighteen (18) month probationary period. "During said probationary period, employees shall have no recourse to the grievance procedure of this Agreement concerning disputes regarding discipline and discharge.

Section 3.

(A) Seniority under this Agreement shall come under two categories as follows:

1. Police Department seniority shall mean the length of continuous service police keep since last date of hire.
2. Classification seniority shall mean the length of continuous service in the Police Officers' classifications (Police Sergeants and Police Patrolman).

(B) In the event of layoff and rehire within a classification, as per this Article, classification seniority shall prevail, consistent with Section 1, above. An employee with classification seniority in more than one of the classifications listed in (2) above, shall have the right to use classification seniority for bumping privileges into the other classifications.

(C) As applies to vacation credits, vacation scheduling, and days off, Department seniority in rank shall prevail, provided said scheduling is compatible with the operating needs of the Department.

Section 4. The City agrees to notify the Association and the employees (simultaneously), not less than two (2) weeks prior to any layoff by forwarding the name and classifications of the employees to be laid off.

Section 5. Employees off work for eighteen (18) months or more, those discharged for cause, and those who voluntarily quit, shall be considered off the seniority list with the exception of those off on military leave or due to industrial accident.

Section 6. No new employee shall be hired until all laid off employees in that classification have had an opportunity to return to work. The City agrees to notify laid off employees of their right to return to work by certified mail to the employee's last address known to the City. The employee must respond within five (5) working days from the date of receipt (regardless of who signed the receipt) to be considered for recall.

ARTICLE 6 - DISCIPLINE AND DISCHARGE

Section 1. If the Employer has reason to reprimand an employee, it shall be done in a manner that is least likely to embarrass the employee before other employees or the public.

Section 2. When there is evidence of unsatisfactory conduct, the Employer agrees to verbally discuss the problems with the employee, thus affording the employee an opportunity to correct the situation, except when the situation warrants immediate appropriate action, which may include written reprimand, suspension or discharge. Following verbal reprimand and an opportunity for the

employee to correct the situation, the Employer may issue a written reprimand, or if the situation warrants, the Employer may institute appropriate action as stated above. No such written documentation of a verbal reprimand shall remain in effect for more than twelve (12) months.

When the City intends to take disciplinary action, with the exception of verbal reprimands, the City shall notify the non-probationary employee and the Association in writing of the charges against the employee and the proposed disciplinary action, and shall provide the employee with the opportunity to respond to the charges at an informal pre-disciplinary hearing.

The non-probationary employee, whose discipline is being considered with the exception of verbal reprimands, shall be granted a minimum of two (2) calendar days, or more at the discretion of the City, to prepare for the disciplinary hearing.

The employee shall be entitled to have a representative of his or her choice at the pre-disciplinary hearing.

The City agrees to furnish the employee a complete statement in writing at the time of the written reprimand, suspension, demotion, or discharge, outlining the specific reasons for such action. If, at the time of written reprimand, suspension, demotion, or discharge, it is not feasible to furnish the employee with a complete statement, said statement must be presented to the employee within twenty-four (24) hours. At the same time the employee is presented with the statement, the Association shall be sent an identical copy of the written notice of reprimand, suspension, demotion, or discharge which has been given to the employee.

Section 3. Any suspension or discharge shall be for just cause.

Section 4. Any employee who is the subject of an investigation shall be notified in writing within ten (10) days from the completion of the investigation as to findings of the investigation except in instances where confidentiality is required.

Section 5. Evaluations shall not be used as substitutes for steps in the disciplinary process.

Section 6. In the event an employee is interviewed concerning an action which would likely result in disciplinary action other than an oral warning, the following process shall be followed to the extent circumstances permit:

- (a) Prior to the interview, the employee will be informed of the nature of the allegations and the nature of the investigation, and will be provided reasonable time prior to the interview. The employee will also be notified that he or she has a right to consult with an Association representative and to have that or another representative present at the interview.

- (b) Interviews covered under this Section shall, to the extent practical, take place at City facilities.
- (c) Either party may tape record the interview and, if either party exercises this right, they will provide a copy of the tape or transcript to the other party upon request.
- (d) In any investigation, the employee may be required to answer any questions reasonably related to the subject matter under investigation. The employee may be disciplined for refusing to answer such questions.
- (e) In situations involving the use of force, the employee shall have the right to consult with an Association representative or attorney prior to being required to give an oral or written statement about the use of force.

ARTICLE 7 - HOURS OF WORK/OVERTIME

Section 1. The workday shall consist of eight (8) hours per day on the basis of five (5) day workweek, or ten (10) hours per day on the basis of a four (4) day workweek. For patrol, both parties prefer the "4-10" shift. The City retains the right to change to the "5-8" shift if circumstances dictate. The workweek shall consist of a forty (40) hour shift schedule, which shall take place during a seven (7) calendar day period, commencing at midnight Sunday AM and ending at midnight the following Saturday PM. Detectives and Patrol are all eligible to work a 4-10 shift at the discretion of the Chief.

Section 2.

Each employee shall be entitled to fifteen (15) minute rest breaks and a thirty (30) minute meal break in accordance with Oregon BOLI.

Section 3. All hours worked in excess of eight (8) or ten (10) hours in one (1) day, depending on the employee's regular shift schedule, or all hours worked in excess of forty (40) hours per week, shall be paid for at the overtime rate of one and one-half (1-1/2) times the employee's regular straight-time hourly rate of pay, except as may be provided differently in this Agreement. Overtime shall be computed to the nearest fifteen (15) minutes.

Section 4. Employees may elect to be compensated for overtime in cash or compensatory time off. Compensatory time may be accrued up to a maximum of eighty (80) hours, with all other overtime paid in cash. Compensatory time off shall be scheduled at the mutual convenience of the City and the employee. Employees have the option to cash out up to forty (40) hours of compensatory time once per fiscal year.

Section 5. A reasonable clean-up time will be granted just prior to the end of the shift for employees who, in the judgment of their department head, need such, due to the nature and conditions of their work assignment.

Section 6. The City will offer a minimum and guaranteed forty (40) hour workweek to all regular full-time employees, except by mutual agreement between the City and the Association.

Section 7. An employee who involuntarily works more than five (5) work shifts in five (5) consecutive calendar days shall then be compensated at the overtime rate until that employee is provided two (2) consecutive days off.

Section 8. The parties agree that the workweek will remain the same for all employees per Section 1. The parties further agree that if a shift rotation results in an employee working less than forty (40) hours in a workweek, the employee may make up the additional hours needed to reach forty (40) in the workweek from accrued vacation or compensatory time off, or by working the additional hours if shifts are available. The parties agree that in a shift rotation, all employees will get at least two days off between the old shift and the new shift. If an employee does not get at least two days off in such circumstances, the employee will be paid for time and a half for any work performed on those two days.

Section 9. An employee will be given advance notice of any temporary shift change in his/her regularly assigned work shift. Any temporary shift change without prior notice that results in an employee being required to return to work at a time earlier or later than his/her normal schedule, shall make the employee eligible for overtime for all hours worked outside his or her normal shift, if that employee was not notified of such change forty eight (48) hours prior to the change of shift, except in cases of an emergency. This section does not apply to voluntary shift trades. An employee called into work for an emergency shall be paid for such shift and given up to two (2) hours of overtime at time and one-half (1 1/2) as compensation for changing shifts.

Section 10. Overtime shall be offered to employees on a seniority basis, except in cases of emergency. However, an “emergency” does not include budgeting considerations or situations created by the City. Recognizing that seniority is ultimately the prevailing consideration upon which the assignment of overtime is based, an effort will be made to distribute overtime throughout the Department on a fair and equitable basis.

Section 11. An employee who is required by the City to work sixteen (16) or more hours in any twenty-four (24) hour work day and who is scheduled to work a shift in the next twenty-four (24) hour work day shall be allowed to be off work by the employees request for at least eight (8) hours before returning to active duty status.

The affected member will be compensated for any on-duty time lost by using his/her accrued time-off benefits, including sick leave. The affected member may opt to flex their schedule by mutual agreement with the City to accommodate the eight (8) hours off. Any member working at least fifteen (15) hours will notify both the Police and Association Executive Board of their current work hour status and of any potential to exceed the 16 hours limit. The Police Chief retains the authority to suspend this provision upon declaring a public safety emergency.

ARTICLE 8 - REPORTING AND CALL BACK

Section 1. Employees required to report for work shall be entitled to two (2) hours of call time pay unless they are notified prior to the start of their shift that they are not to report. Once put to work, employees shall be entitled to four (4) hours work or pay therefore, unless the employee and the supervisor agree after a minimum of two (2) hours that the employee shall be paid only for the time worked. All employees shall have a posted telephone number where they may be reached in order to qualify for the above pay provisions.

Employees called at home for any work-related concerns by a supervisor, but not called back to work, shall be paid for all time spent on the telephone at the rate of time and one-half (1-1/2) with a minimum of thirty (30) minutes to be paid for each call. This minimum shall also apply to language translations given by employees who are required to participate in duty related telephone calls at home.

Section 2. Employees who are on the premises of the police department and are called back to work thirty (30) minutes or more after the end of their regular shift shall be entitled to a minimum of one (1) hour work or pay therefore at the overtime rate of two (2) times the employee's regular rate of pay, except as provided differently in this Agreement.

Section 3. Employees required to attend training classes, training shoots, department staff meetings or similar functions outside their regular shift, will be entitled to one and one-half (1-1/2) time their regular rate of pay for a minimum of two (2) hours.

Section 4. Employees involuntarily called back from paid leave shall be paid at the rate of time and one-half (1-1/2) for all hours worked with a minimum of three hours, shall receive straight time for the balance of their normal shift (8 or 10 hours) not worked, and shall have their paid leave account credited for a full shift (8 or 10 hours).

ARTICLE 9 - COURT TIME

Section 1. (A) Employees of the Police Department who are called to work either one (1) hour or less before or after their scheduled shift, to appear in any court, shall be entitled to a minimum of two (2) hours pay at the employee's regular rate of pay, if such appearance was necessitated through actions of such officer while employed by the City of Canby.

(B) Employees of the Police Department who are called to work in excess of one (1) hour either before or after their scheduled shift, to appear in any court, shall be entitled to receive time and one-half (1-1/2) times their regular hourly rate of pay for a minimum of three (3) hours, if such appearance was necessitated through actions of such officer while employed by the City of Canby.

Section 2. Employees of the Police Department who are called to work on one of their scheduled days off, to appear in any court, shall be entitled to receive a minimum of three (3) hours pay at the overtime rate of time and one-half (1-1/2) times their regular hourly rate of pay, if such appearance was necessitated through the actions of such officers while employed by the City of Canby. All court time is to be utilized for that purpose only. An employee shall not appear in court and be required to work on any other assignment.

Section 3. Employees who are called to work on one of their scheduled vacation days off, to appear in any court, shall be compensated as provided in Article 8, section 4, if such appearance was necessitated through the actions of such employee while employed for the City of Canby.

ARTICLE 10 - WAGES

Section 1. The job classifications and their corresponding wage scales are noted on Schedule "A", which is attached hereto and made a part of this Agreement by reference thereto. Paydays shall be bi-weekly.

Effective July 1, 2009, compensation for all employees shall be pursuant to the salary schedule attached as Attachment A.

Effective July 1, 2010, increase the wage scale across the board (by applying a percentage increase to the first step and maintaining 5% between steps by a percentage equal to the CPI-U, Portland-Salem for the twelve (12) months ending December 31, 2009 (minimum 3% - maximum 6%).

Effective July 1, 2011, increase the wage scale across the board (by applying a percentage increase to the first step and maintaining 5% between steps by a percentage equal to the CPI-U, Portland-Salem for the twelve (12) months ending December 31, 2010 (minimum 3% - maximum 6%).

Section 2. Employees who obtain their intermediate and advanced certificates from the Department of Public Safety Standards and Training (DPSST) will be compensated at the rate of:

Intermediate Certificate: 3.5% per month or
Advanced Certificate: 5% per month

Section 3. Officers assigned to Traffic Unit, Gang Enforcement, or Detectives shall receive 3.5% per month premium to be added to his/her regular rate of pay. This premium is full and complete compensation for the possibility that an officer may be called out during off-duty hours. Normal reporting and call back pay provided for in Article 8 of this Agreement apply.

Section 4. Any employee serving as a Canine Officer, and who maintains certification as a Canine Officer, shall receive, in addition to his/her regular pay, a five percent (5%) premium. This premium is full and complete compensation for the care of the police canine during off-duty hours to include all compensable time and activities.

Section 5. Any employee demonstrating written and oral proficiency in the Spanish language shall receive, in addition to his/her regular pay, a five percent (5%) premium. The City is to determine a reasonable level of proficiency and the manner of testing that proficiency. An officer can receive this premium, as well as an assignment premium, at the same time.

Section 6. Officers assigned as Field Training Officers (FTO) shall receive premium pay of one dollar (\$1.00) per hour for each hour that they are assigned a regular or reserve officer.

Section 7. Officers who serve as Officers-in-Charge (OIC) of a shift shall receive one (1) additional hour of regular time pay per shift. In order to qualify, the assignment as OIC shall be made by the supervisor.

Section 8. The position of Evidence Technician is recognized as a position within the Association. The corresponding wage scale for the position is noted on Schedule "A", which is attached hereto and made a part of this Agreement by reference thereto. Step increments for this employee only are based on the receipt of acceptable/satisfactory annual performance evaluations.

Section 9. Employees may become eligible for longevity pay according to the following schedule:

After one full year at Step 5 – 3.5% of salary for personnel at Step 5; or
After ten years of employment with the City of Canby – 5% of salary.

ARTICLE 11—PER DIEM AND MILEAGE

Section 1. Employees shall be paid a per diem allowance for meals and incidental expenses for approved travel and/or training as follows:

- A. For travel and/or training within the continental United States (CONUS) the per diem rate listed at www.gsa.gov and in effect at the time of the travel;
- B. For travel and/or training outside of the continental United States (OCONUS), the per diem rate listed at www.dtic.mil/perdiem/pdrates.html and in effect at the time of the travel and/or training.

Section 2. Meals provided as part of a program shall be deducted from the above per diem reimbursement in an amount equal to that set forth in the Meals and Incidental Breakdown listed at www.gsa.com and in effect at the time of the travel and/or training.

Section 3. Employees shall be reimbursed actual expenses for hotel accommodations for approved travel and/or training.

Section 4. An employee required by the Chief or his designated agent to use a personally owned vehicle for City business shall be compensated at the rate listed at www.gsa.gov/mileage and in effect at the time of the travel. Mileage reimbursement is paid monthly.

ARTICLE 12 - HOLIDAYS

The following days shall be recognized as paid holidays, regardless of the day of the week on which they occur:

New Year's Day	January 1
Martin Luther King's Birthday	Third Monday in January
President's Day	Third Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	First Monday in September
Veteran's Day	November 11
Thanksgiving Day	Fourth Thursday in November
Day after Thanksgiving	Fourth Friday in November
Christmas Day	December 25
One Personal Holiday	

The personal holidays shall be scheduled by mutual agreement between the employee and the Chief and must be taken within the given fiscal year. No

payment will be made for the personal holidays if they are not used, unless agreed to by the parties.

Section 2.

(A) To qualify for a paid holiday, the employee shall have been available for work or on paid leave on his/her last scheduled workday proceeding the holiday and his/her first scheduled workday following the holiday.

(B) If a holiday falls on the employee's day off, the employee will accrue one day off, to be scheduled at a later date within the same fiscal year, with the exception of Memorial Day, which must be scheduled and taken within ninety (90) days of the holiday. The personal holiday bank shall be maintained by the City and reported on the employee's biweekly pay record.

(C) Employees required to work on recognized City holidays shall be compensated at the rate of time and one-half (1-1/2) times their regular hourly rate of pay to a maximum of ten (10) hours worked (fifteen (15) hours pay), in addition to a day's pay for the holiday. By mutual agreement between the employee and the City, such compensation may be taken in the form of compensatory time off.

Section 3. For employees who normally work a Monday through Friday shift, holidays falling on Saturday shall be observed the preceding Friday, and the holidays falling on Sunday shall be observed the following Monday.

Section 4. Whenever one of the recognized holidays fall during an employee's paid leave, the holiday will not be counted against the employee's paid leave bank.

ARTICLE 13 – VACATIONS

Section 1. All regular employees who have been in the employ of the City for at least one (1) full year shall be entitled to vacation benefits. The following vacation allowance shall be observed providing for pay in the equivalent of forty (40) hours at their regular rate of pay for each week of earned vacation.

<u>Years of Service</u>	<u>Annual Accrual Rate</u>	<u>Max Accrual</u>
1 to 4 years	80 hours	160 hours
5 to 9 years	120 hours	240 hours
10 to 13 years	160 hours	280 hours
14 years and over	200 hours	360 hours

The accrual rate per pay period shall be the annual accrual rate divided by the total number of pay periods.

Section 2. Employees who leave the employ of the City after having been employed for one (1) or more years shall be paid in one (1) lump sum for any accrued but unused vacation benefits upon separation.

Section 3. All time off for vacation shall be by mutual agreement between the supervisor and the employee. In the event of a conflict between the employees regarding time of their vacations, then the principle of seniority shall prevail. Employees shall be permitted to choose either split or full vacation periods.

ARTICLE 14 - SICK LEAVE

Section 1. All full-time employees employed by the City for ninety (90) days or more shall be entitled to accumulate ninety-six (96) hours of sick leave annually. The accrual rate per pay period shall be the annual accrual rate divided by the total number of pay periods.

Section 2. The City may require a doctor's certificate to substantiate loss of time due to illness or off-the-job accidents after the employee has missed three (3) consecutive days. Employees taking time off for medical or dental appointments shall have such time off charged against their sick leave benefits.

An employee may use up to one day of sick leave to care for or make arrangements for the care of an ill member of the immediate family. Additional time may be granted by the Chief of Police.

Section 3. Upon retirement under the City's retirement plan, an employee shall be cashed out at the rate of fifty percent (50%) of the amount of employee's accumulated but unused sick leave, up to a maximum of one thousand (1,000) hours based on employee's wage at the time of retirement.

Section 4. An employee off work due to an on-the-job injury shall be allowed to use accumulated sick leave to supplement the difference between his/her net pay and workers' compensation payments for thirty (30) days from the date of the injury. The City will supplement the difference thereafter for a period of 180 calendar days. The City's supplement may be extended at the discretion of the City Council.

Section 5. The City will allow employees to take parental or family and medical leave in accordance with State and Federal law. An employee shall utilize all accrued paid leave in excess of sixty (60) hours prior to taking unpaid leave.

Section 6. No leave time previously intended for other purposes (examples: vacation, compensatory time, holiday, etc.) shall be converted to sick leave, unless such conversion is pre-approved.

ARTICLE 15 - FUNERAL LEAVE

Section 1. In the event of a death in the employee's immediate family, said employee shall be entitled to a leave of absence with pay up to three (3) working days to make arrangements for and/or attend the funeral. Additional time may be granted by the City Administrator. The Employee's immediate family shall include: spouse, ex-spouse, domestic partner, children, step-children, parents, brothers, step-brothers, sisters, step-sisters, grandparents, mothers-in-law, fathers-in-law, brothers-in-law and sisters-in-law, aunts and uncles.

ARTICLE 16 - JURY DUTY

Section 1. Employees shall be granted leave with full pay any time they are required to report for jury duty or jury service, provided, that the employee endorses all checks received from the court for those services over to the City. If an employee serving jury duty is excused, dismissed or not selected, then he shall report for his regular work assignment as soon as possible.

ARTICLE 17 - EDUCATIONAL LEAVE

Section 1. Educational leave will be at the discretion of the City Administrator.

ARTICLE 18 - LEAVE OF ABSENCE

Section 1. All regular employees may be granted a leave of absence without pay for a period of time, up to twelve (12) months, if in the judgment of the City Administrator, such leave would not seriously handicap the employee's department. All requests for such leave must be submitted to the City Administrator in written form as soon as possible prior to the time of the requested leave and must include a complete justification for the leave, except in the case of an off-the-job accident, in which case the leave may start immediately.

While on such leave, the employee shall not be entitled to accrual of any benefits such as vacation, sick leave, retirement contributions, etc., but shall not lose seniority accrued previous to beginning the leave. Employees on such leave shall be eligible for health and welfare insurance coverage at the employee's own expense for the maximum period of time allowed by the insurance carrier.

The City will pay the Health & Welfare insurance premium for employees on approved leave of absence due to the serious illness of the employee or a family member in accordance with Federal and State law.

ARTICLE 19 - HEALTH & WELFARE/DENTAL/PRESCRIPTION DRUGS

Section 1. The City will provide group medical/drug, vision, and dental/ortho insurance coverage for full time employees and their dependents.

The City will pay 90% of the premium costs of the group plan [Option 1] in place for each tier of coverage. The group health plan includes medical/drug, vision and dental/orthodontia coverage. Employees electing alternative plan options made available by the City may apply these contribution amounts towards such coverage and are responsible for any remaining premium costs. Any premium costs not covered by the City shall be paid by the enrolled employee through automatic payroll deduction.

The group insurance coverage provided above will be subject to annual review and recommendations by an insurance Benefits Advisory Committee consisting of an equal number of represented Canby Police Association members, AFSCME members, and management committee members.

Section 2. During the term of this Agreement, the City will provide one and one-half (1 1/2) times an employee's annual salary as life insurance and death benefits for all bargaining unit members.

Section 3. The City shall provide a program of long term disability insurance for all employees.

ARTICLE 20 - RETIREMENT

Section 1. The City agrees to continue its participation in the Oregon State Public Employees Retirement System, and the Oregon Public Service Retirement Plan, and, further, the City agrees to pay the six percent (6) employee contribution.

ARTICLE 21 - SAFETY COMMITTEE

Section 1. The City shall have a Safety Committee and will hold periodic safety meetings with the employees. One employee selected by the Association shall be on the safety committee without loss of pay for participating in official safety committee business. This voluntary representation during off-duty hours shall not be considered hours worked for compensation purposes.

ARTICLE 22 - GRIEVANCE PROCEDURE

Section 1. Grievance Procedure. Any grievance or dispute which may arise between the parties with regard to the application, meaning or interpretation of this Agreement shall be settled in the following manner:

Step 1. The employee, with or without his Association representative, shall present the matter in writing to the Chief within fourteen (14) calendar working days, from the date the grieving party first became aware of the problem giving rise to the grievance. Within seven (7) calendar days after receipt of the report, the Chief shall attempt to resolve the matter and submit his answer in writing to the employee and association representative.

Step 2. If the grievance still remains unsettled, the Association may within fourteen (14) calendar days after the reply of the Chief is received or the date that such reply is due, submit the grievance in writing to the City Administrator. The City Administrator shall respond in writing to the employee and Association representative within seven (7) calendar days.

Step 3. If the grievance still remains unresolved, the Association may submit the matter to binding arbitration within fourteen (14) calendar days of the date reply is received from the City Administrator or the date that such reply is due.

Section 2. This arbitration proceeding shall be conducted by an arbitrator to be selected by the Employer and the Association within seven (7) calendar days after notice has been given. If the parties fail to select an arbitrator, the State Employment Relations Board shall be requested by either or both parties to provide a panel of seven (7) arbitrators. Both the Employer and the Association shall have the right to strike three (3) names from the panel. A coin toss shall determine the first strike. Following the first strike the other party shall then strike one (1) name. The process will be repeated twice and the remaining person shall be the arbitrator.

The arbitrator shall render a decision no later than thirty (30) calendar days after the conclusion of the final hearing. The power of the arbitrator shall be limited to interpreting this Agreement and determining if it has been violated and to resolve the grievance within the terms of this Agreement.

The decision of the arbitrator shall be binding both parties. The costs of the arbitrator shall be borne by the losing party. Each party shall be responsible for the cost of presenting its own case to arbitration. Any or all time limits specified in the grievance procedures may be waived by mutual consent of the parties.

ARTICLE 23 - STRIKE/LOCKOUT

Section 1. The Association agrees that during the term of this Agreement, its membership will not engage in any strike, work stoppage, slowdown, or interruption of City services as per Oregon Law, and the City agrees not to engage in any lockout.

ARTICLE 24 - PERSONNEL RECORDS

Section 1. No material in any form which can be construed, interpreted, or acknowledged to be derogatory shall be placed in an employee's personnel file, unless such employee has first been allowed to read such material. Any employee may, upon request, have access to his personnel file. Any employee may also have the right of reproduction of his personnel file in full or in part at no charge if the materials are needed to aid in the defense against a disciplinary action. No portion of any employee's file shall be transmitted without the explicit consent and request of the employee other than those authorized by the City or by order of a court of competent jurisdiction.

Section 2. The City shall maintain only one personnel file. An employee's supervisor may keep a "working file" for purposes of personnel evaluations.

Section 3. Records of discipline that involve measures up to and including written reprimands shall, upon request of the employee, be removed from the employee's personnel files after three (3) years and given to the employee. Records of suspensions shall be removed from the employee's personnel files after seven (7) years, upon request of the employee, and given to the employee. If a subsequent disciplinary action(s) is imposed prior to removal of a record of discipline or suspension under this section, the time for removal shall be computed from the subsequent disciplinary action.

ARTICLE 25 - ASSOCIATION BUSINESS

Section 1. The City shall provide a bulletin board for the Association to post bulletins and other material pertaining to its members.

Section 2. Members of the Association who are officially designated as representatives of the Association, shall be permitted to attend negotiating meetings and/or contract administration sessions, as the need may arise. These employee representatives shall not forfeit pay if such meetings are held during their working hours, provided they are for legitimate reasons. An employee abusing this privilege to handle Association business on City time, could result in the employee forfeiting all or part of his pay for such time. At no time shall the City be obligated to pay more than two (2) representatives of the Association at any one time for such Association business.

Section 3. The City agrees to deduct monthly membership dues from the pay of employees covered by this Agreement upon the submission of a signed request by the employee on a form provided by the City for that purpose. The City will not be held liable for deduction errors but will make proper adjustments with the Association for errors as soon as is practicable. Membership or nonmembership in the Association shall be the individual choice of employees covered by this Agreement. However, any employee who chooses not to belong shall make a

payment in lieu of dues defined in ORS 243.650(18). The non-association of employees, based on religious objections, shall be guarded as provided for under state and federal law.

ARTICLE 26 – LIGHT DUTY ASSIGNMENT

Section 1. An employee injured on the job may be required to perform light duty assignments. An employee injured off of the job may request light duty assignments. In each case the City may require an independent medical examination to determine whether the employee is fit for light duty assignments, and, if so, the types or nature of activity that the employee may or may not perform. If the examination is not covered by the employee's health insurance coverage, it shall be paid for by the City. The City will provide the employee with a form of physician's release to be completed by the examining doctor.

An employee assigned to light duty will be assigned to an administrative schedule that is typically Monday through Friday from 0800 to 1600, although the schedule may be adjusted based on the operational needs of the City. A light duty assignment is a temporary accommodation.

ARTICLE 27 – TRAUMATIC INCIDENTS

Section 1. An employee directly involved in a traumatic incident while in the performance of his duty shall have the opportunity to undergo a traumatic incident debriefing with a medical doctor or psychologist jointly designated by the Association and City. The City may require an employee involved in a traumatic incident to undergo such debriefing. The debriefing shall be for the purpose of allowing the employee to deal with the moral/ethical and/or psychological effects of the incident. The debriefing shall be confidential and shall not be divulged to the Department for any reason, except as provided below. If the debriefing is not covered by the employee's health insurance coverage, it shall be paid for by the City.

An employee may be placed on administrative leave with pay if warranted. The decision to place the employee on administrative leave and the length of the leave shall be made by the City after consultation with the person conducting the debriefing, whose recommendation shall be limited to the need for and length of the recommended leave.

ARTICLE 28 - INDEMNIFICATION AGAINST LIABILITY

Section 1. The City shall defend, save harmless, and indemnify any employee against any tort claim or demand, whether groundless or otherwise, arising out of an alleged act or omission occurring in the performance of duty except in case of malfeasance or willful or wanton neglect of duty.

ARTICLE 29 - OTHER EMPLOYMENT

Section 1. No employee may engage in employment with another employer while in the employ of the City, unless he has first received written approval from his department head and the City Administrator.

ARTICLE 30 - PROTECTIVE CLOTHING/UNIFORMS

Section 1. The City shall provide employees with protective clothing and uniforms when they are required as a condition of employment. Such items shall be considered as the property of the City and shall be returned to the City upon termination of employment, prior to the employee's final payment of wages. The care and cleaning of such clothing shall be the responsibility of the employee. The City shall pay all bargaining unit employees a cleaning allowance of fifty dollars (\$50.00) per month.

Section 2. The City shall provide a plain clothes clothing allowance of fifty dollars (\$50.00) per month to employees assigned to detective duties.

Section 3. The Department and Association shall establish a process through which an employee may be allowed to use police-related personal property in carrying out their police responsibilities. This process will include a responsibility by the employee to report damage, destruction, theft or loss of personal property in a timely fashion. If the clearance and reporting requirements are met, the City agrees to reimburse employees for personal property stolen, damaged, lost or destroyed as a result of the use of such property in the employee's performance of duties. However, such reimbursement will not be required where the property was adversely affected due to an intentional act by the employee or as a result of the employee's gross negligence.

Section 4. The City will reimburse employees annually in the amount of one hundred fifty dollars (\$150.00) for the purchase of footwear to be used in carrying out their police responsibilities on behalf of the City.

ARTICLE 31 – PHYSICAL FITNESS INCENTIVE

Recognizing that physical fitness is beneficial to the health and well being of employees, in addition to lowering the potential costs of healthcare and work related injuries, a physical fitness incentive will be established beginning July 1, 2009.

Effective July 1, 2009, and once per fiscal year thereafter, employees will be provided the opportunity to participate in the DPSST certified ORPAT course as a component of the departments mandatory scheduled training. Scheduling of this testing shall be determined by the Chief of Police. Participation in the timed ORPAT test for the physical fitness incentive is voluntary. Any voluntary

participation in the ORPAT testing during the initial scheduled training will be done "on duty time".

Employees who are unable to participate in the scheduled ORPAT test due to a reasonable conflict must submit a written request to the Chief of Police prior to the training date requesting authorization for an excused absence. The Chief of Police will schedule a second test date within sixty (60) days for authorized employees to participate in the ORPAT course on their own personal time. The date and location of the second scheduled ORPAT test will be at the discretion of the Chief of Police.

For purposes of this agreement, the minimum standard for passing will be the time established as passing by DPSST for an Entry Level Police Officer. Recognizing that passing standards for ORPAT may change at the discretion of DPSST, it is hereby established that the standard used by the City of Canby as passing, will be the standard used by DPSST and in effect at the time of the testing.

Those employees who successfully complete the ORPAT course in a time that is considered passing, will receive an incentive bonus of two hundred fifty dollars (\$250.00). The incentive will be paid in one lump sum through payroll and the parties recognize that the City will reflect any and all amounts paid as allowances, bonuses, and/or incentives as subject to the IRS and Oregon payroll tax deduction. Employees must be off probation to be eligible for the incentive.

Employees who do not successfully complete the ORPAT course will not be eligible for the incentive.

Employees who voluntarily seek this incentive, but do not meet the minimum ORPAT passing standard as defined in this agreement, will not be deemed "physically unfit for duty." In addition, an employee will not be negatively treated by the City of Canby, or its supervisors, due to not passing the ORPAT standard as defined in this agreement. Recognizing that participation in this incentive program is purely voluntary, those employees who opt not to participate, will not receive discipline, or be negatively treated by the City of Canby, or its supervisors, for this choice.

ARTICLE 32 - SAVINGS CLAUSE

Section 1. Should any provision of this Agreement be found to be in conflict with any federal or state law, or final decision of any court of competent jurisdiction, or ruling or decision of any administrative agency, said provision shall be modified to comply with said law or decision and all other provisions of this Agreement shall remain in full force and effect.

ARTICLE 33 - DURATION OF AGREEMENT

Section 1. This Agreement shall become effective upon signing, with wages, insurance, and all economic benefits retroactive to July 1, 2009. This Agreement shall remain in full force and effect through June 30, 2012.

This Agreement shall remain in full force and effect from year to year thereafter, unless either the City or the Association or both shall serve notice in writing on the other party at least sixty (60) days prior to the expiration of the Agreement or any subsequent anniversary date of this Agreement, requesting that the Agreement be opened for changes and/or termination. In that case, the Agreement shall remain in full force and effect until a new agreement is signed by both parties.

FOR: THE CITY OF CANBY, OREGON

FOR: THE CANBY POLICE ASSOCIATION

By: _____
Mayor

By: _____
President

By: _____
City Administrator

By: _____
Secretary

Date: _____

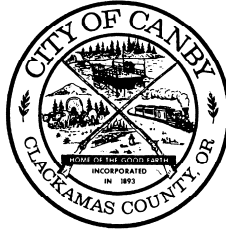
Date: _____

Canby Police Association
Salary Schedule A
Effective July 1, 2009

	Step 1	Step 2	Step 3	Step 4	Step 5
Police Patrol	4247	4459	4682	4916	5162
Sergeant	5147	5404	5675	5958	6256
Evidence Technician	3390	3560	3737	3924	4121

Includes 3.3% COLA based on CPI-U Portland/Salem average for the previous calendar year.
(Minimum 3% - Maximum 6%)

The base rate per pay period shall be the monthly rate multiplied by twelve (12) months and divided by the total number of pay periods.



MEMORANDUM

DATE: AUGUST 12, 2009
TO: MAYOR THOMPSON AND CANBY CITY COUNCIL
FROM: MATILDA DEAS, AICP, LONG RANGE PROJECT PLANNER
BRYAN BROWN, CANBY PLANNING DIRECTOR
THROUGH: MARK ADCOCK, CITY ADMINISTRATOR
RE: RESOLUTION 1039

Issue: The Canby City Council officially adopted Goals for 2009-2010. Goal 5 directed Staff to produce a Traffic Calming Plan that included funding sources for implementation.

Background: Staff researched programs offered in other communities and prepared a Draft Neighborhood Traffic Calming Program, with assistance from the Director of Public Works and input from representatives from Canby's Neighborhood Associations. Canby City Council and Planning Commission held a joint workshop to review and discuss the draft program. Attachment "A" *Canby Neighborhood Traffic Calming Program*, incorporates the modifications agreed upon at that workshop.

Recommendation: Staff recommends adoption of Resolution 1039 which adopts the City of Canby Neighborhood Traffic Calming Program.

Motion: "I move to adopt Resolution 1039, A RESOLUTION ADOPTING THE CITY OF CANBY NEIGHBORHOOD TRAFFIC CALMING PROGRAM."

Attached: Resolution 1039 and Exhibit "A"

RESOLUTION NO. 1039

**A RESOLUTION ADOPTING THE CITY OF CANBY
NEIGHBORHOOD TRAFFIC CALMING PROGRAM**

WHEREAS, Goal 5 from the Canby City Council 2009-2010 Goals Document, directed Staff to produce a traffic calming plan, including funding sources for implementation; and

WHEREAS, Planning Staff, in conjunction with Canby Director of Public Works, and with input from Canby Neighborhood Association representatives, prepared a draft Neighborhood Traffic Calming Program; and

WHEREAS, on June 3rd, 2009 the City Council and Planning Commission held a joint workshop to discuss the proposed Neighborhood Traffic Calming Program prepared by Staff; and

WHEREAS, Staff has incorporated the proposed modifications from the workshop into the final document entitled *City of Canby Neighborhood Traffic Calming Program* attached as Exhibit "A", now therefore

IT IS HEREBY RESOLVED by the City of Canby Council that the document entitled *City of Canby Neighborhood Traffic Calming Program*, attached hereto as Exhibit "A" and by this reference incorporated herein, is adopted by the Canby City Council.

This resolution is effective August 19, 2009.

ADOPTED by the Canby City Council on the 19th day of August, 2009.

Melody Thompson
Mayor

ATTEST:

Kimberly Scheafer, CMC
City Recorder



**City of Canby
Public Works Department**

**CITY OF CANBY
NEIGHBORHOOD TRAFFIC CALMING PROGRAM**

The City of Canby is committed to maintaining and improving the livability and safety of its residential neighborhoods. The City's neighborhood traffic calming program is designed to reduce the negative impacts of traffic on neighborhood streets and to improve safety. The program is a collaborative process with residents, City staff, and emergency agencies. It is based on years of implementation experience of jurisdictions in the United States and around the world. The goals and policies of the City's Transportation System Plan and Comprehensive Plan provide the policy foundation for the program; specific traffic calming goals and policies provide for implementation.

Traffic calming is defined as the combination of mainly physical measures that reduce the negative effects of motor vehicle use, alter driver behavior, and improve conditions for non-motorized street users. The traffic calming program goals and objectives are:

Neighborhood Traffic Calming Program Goals

1. Improve neighborhood livability.
2. Make efficient, effective use of City resources.
3. Create safe and attractive streets for residents, pedestrians, bicyclists, motorists, and transit users.
4. Help reduce the negative effects of motorized vehicles on the environment.
5. Promote pedestrian, bicycle and transit use.

Neighborhood Traffic Calming Program Objectives

1. To achieve lower vehicle speeds in neighborhoods with identified speed problems.
2. To improve real and perceived safety for motorized and non-motorized users.
3. To promote pedestrian, bicycle and transit use.
4. To reduce cut-through traffic in neighborhoods.
5. To increase access for all modes and preserve reasonable emergency vehicle access.
6. To enhance the street environment.
7. To incorporate the preferences and needs of those using the street.

Traffic calming measures include vertical changes in the street (e.g., speed humps, raised intersections), lateral changes in the street (e.g., chicanes), constrictions (e.g., street narrowing, islands, pinch points), narrow pavement widths (e.g., medians, edge treatments), traffic circles, small corner radii, gateway features, and landscaping.

Procedures

The procedures for the neighborhood traffic calming program are described in the Procedures element. The program is a phased program;

The first phase is education and enforcement,
The second phase is eligibility and prioritization for funding, and
The third phase is design, testing, implementation, and evaluation.

Neighborhoods are required to coordinate with the Public Works Department for education, enforcement, and engineering strategies.

Project Eligibility

Screening of potential projects is necessary to determine whether there is a significant traffic problem in the neighborhood requiring traffic calming. The program's eligibility criteria are included in the ***Eligibility Criteria*** element. As with the procedures, the criteria are consistent with Canby's Draft Transportation System Plan, sound engineering practices, current City practice, coordination with affected agencies (i.e., emergency services, the Police Department), Canby's specific needs, and the experience of various jurisdictions currently implementing such programs nationwide.

Project Ranking

As eligible projects proceed through the development and selection process, those supported by technical data and receiving neighborhood support are prioritized for funding. The ranking criteria and scoring process for funding is described in the Project Ranking Criteria and Scoring Process element. Again, this method is consistent with City programs and practices, and traffic calming program research.

PROCEDURES

When a resident or neighborhood identifies a traffic problem they think should be addressed by the Neighborhood Traffic Calming Program, the following process shall be followed:

PHASE ONE

Step 1. Written Request:

An individual or neighborhood submits a written request for a traffic calming project to the Canby Public Works Department. The traffic problem is identified in the request.

Step 2. Information Sharing and Coordination:

Information Sharing - The City will assist neighborhoods interested in traffic calming by sharing information about the City's phased program. Staff are available for presentations.

Step 3. Coordination - Education and enforcement is emphasized in Phase One by requiring neighborhoods to coordinate with the Public Works Department and Planning Department.

Staff gathers preliminary data about the identified problem and works with the neighborhood to determine a primary approach; e.g., possible participation in Neighborhood Watch, use of the speed wagon or photo radar (if available), or implementation of less restrictive engineering solutions such as signing or striping.

The Public Works Department implements the approach. Effectiveness is monitored. If the approach is not appropriate to the problem, or if it is not considered effective after a six-month period, as determined by the Public Works Department, the project area may be considered for inclusion in Phase Two of the Traffic Calming Program.

PHASE TWO

Step 4. Eligibility Determination:

Staff gather and analyze the traffic data for the project area. Applicants may assist a trained City Staff person in collecting traffic data. Using the ***Eligibility Criteria***, the Director of Public Works makes a determination of whether the project area is eligible for installation of traffic calming measures. The requestor(s) is notified of the eligibility determination.

Step 5. Project Request:

If the project area is determined to be eligible, the requestor(s) is provided with a City project request petition form. The requestor(s) must gather signatures documenting support from a simple majority (51%) of all of the identified property owners, households and business owners within the Project Area. The petition will indicate that those signing want the City to consider a traffic calming project for the Project Area.

The Director of Public Works will determine the Project Area boundary based on the ***Project Area Guidelines***. For each tax lot within the project area, only one person may sign the petition as a representative of the property owner(s). In addition, for each residential unit and each business in the project area, if the occupant of the unit is not the property owner, only one person may sign the petition as a representative of the tenant(s) of the unit.

Step 6. Project Funding Priority:

If the petition requirements are met, then Staff prioritizes the Project Area for funding using the ***Project Ranking Criteria and Scoring Process***. Petitions received by the Public Works Department by September 30 each year will be considered for potential funding for the following year. Each year the Public Works Director presents the list of eligible projects to the Planning Commission and City Council. The project(s) which receives the highest ranking is recommended for earliest funding through the City's Capital Improvement Program based on City resources.

Step 7. Public Hearing at Planning Commission Meeting:

The Planning Commission holds a noticed public hearing using the adopted procedures for a Type IV review process (Council Decision). At the hearing, the Planning Commission considers the Staff recommendation for the project funding priority list and any appeals of the City staff determination of eligibility. The Planning Commission recommends a prioritized funding list to Council for approval, and the top ranked project(s) for inclusion in the City's Capital Improvement Program for funding, based on available resources.

In making its recommendation, the Planning Commission shall consider the project ranking criteria and any other factors that the Planning Commission determines to be relevant. Other factors may include other projects which may change the street system, proposed changes to land uses, evidence of significant opposition to the traffic calming project and similar factors. The Planning Commission recommendation is sent to the Council. The requestor(s) shall be notified of the ranking of their project and the expected funding level using the Type IV procedure. Council acts on the recommendation and makes the final decision on project ranking and funding level.

The funding list is updated annually to consider newly ranked projects. All ranked

projects will remain on the funding list for up to 4 years. Each project's score will be updated toward the end of its second year on the list. If after 4 years the proposed project has not received a high enough ranking to be funded, it will no longer be eligible for funding. This ensures that the project has not become obsolete due to changing traffic conditions or new residents in the area. A neighborhood, which has been dropped from the list, may choose to submit a new request.

Funding Options:

A neighborhood may choose to pay 100% of the project cost, or petition to form a Local Improvement District to fund the traffic calming project. Projects identifying an alternative funding option will be included on the funding list presented to the Planning Commission in Step 7, to be considered for primary implementation and construction by the City. The project must have remained eligible throughout Steps 2 through 4.

Upon approval by the Council, projects funded 100% by the neighborhood may proceed ahead of other funded projects, subject to availability of the City resources required for the project. A neighborhood may choose this option at any point in the process after Step 4. Projects funded by the neighborhood must follow all steps of these procedures.

Project costs include the cost of construction, design, inspection, project management, and (if needed) the cost of right-of-way acquisition.

PHASE THREE

Step 8. Project Development for Priority Project(s):

The City will host meeting(s) with neighbors in the Project Area, interested participants, residents, business owners and property owners. As a minimum, notice of the meetings shall be provided by signs similar to those used to give notice of Planning Commission hearings.

At the meeting(s), Staff present the traffic data, gather input, and discuss project design, neighborhood issues, and emergency access. Emergency service agencies will provide input to assure compliance with emergency access requirements. Through the meeting(s), Staff will work with the neighborhood to assess needs, identify alternative plans/solutions, and select a proposed plan based on sound engineering practices. If appropriate, a committee of representatives of the neighborhood may be formed for larger, more complex projects. The City Staff, in collaboration with the City Traffic Engineer, will work with the neighborhood to determine committee membership, meeting needs, and coordination with the neighborhood.

The cost of implementing the plan and the cost of maintenance shall be considered in selecting the plan. Traffic calming strategies that are likely to cause

a significant increase in the traffic volume on another street shall not be used. Exceptions will be made if it can be shown that the diversion is a desirable one (e.g., if through trips are diverted from a neighborhood route to a collector or arterial). If the traffic calming strategy is expected to cause an increase greater than 10% in traffic volume on another street, the affected area will be included in the support survey.

Step 9. Support Survey:

A survey will be conducted by the City to determine support for the selected plan for the proposed traffic calming project. The survey area will be determined by the City Traffic Engineer in accordance with the Project Area Guidelines. The survey area will be based on the selected plan and may be different from the project area of Step 5.

The City will distribute the survey form, and perform the survey analysis. In tallying survey responses, the City will consider only the responses received within 21 calendar days after the date that the survey forms are mailed or otherwise distributed.

For each tax lot within the survey area, one person may respond as a representative of the property owner(s). In addition, for each residential unit and each business in the survey area, if the occupant of the unit is not the property owner, one person may respond as a representative of the tenant(s) of the unit.

The survey response form shall include the option to abstain. In order to be counted as an abstention, the survey response form shall be returned to the City with the desire to abstain clearly indicated.

The project will proceed to Step 10 only if the survey results indicate support from at least a 67% majority of all the identified property owners, households and business owners in the survey area. Where the property owner or tenant has chosen to abstain, the property or rental unit shall be deducted from the total number of properties and rental units prior to calculating the 67% majority.

Step 10. Planning Commission Public Hearing:

The Planning Commission shall hold a noticed public hearing to take testimony to determine its recommendation on implementation of the selected plan. The Planning Commission recommendation will be forwarded to the City Council for final action as required under the Type IV procedure.

If appropriate and practicable, the Planning Commission may recommend the installation of temporary traffic calming measures for a trial period. The trial period shall be a minimum of two months and a maximum of six months. The duration of the trial period will be specified by the Planning Commission in its recommendation. Staff will collect traffic data before and after the installation of

the temporary measures to evaluate the effectiveness of the measures. Steps 9 and 10 shall be repeated following the conclusion of the trial period.

Step 11. City Design Review:

The City will process the appropriate application(s) and follow the adopted procedures for public review of the project. Upon Council approval, the project will be implemented.

Step 12. Project Monitoring:

Implemented projects will be monitored after the first and third years. Staff will provide an annual monitoring report to the Planning Commission for review. Any recommendations for modifications to a project will be included in the report.

Step 13. Removal of Traffic Calming Measures:

The Planning Commission will consider removal of traffic calming measures if a petition is received indicating that at least 67% of the properties within the Project Area support the removal. If written evidence is submitted clearly indicating that the owner of a property or tenant has chosen to abstain, the property or rental unit shall be deducted from the total number of properties and rental units prior to calculating the 67% majority. The Project Area boundary will be determined by the Director of Public Works in accordance with the Project Area Guidelines. Only one person may sign the petition for each property and only one for each rental unit. The request will be processed through the Planning Commission process.

ELIGIBILITY CRITERIA

Streets may be considered for installation of traffic calming devices when all of the following criteria are met:

1. The neighborhood has participated in Phase One of the Traffic Calming Program, to an appropriate level as determined by Director of Public Works.
2. The posted speed is 30 mph or less.
3. The 85th percentile speed of vehicles is at least 5 mph over the posted speed.
4. The street is not a primary emergency response route.
5. The street is a two-lane street.

The Director of Public Works may approve exceptions to items 1 through 5 on a case-by case basis in collaboration with The City Traffic Engineer.

PROJECT AREA GUIDELINES

All properties within the Project Area shall be considered in determining the percentage of support shown by project petitions or surveys. Project notices and surveys sent by the City shall be sent to all properties in the Project Area. For each survey or petition, the City Traffic Engineer will determine the Project Area boundary based on the following guidelines.

1. The Project Area shall include all properties directly abutting a street or portion of a street where traffic calming is proposed. The Project Area shall include properties abutting the street for 250 feet beyond the last proposed traffic calming measure.
2. The Project Area may include all properties directly abutting a street or section of a street significantly impacted by proposed traffic calming on another street. A street will be considered significantly impacted if proposed traffic calming measures can be expected to cause an increase greater than 10% in traffic volumes on the street.
3. The Project Area may include properties along side streets if they are located within 250 feet of a potential traffic calming measure.
4. The Director of Public Works in collaboration with the City Traffic Engineer may amend the project area to include additional properties affected by the proposed traffic calming program or to exclude properties clearly not affected by the proposed program.

Petitions and surveys are intended to solicit the opinions of those who live or work adjacent to proposed traffic calming measures. These are the people most likely to benefit from traffic calming measures. They are also the people most impacted by negative aspects of traffic calming, such as increased traffic noise, neighborhood appearance, or diversion of traffic to new routes.

PROJECT RANKING CRITERIA AND SCORING PROCESS

Eligible projects will be prioritized for funding using the following factors. The project scoring the highest number of points will receive the highest ranking. The project's score shall be the sum of the following seven factors:

1. Speed: Ten points for each mph the 85th percentile speed is over the base speed. The base speed is 10 mph over the posted speed for collectors, and 5 mph over the lawful speed for local and neighborhood routes. Maximum 40 points.
2. Speed: The percent of vehicles over the posted speed limit divided by 3 and rounded to the nearest whole number. Maximum 30 points.
3. Traffic Volume: The average weekday traffic volume divided by 100 and rounded to the nearest whole number. Maximum 30 points.
4. Collisions: The number of reported correctable collisions over the past five years. Correctable collisions are those that could have been prevented by the installation of traffic calming measures. (Examples: If the collision resulted from high speed, it could potentially have been prevented by installation of speed-reducing traffic calming measures. If the collision involved backing into a parked car, traffic calming would not have prevented the collision.)
5. Sidewalks: Five points if the street has no sidewalk, pedestrian pathway or paved shoulder. Zero points if pedestrian facilities are present.
6. School Proximity: Five points if a school abuts the subject street, or if the street includes a marked school crossing serving a school.
7. Major Pedestrian Crossing: Five points if there is a location along the street where an average of 10 or more pedestrians per hour cross the street during any 8 hours of one or more days of a typical week (i.e., a total of 80 or more pedestrians in the 8-hour period).



M E M O R A N D U M

TO: *Honorable Mayor Thompson and City Council*
FROM: *Catherine Comer, Economic Development Manager*
THROUGH: *Mark C. Adcock, City Administrator*
DATE: *August 10, 2009 for Council Meeting August 19, 2009*

Issue: **Resolution 1040 Establishing Fees for Sidewalk Cafés**

Summary: This resolution establishes annual fees for use of sidewalk cafés in the amount of \$25 for a permit and \$1 for use of right-of-way.

Recommendation

Staff recommends that the Council approve this resolution

***Recommended motion "I MOVE TO APPROVE RESOLUTION NO. 1040,
A RESOLUTION CREATING FEES FOR PERMITS FOR OPERATING SIDEWALK
CAFÉS AND USE OF THE PUBLIC RIGHT-OF-WAY FOR SIDEWALK CAFÉS."***

Rationale:

The Council finds that sidewalk cafés encourage a pedestrian-oriented environment, help to create a visually attractive atmosphere and streetscape, and promote overall commerce and wishes to establish fees that have a minimal impact to businesses due to the amount of other licensing and permit fees involved with operating this type of business,

Background:

The City Council held a discussion at an August 5, 2009 public hearing in which they voted to adopt Ordinance 1316 establishing a policy and permits for uses of sidewalk cafés and adding Section 12.13 to the Canby Municipal Code. Council directed staff to return with a resolution establishing fees.

Attached

Resolution No. 1040

RESOLUTION NO. 1040

A RESOLUTION CREATING FEES FOR PERMITS FOR OPERATING SIDEWALK CAFÉS AND USE OF THE PUBLIC RIGHT-OF-WAY FOR SIDEWALK CAFÉS.

WHEREAS, on August 5, 2009, the Canby City Council held a public hearing to determine a policy to allow alcohol to be served at sidewalk cafés and to determine a permit process; and

WHEREAS, following public input, the City Council voted unanimously to adopt Ordinance No. 1316, an ordinance authorizing sidewalk cafés, establishing a policy for permits and uses of sidewalk cafés, repealing section 12.12.035 of the Canby Municipal Code, amending Section 9.24.060 of the Canby Municipal Code and declaring an emergency; and

WHEREAS, within Ordinance No. 1316, the City Council determined that there should be an annual permit fee and an annual use of right-of-way fee for sidewalk cafés, and that said fees should be established by resolution of the Council; now therefore

IT IS HEREBY RESOLVED by the City Council of the City of Canby, as follows:

Section 1. The permit fees for sidewalk cafés shall be as follows:

\$25.00 annual permit fee

\$1.00 annual right-of-way rental fee

This Resolution shall take effect on August 19, 2009.

ADOPTED by the Canby City Council at a regular meeting thereof on August 19, 2009.

Melody Thompson
Mayor

ATTEST:

Kimberly Scheafer, CMC
City Recorder

MEMORANDUM



TO: *Honorable Mayor Thompson and City Council*
FROM: *Sue Engels, Finance & Court Services Director*
DATE: *August 7, 2009*
THROUGH: *Mark C. Adcock, City Administrator*

Issue: There are four expenses totaling \$59,109 for the General Fund that were not anticipated at the time the current year budget was adopted. They are:

1. Main Street Project promotional costs. Urban Renewal funds cannot be spent for promotional activities. It is estimated that \$8,000 of the project manager personal services expense and \$2,000 for materials and services will be used to promote the Main Street Project.
2. Police Chief recruitment cost. Search firm fees and other expenses are estimated at \$25,000.
3. Court Services Officer. Eliminating this position in the adopted budget was based on the assumption that the police department would be able to cover the CSO duties. This is proving to be not practical or cost effective. An officer assigned to court is taken away from patrol or traffic duty. At any time, the officer could be called away, leaving the court unprotected. Officers assigned to extra court sessions would likely be at overtime rates. The court services officer performs many duties for the court in addition to providing a uniformed presence. Cost of the CSO for the balance of the year is estimated at \$7,000.
4. Transfer to Library Fund of unspent donations. Unspent donations in the General Fund that belong to the Library at year end exceeded estimates by \$17,109.

Synopsis: Contingency funds are available for unforeseen expenses. However, expenditures are not made directly from contingency. Transfers must be made to an existing appropriation category. This can be accomplished by resolution of the Council.

Recommendation: Approve Resolution 1041 which transfers general operating contingency in the General Fund to the other expenditure categories.

Attached: Resolution 1041

RESOLUTION NO. 1041

A RESOLUTION AUTHORIZING TRANSFER OF APPROPRIATIONS FROM AN EXISTING CATEGORY TO OTHER EXISTING CATEGORIES WITHIN THE GENERAL FUND; AND AUTHORIZING A TRANSFER FROM THE GENERAL FUND TO THE LIBRARY FUND

WHEREAS, the City Council wishes to fund promotional expenses for the Main Street Project (\$10,000), the expenses of Police Chief recruitment effort (\$25,000), restoration of the Court Services Officer position (\$7,000), and transfer to the Library Fund of unspent donations earmarked for the Library (\$17,109); and

WHEREAS, theses expenses were not anticipated at the time the current year budget was adopted; and

WHEREAS, funds are available in General Fund Contingency, and the City wishes to keep expenditures within authorized appropriations for all funds,

NOW THEREFORE, BE IT RESOLVED THAT:

Section 1. The City Administrator shall transfer or caused to be transferred the following appropriations in the General Fund:

<u>From</u>		<u>To</u>	
Contingency	59,109	Admin. Dept. - Personal Services	8,000
		Admin. Dept. - Materials & Services	27,000
		Admin. Dept. - Transfer to Library	17,109
		Court Dept. - Personal Services	7,000

This resolution shall take effect on August 19, 2009.

ADOPTED by the Canby City Council at a regular meeting thereof on August 19, 2009.

Melody Thompson
Mayor

ATTEST:

Kimberly Scheafer, CMC
City Recorder
Resolution 1041

ORDINANCE NO. 1316

AN ORDINANCE AUTHORIZING SIDEWALK CAFÉS, ESTABLISHING A POLICY FOR PERMITS AND USES OF SIDEWALK CAFÉS, REPEALING SECTION 12.12.035 OF THE CANBY MUNICIPAL CODE, AMENDING SECTION 9.24.060 OF THE CANBY MUNICIPAL CODE AND DECLARING AN EMERGENCY.

WHEREAS, the City of Canby currently does not allow alcohol to be possessed or served, among other places, on the public right-of-way, including public sidewalks; and

WHEREAS, the City of Canby has been approached by local restaurants with liquor licenses asking the City to allow the service of alcohol at tables on public sidewalks in front of their food service businesses; and

WHEREAS, the Canby City Council wants to establish a procedure to license and regulate sidewalk cafés that desire to serve alcohol at sidewalk tables, now, therefore

THE CITY OF CANBY ORDAINS AS FOLLOWS:

SECTION 1: Canby Municipal Code Section 12.13 is added to read as follows:

Chapter 12.13

Sidewalk Cafés

Sections:

- 12.13.010 Purpose.**
- 12.13.020 Permit required.**
- 12.13.030 Definitions.**
- 12.13.040 Permit fee.**
- 12.13.050 Permit application.**
- 12.13.060 Notice required**
- 12.13.070 Location rules and review criteria.**
- 12.13.080 Liability and insurance**
- 12.13.090 Forms and conditions of permit.**
- 12.13.100 Denial, revocation or suspension of permit.**
- 12.13.110 Consumption of alcoholic beverages.**
- 12.13.120 Penalties.**

Section 12.13.010 Purpose.

The purpose hereof is to permit and encourage sidewalk vending that is

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compatible with other uses of the City of Canby public sidewalks. The City finds that sidewalk cafés encourage a pedestrian-oriented environment, help to create a visually attractive atmosphere and streetscape, and promote overall commerce.

Section 12.13.020 Permit required.

Private commercial use of public sidewalks for the purpose of operating a sidewalk café in the City is prohibited unless a permit is obtained from the City Administrator or Designee as provided herein.

Section 12.13.030 Definitions.

- A. Abutting property owners and occupants – Any owner or occupant of property which abuts the subject sidewalk café site excluding public right-of-way.
- B. Accessible Route – A continuous unobstructed path of travel connecting all publicly accessible elements and spaces of a building or facility.
- C. Adjacent sidewalk area – That portion of the public sidewalk between the curb line and the property line demarcated by extending the side building lines of the premises until they intersect the curb.
- D. Clearances – Clearances as referenced in this section are measured horizontally from the outside edge of the sidewalk café delineation to any obstruction on the ground greater than one-half inch in height, or to an adjacent projection such as tree limbs, tree wells, banners, signs, bike racks, lamp posts, or any other fixtures. Accessible route clearances shall be no less than four (4) feet in width and no less than seven (7) feet in height for the entire length of the accessible route. Radiuses along an accessible route shall be no less than four (4) feet in width.
- E. Operate a sidewalk café – Serving food or beverage from a restaurant to patrons seated at tables located within the adjacent sidewalk area, including, in the case of a permittee in possession of a valid license for the sale of alcohol beverages covering such sidewalk area, the service of such beverages, or providing seating for patrons in the adjacent sidewalk area.
- F. Substantiated – Witnessed and recorded by City staff.
- G. Tree Well – A defined area adjacent to a required street tree which provides a buffer for protection of the tree. The grade level surface of the tree well may contain movable tree pavers, steel grates, wood, dirt or other materials. With respect to measuring clearances, the area and surface materials within the tree well shall not be included. Any clearance shall be measured horizontally from the outside edge of the tree well, and/or projecting tree limbs.
- H. Vision clearance triangle – A vision clearance triangle is that area which abuts streets, alleys or driveway intersections whether on the subject property or the abutting property. The vision clearance triangle is determined by measuring the appropriate distance in both directions from the intersecting curb lines along the edge of the right-of-way and/or the edge of driveways and alleyways as determined by the zoning district and type of intersecting roadways as indicated within the Land Development and Planning Ordinance.

Section 12.13.040 Permit fee.

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- A. Applicants for a sidewalk café shall pay a permit fee and a rental fee for the use of the public right-of-way.
- B. The fee for the permit and the rental fee as described in Section 12.13.020 shall be as specified in a resolution adopted by the Canby City Council. Fees are annual and shall be payable upon renewal date. An initial non-refundable permit fee is payable upon application. The initial right-of-way rental fee is payable upon permit issuance.

Section 12.13.050 Permit application.

- A. Application for a permit to operate a sidewalk café shall be made to the City of Canby on a form provided by the City Administrator or Designee. Application for a permit will minimally contain:
 - 1. A completed application;
 - 2. A scaled plan of the proposed public sidewalk area for sidewalk café use, with dimensions shown to include at a minimum:
 - a. total square foot area of outside café area,
 - b. café entrance location and size,
 - c. ADA clearances into and throughout the café,
 - d. all clearances to fixtures, lights, tree wells, signs, news racks, bike racks, planters and any other obstructions,
 - e. size and location of tables and chairs,
 - f. location of outdoor café waste receptacles,
 - 3. If requested by the applicant any delineation must meet City Standards and application must also contain:
 - a. location and type of café delineation,
 - b. cross section of any fence or other delineation showing the construction materials and heights,
 - c. if applicable, details reflecting approved method of semi-permanent fence anchoring to the sidewalk or building; and
 - 4. A certificate of insurance and endorsement form;
 - 5. A copy of the alcohol control plan filed with the OLCC.
- B. Information shall be provided as required by the City Administrator or Designee to carry out the purpose hereof.

Section 12.13.070 Location rules and review criteria.

- A. The City Administrator or Designee shall review the application for compliance with the following criteria:
 - 1. The operation of a sidewalk café shall be located such that there is at least a minimum of four (4) feet of clear and unobstructed accessible route to a height of seven (7) feet measured vertically from grade between the sidewalk café delineation and tree wells, tree limbs, bike racks, lamp posts, sign posts and any other fixtures or obstructions. Radiuses along an accessible route shall be no less than four (4) feet in width.
 - 2. Additional restroom facilities may be required if the additional seating capacity created by a sidewalk café causes an increase in the required fixtures under Chapter 29 of the Oregon Structural Specialty Code.
 - 3. The location of the sidewalk café operation shall be approved by the City Council.

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- Administrator or Designee.
4. Accessible routes into, throughout, and adjacent to a sidewalk café shall be maintained in accordance with Chapter 11 of the Oregon Structural Specialty Code.
 5. The operation of a sidewalk café requires that trash containers be provided on site.
- B. The City Administrator or Designee will forward all applications for review by the Planning Director, Public Works Director and Police Chief or their designees for any business who holds a valid liquor license, or in which alcoholic beverages are intended to be served.
1. The Planning Director, Public Works Director and the Police Chief or their designees upon review of the application will sign the application for concurrence with granting the license, or,
 2. Submit a memorandum of concerns to be forwarded to City Council for consideration, signing the application in a location that acknowledges review of application.

Section 12.13.080 Liability and insurance.

A signed statement that the permittee shall hold harmless the City, its officers and employees, and shall indemnify the City, its officers and employees for any claims for damages to property or injury to persons which may occur in connection with an activity carried on under the terms of the permit. Permittee shall furnish and maintain such public liability, liquor liability, food products liability, and property damages insurance as will protect permittee and City from all claims for damage to property or bodily injury, including death, which may arise from operations under the permit or in connection therewith. Such insurance shall provide coverage of not less than the amount of municipal tort liability under the Oregon Tort Claims Act. The permittee shall name the City of Canby as an additional insured by attaching an endorsement to the certificate of insurance (provided by the City). Such insurance shall be without prejudice to coverage otherwise existing therein, and shall name as additional insured the City, its officers, and employees, and shall further provide that the policy shall not terminate or be canceled prior to the expiration of the permit without 30 days written notice to the city.

Section 12.13.090 Forms and conditions of permit.

The permit issued shall be in a form deemed suitable by the City Administrator or Designee. In addition to naming the permittee and other information deemed appropriate, the permit shall contain the following minimum conditions.

- A. Requirements for all sidewalk cafés:

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1. Each permit issued shall terminate one year after the anniversary date.
 2. The permit issued shall be personal to the permittee only and is not transferable in any manner without first obtaining permission from the City Administrator or Designee. The permittee will be responsible for compliance with all conditions of approval.
 3. The permit may be temporarily suspended by the City Administrator or Designee if the public interest requires use of the right-of-way for a public event, construction, repair, or any other purpose.
 4. The permit is specifically limited to the area approved or as modified by the City Administrator or Designee, and will include a site plan as required by Section 12.13.050 indicating the area approved for the sidewalk café and the location of the tables and materials permitted to be in the right-of-way. If requested by applicant, each business operating a sidewalk café shall utilize an approved method in accordance with City Standards, to clearly delineate the café.
 5. The operation of a sidewalk café shall be located such that there is at least a minimum of four (4) feet of clear and unobstructed accessible route between the café delineation and tree wells, tree limbs, bike racks, lamp posts, sign posts and any other fixtures or obstructions, to a height of seven (7) feet measured vertically from grade. Radiuses along an accessible route shall be no less than four (4) feet in width.
 6. The sidewalk and all things placed thereon shall at all time be maintained in a clean and orderly condition. Only those things authorized by the permit and shown on the site plan may be stored in the public right-of-way when the sidewalk café is not in operation. The operation of a sidewalk café requires that trash containers be provided on site.
 7. All required building modifications or parking improvements shall be completed prior to the commencement of the operation of the sidewalk café.
 8. No signs shall be attached to any furniture or any other structure related to the operation of the sidewalk café.
 9. The permittee shall notify the City Administrator or Designee in writing when operation of the sidewalk café commences.
 10. No use of City fixtures will be allowed.
 11. Sidewalk cafés shall not occupy or obstruct the Visual Clearance Triangle.
 12. Council has the right to repeal or amend this Chapter and thereby terminate or modify all sidewalk café operations. No permittee shall obtain any property right in the continued private commercial use of the public sidewalk.
 13. Sidewalk café hours of operation will discontinue by 11:00 PM nightly.
- A. Businesses which intend to serve alcoholic beverages at the sidewalk café must additionally meet the following requirements:
1. The business shall provide verification that they hold a valid Oregon Liquor Control Commission liquor license.
 2. Except for bottles, pitchers, and carafes that are being served to customers of the café, storage of all other containers must be kept inside the business.

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No taps, kegs, coolers, or other alcoholic beverage storage devices are allowed outside on the sidewalk.

3. Sidewalk cafés where alcoholic beverages are served and consumed require supervision by employees of the licensed business, as required by the Oregon Liquor Control Commission liquor license.
4. If requested by the applicant, each business serving alcoholic beverages at the sidewalk café shall utilize an approved method in accordance with City Standards, to clearly delineate the café.
5. All service and consumption of alcoholic beverages at sidewalk cafés will discontinue by 11:00 PM nightly.
6. All alcoholic beverage service providers must also provide food service in the licensed area.
7. Sidewalk cafés shall designate one access/exit point for the exterior service area and this point shall be located near a business entrance; and shall post signage at the access/exit point prohibiting the removal of alcoholic beverages from the licensed sidewalk café area.

Section 12.13.100 Denial, revocation or suspension of permit.

- A. The City Administrator or Designee may deny, revoke, or suspend the permit upon finding that any provision herein or condition of approval will be or has been violated.
- B. Upon denial, revocation, or suspension, the City Administrator or Designee shall give notice of such action to the applicant or permittee in writing stating the action which has been taken and the reason therefor. The action shall be effective immediately, but the applicant or permittee may make written request, within 10 calendar days after the notice is issued, for a hearing by the City Administrator or Designee. Upon hearing the matter, the City Administrator or Designee shall render a final decision concerning the permit.

Section 12.13.110 Consumption of alcoholic beverages.

The provisions of Section 9.24.060 of the CMC notwithstanding, patrons, while seated at a sidewalk café licensed to sell alcoholic beverages, may possess and consume such beverages.

Section 12.13.120 Penalties.

In addition to the remedies set out below, violations of the provisions of this section may be subject to other appropriate legal or equitable actions to restrain, correct, or abate the violations. These remedies are intended to be cumulative and not exclusive. The following violations are infractions punishable by a penalty in accordance with this section. Any violation of this section may be prosecuted as a Class A infraction under the procedures of ORS Chapter 153 and Canby Municipal Code Section 1.08.010. The City Administrator or Designee is authorized to issue a citation or written notice of violation to any person violating the provisions herein. In addition:

- A. Any sidewalk café operating without a valid permit for the year shall be notified by the City that it is in violation of this section, and will be allowed up to ten business days to file an application. If no application is filed within

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10-days, the operator of the café shall be notified and a civil penalty of \$500 per day shall be levied.

- B. Any sidewalk café operating with a valid license, but found by the City to have a substantiated instance of failing to be in compliance with the other provision of this section of the Canby Municipal Code shall be given up to two written notices per year, warning that it is operating out of compliance and in violation of this section. On the third investigated and substantiated instance of non-compliance, notice of the non-compliance may be delivered and penalties may be levied as follows:
 - 1. first levy (third substantiated violation) \$500;
 - 2. second levy (fourth substantiated violation) \$1,000;
 - 3. third levy (fifth substantiated violation) \$1,500.
 - 4. Penalties shall continue to accrue in \$500 increments for each additional substantiated violation.
- C. In accordance with Section 12.13.100, the City Administrator or Designee may deny, revoke, or suspend the permit upon finding more than three separate instances of substantiated violations that result in fines.
- D. Levies of civil penalties and revocations of permits may be appealed to the municipal court judge within ten days of date written notice of the levy of penalty or revocation is deposited in the United State Mail with first class postage addressed to the café or delivered to an employee of the café or posted at the café. If no appeal is filed within ten days of the notice, the levy of penalty shall be final and failure to pay the levy shall be a separate violation of this section.
- E. Any appeal must be in writing, signed by the owner or operator of the café, and must state the grounds for the appeal. The appeal must be accompanied by a deposit in the amount of the levy and an appeal fee of \$50. The appeal must be filed with the municipal court. The appeal must be served upon the City Attorney. Failure to comply with any of these requirements within ten days of the date of notice shall result in a dismissal of the appeal, a forfeiture of the appeal fee, and entry of judgment in the amount of the levy by the municipal court in its register.
- F. Rules of conduct for hearing and final order. The Municipal Judge shall develop any rules, procedures or regulations that may be necessary for the proper conduct of the appeal. The only issue to be decided by the Municipal Judge is a determination of whether or not the café was in violation of CMC 12.13.120(1) or (2) as alleged in the notice of penalty. If the municipal Judge finds that it is more likely than not that the café was in violation as specified in the notice of penalty, the Municipal Judge shall issue an order affirming the levy of penalty and enter a judgment for the amount of the levy of penalty into the register of the Municipal Court. The order and judgment shall contain a provision for court costs to be paid by the violator in the amount of \$250. If the Judge finds that it is more likely than not that the café was in compliance and not in violation as specified in the notice of penalty, the Judge shall void the notice of penalty. The Judge's order is final and is not subject to appeal. It shall not be a defense that the café owner or operator did not receive notice

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of the penalty if mailed to the address of the café or delivered to an employee of the café. It shall not be a defense that the café owner or operator was not aware of the permit requirements.

- G. Failure to pay levy penalty. Unless the full amount of the levy of penalty is paid within ten days after notice of penalty or the order becomes final by operation of law, or after appeal, each day that the penalty is not paid shall constitute a further violation.

SECTION 2: CMC section 12.12.035 is hereby repealed.

SECTION 3: CMC section 9.24.060 is hereby amended to read as follows:

“Section 9.24.060 Drinking in public places.”

“No person shall drink or consume alcoholic liquor in or on a street, alley, sidewalk, mall, public or private parking lot or parking structure, motor vehicles, public grounds or other public places unless the place has been licensed for that purpose by the Oregon Liquor Control Commission and the owner of the OLCC licensed premises has obtained a permit from the City of Canby to operate a sidewalk café.”

SECTION 4: Emergency Declared.

In order to best serve the citizens of the City of Canby by authorizing sidewalk cafés to serve alcoholic beverages, an emergency is hereby declared to exist and this ordinance shall take effect immediately upon its enactment after final reading.

SUBMITTED to the Canby City Council and read the first time at a regular meeting therefore on Wednesday, August 5, 2009, 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 19, 2009, commencing at the hour of 7:30 pm at the Council Meeting Chambers located at 155 N.W. 2nd Avenue, Canby, Oregon.

Kimberly Scheafer, CMC
City Recorder Pro-Tem

2nd Reading

PASSED on second and final reading by the Canby City Council at a regular meeting thereof on the 19th of August, 2009, by the following vote:

YEAS_____

NAYS_____

Melody Thompson, Mayor

ATTEST:

Kimberly Scheafer, CMC
City Recorder Pro-Tem

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ORDINANCE NO. 1317

AN ORDINANCE AUTHORIZING THE MAYOR AND CITY ADMINISTRATOR TO EXECUTE A CONTRACT WITH EAGLE-ELSNER, INC. FOR THE 2009 STREET MAINTENANCE PROGRAM; AND DECLARING AN EMERGENCY.

WHEREAS, the City of Canby has heretofore advertised and received seven (7) bids for the 2009 Street Maintenance Program; and

WHEREAS, the notice of call for bids was duly and regularly published in the Oregon Daily Journal of Commerce on July 9th, 2009; and

WHEREAS, bids were received and opened on July 28th, 2009 at 2:00 pm in the Planning Department Conference Room of the Canby City Hall and the bids were read aloud:

WHEREAS, the bidders are as listed below and a detailed tabulation of all items is attached herein:

Eagle-Elsner, Inc.	P.O. Box 23294 Tigard, OR 97281	\$424,341.00
Guernsey Stone Company	P.O. Box 12009 Salem, OR 97309	\$452,795.00
Brix Paving Company	P.O. Box 2388 Tualatin, OR 97062	\$478,297.84
Parker NW Paving Company	24370 SE Hwy 99E Canby, OR 97013	\$479,847.50
Roy L. Houck Construction Company	4444 22 nd Ave NE Salem, Or 97301	\$484,650.00
Knife River	3330 NW Yeon Ave, Ste 100 Portland, OR 97210	\$512,138.00
Portland Road and Driveway Company	10500 SE Jennifer St Clackamas, OR 97015	\$517,357.00

WHEREAS, the Canby City Council, acting as the City's Contract Review Board, met on Wednesday, August 5th, 2009, and considered the bids and reports and recommendations of the City staff, including the staff recommendation that the low responsive bid be selected; and

WHEREAS, the City of Canby has budgeted \$500,000 for the Street Department share of the construction cost, and \$78,587.50 of funding from the Parks Department; and

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WHEREAS, the Canby City Council determined that the low responsive bid was that of Eagle-Elsner, Inc.; now therefore

THE CITY OF CANBY ORDAINS AS FOLLOWS:

Section 1. The Mayor and/or City Administrator are hereby authorized and directed to make, execute, and declare in the name of the City of Canby and on its behalf, an appropriate contract with Eagle-Elsner, Inc. for 2009 Street Maintenance Program, a unit price contract not to exceed \$578,587.50. A copy of the contract with Eagle-Elsner, Inc. prepared in the original bid amount of \$424,341 is attached hereto and marked as Exhibit "A" and by this reference incorporated herein.

Section 2. Inasmuch as it is in the best interest of the citizens of Canby, Oregon, to complete this project as soon as possible, an emergency is hereby declared to exist and this ordinance shall therefore take effect immediately upon its enactment after final reading.

SUBMITTED to the Canby City Council and read the first time at a regular meeting therefore on Wednesday, August 5th, 2009; ordered posted as required 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 19th, 2009, commencing at the hour of 7:30 pm at the Council Meeting Chambers located at 155 NW 2nd Avenue, Canby, Oregon.

Kimberly Scheafer, CMC
City Recorder

PASSED on second and final reading by the Canby City Council at a regular meeting thereof on the 19th day of August, 2009, by the following vote:

YEAS _____ NAYS _____

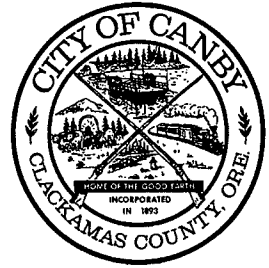
Melody Thompson, Mayor

ATTEST:

Kimberly Scheafer, CMC
City Recorder

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MEMORANDUM



TO: *Honorable Mayor Thompson and City Council*
FROM: *Dwayne Barnes, Director of Public Works*
DATE: *August 7, 2009*
THROUGH: *Mark C. Adcock, City Administrator*

Issue: Ordinance 1318, An Ordinance authorizing the purchase of a 2009 Elgin Crosswind J Street Sweeper from Owen Equipment through a five year municipal lease purchase contract with Ford Motor Credit.

Synopsis: The City's current street sweeper is a 1996 Elgin Pelican that is at the end of its useful life. Additionally, it uses a mechanical sweeping process that does not clean the streets of fine debris. The proposed new sweeper uses a process called "regenerative air" in which mechanical brooms are assisted by strong suction to remove debris from the roadway. In addition to sweeping, the 2009 Elgin Crosswind J street sweeper includes a suction hose on the rear of the machine that can be used to clean storm drains.

Recommendation: Staff recommends the Council adopt Ordinance 1318.

Background: Over the past year, staff has tested several brands of street sweepers to locate the brand and model that is best suited for sweeping our streets and parking lots and has the ability to clean storm drains. The operators unanimously agreed that the Elgin Crosswind J was the best unit for the City of Canby. Our current street sweeper is a mechanical unit that uses a broom to sweep debris into a hopper. The Elgin Crosswind uses a process called "regenerative air." Using a powerful blower wheel, air is pulled out of the hopper into a centrifuge which separates dust and fine particulates out of the air. The air is then directed down a transition tube into the pick-up head. Inside the head, the air is forced through a "Blast Orifice" creating a 250 mph controlled blast of air lifting debris from the road surface as well as fine particulates from the cracks and pores. As the air is pulled from the hopper, a low pressure is created causing an equally powerful suction. At the "pick-up tube" debris is lifted and carried in the air stream into the large hopper. Once in the hopper, the air loses velocity and the debris falls out of the air stream and is collected in the hopper. The cycle is repeated as the blower pulls air into the centrifugal dust separator where air spins at high speed along the curved wall and is skimmed into the hopper. Cleaned air is returned to the blower to start the cycle again.

Attached: Ordinance 1318

THIS HAS BEEN REVIEWED
BY THE FINANCE DIRECTOR
Sue Engels

ORDINANCE NO. 1318

AN ORDINANCE AUTHORIZING THE MAYOR AND CITY ADMINISTRATOR TO EXECUTE A CONTRACT WITH OWEN EQUIPMENT FOR THE PURCHASE OF ONE (1) 2009 ELGIN CROSSWIND J STREET SWEEPER FOR THE CANBY PUBLIC WORKS DEPARTMENT AND A CONTRACT WITH FORD MOTOR CREDIT FOR A FIVE (5) YEAR LEASE PURCHASE OF THE STREET SWEEPER, AND DECLARING AN EMERGENCY.

WHEREAS, the City of Canby wishes to purchase one (1) 2009 Elgin Crosswind J Street Sweeper for the Canby Public Works Department; and

WHEREAS, the cost of the street sweeper, financed through Ford Motor Credit Company through a five year municipal lease purchase contract, will be paid by the Canby Public Works Department through revenues of which the annual debt service payment(s) has been budgeted for the fiscal year 2009-2010 budget; and

WHEREAS, in accordance with ORS Chapter 279 and Canby Public Purchasing Rules as set forth in Ordinance No. 1170 and Resolution No. 897, Exhibit A, Section 5, G (18), the City wishes to utilize an existing solicitation from another governmental agency; and

WHEREAS, in January, 2009, King County, Washington awarded Owen Equipment Company a contract to supply the aforementioned Elgin Crosswind Sweeper for the prices specified in ITB 1352-08 OLB; and

WHEREAS, King County, Washington in its solicitation ITB 1352-08 OLB authorized other governmental agencies to utilize their solicitation for the subject street sweeper; and

WHEREAS, The Canby Public Works Department in consultation with Fleet Services Department selected the base sweeper along with options needed to provide the City or Canby with an efficient sweeping unit; and

WHEREAS, the City Council meeting and acting as the Contract Review Board for the City of Canby has reviewed the Owen Equipment quote and the Ford Motor Credit municipal lease purchase contract, reviewed the staff report and believes it to be in the best interest of the City to purchase this vehicle from Owen Equipment with funding provided through a municipal lease from Ford Motor Credit Company; now therefore

THE CITY OF CANBY ORDAINS AS FOLLOWS:

Section 1. The Mayor and City Administrator are hereby authorized and directed to make, execute and declare in the name of the City of Canby and on its behalf, an appropriate purchase contract with Owen Equipment Inc. for the purchase of one (1) 2009 Elgin Crosswind Street Sweeper for the quoted amount of \$192,223.50.

Section 2. The Mayor and City Administrator are hereby authorized and directed to make, execute and declare in the name of the City of Canby and on its behalf, an appropriate Municipal Lease Purchase Contract with Ford Motor Credit Company for the revenue to purchase the Elgin Crosswind Street Sweeper referenced in Section 1 of this Ordinance.

Section 3. In so much as it is in the best interest of the citizens of the City of Canby, Oregon to provide the Public Works Department with this vehicle without further delay, and to better serve the citizens of Canby, an emergency is hereby declared to exist and this ordinance shall therefore take effect immediately upon its enactment after final reading.

SUBMITTED to the Canby City Council and read the first time at a regular meeting thereof on August 19th, 2009, and ordered posted in three (3) public and conspicuous places in the City of Canby as specified in the Canby City Charter and to come before the City Council for final reading and action at a regular meeting thereof on September 2nd, 2009, commencing at the hour of 7:30 P.M. in the Council Meeting Chambers located at 155 NW 2nd Avenue.

Kimberly Scheafer
City Recorder

PASSED on second and final reading by the Canby City Council at a regular meeting thereof on the 2nd day of September, 2009, by the following vote:

YEAS _____

NAYS _____

Melody Thompson, Mayor

ATTEST:

Kimberly Scheafer, City Recorder



August 13, 2009

City of Canby
Attn: Kim Sheaffer, City Recorder
PO Box 930
Canby, OR 97013-0930

Dear Ms. Sheaffer,

Canby Utility requests a single-day variance to Canby Municipal Code Section 9.48.010 that limits the hours of construction in the City to between the hours of 7:00 AM and 10:00 PM. As detailed below, the variance would allow water tank construction to begin at 5:30 AM on an upcoming Tuesday. City Building Official Bob Godon informs me that this request may be made of the City Council.

Canby Utility has contracted with Aquastore NW to construct a second 2 million gallon water tank at 440 SW 13th Avenue. Canby Utility requests a variance to the ordinance to allow construction to begin at 5:30 AM on Tuesday, August 25 or Tuesday, September 1. We expect to know which date by Monday, August 17, two days prior to the next City Council meeting on August 19.

The tank materials are expected to arrive August 21 through August 25. The concrete base of the water tank will be poured by Aquastore NW upon arrival of the materials. If the tank arrives as planned, Aquastore NW will pour the concrete base on August 25th. If the tank does not ship on time, the concrete pour will be rescheduled for Tuesday, September 1, 2009. Max Marcott of Aquastore NW is waiting for shipment confirmation and expects to have a definitive answer by Monday, August 17.

Canby Utility requests a variance for the morning of the actual concrete pour. If allowed, the concrete trucks would arrive at 5:30 AM and begin pouring at 6:00 AM. Aquastore NW would be finished prior to 10:00 PM. Canby Utility would alert the immediate neighbors of our early morning activity in advance.

I am available to answer any additional questions. Please let me know in writing if this variance is approved.

Thank you for your time and consideration in this matter.

Sincerely,

Sue Arthur
Purchasing Agent