

AGENDA

CANBY CITY COUNCIL MEETING
January 17, 2007, 7:30 P.M.
(After Urban Renewal Agency Special Meeting)
Council Chambers
155 NW 2nd Avenue

Mayor Melody Thompson

Council President Walt Daniels
Councilor Teresa Blackwell
Councilor Randy Carson

Councilor Tony Helbling
Councilor Wayne Oliver

WORK SESSION

6:30 P.M.

City Hall Conference Room
182 N Holly

The City Council will be meeting in a work session to discuss proposed changes to the City Charter.

CITY COUNCIL MEETING

1. CALL TO ORDER

A. Pledge of Allegiance and Moment of Silence

2. COMMUNICATIONS

3. 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.)

4. MAYOR'S BUSINESS

5. COUNCILOR COMMENTS & LIAISON REPORTS

6. 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 Accounts Payable \$395,095.93

B. Approval of Minutes of the January 3, 2007 City Council Meeting

C. Approval of Minutes of the January 3, 2007 Special Meeting

7. RESOLUTIONS & ORDINANCES

- A. Ord. 1228, Ratifying Contract with KinTechnology, Inc. for the Provision of
Emergency Support to the City for its Computer Technical Services
(2nd Reading) Pg.1
- B. Ord. 1229, Authorizing Contract with Cynthia Thompson of BCB Consulting for
Professional Services for Interim Management of Canby Area Transit Service Pg.3

8. NEW BUSINESS

- A. Memorandum of Agreement with Canby Cinema LLC Pg.13
- B. Request for Water Service by Canby Chapel Church of the Nazarene Pg.21
- C. Memorandum of Understanding II with Canby Livability Coalition Pg.27

9. CITY ADMINISTRATOR'S BUSINESS & STAFF REPORTS

- A. Status Report on Police Facility Planning
- B. Report on City Audit

10. CITIZEN INPUT

11. ACTION REVIEW

12. EXECUTIVE SESSION: ORS 192.660(2)(h) PENDING LITIGATION

13. 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.

ORDINANCE NO. 1228

AN ORDINANCE RATIFYING A CONTRACT WITH KINTECHNOLOGY, INC OF CANBY, OREGON FOR THE PROVISION OF EMERGENCY SUPPORT TO THE CITY FOR ITS COMPUTER TECHNICAL SERVICES; AND DECLARING AN EMERGENCY.

WHEREAS, on December 12, 2006, the City of Canby received notice from its current computer service provider, Max DeRungs of IMR, Inc., that he could no longer provide any support to the City's computer network, effective immediately; and

WHEREAS, City was in need of immediate support for computer services for its network; and

WHEREAS, the Canby City Administrator declared, in writing, that emergency conditions existed requiring prompt action to select another computer service provider immediately; 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 B (4) an emergency contract was entered into and signed on behalf of the City by the Canby City Administrator on December 13, 2006, a copy of which is attached hereto as Exhibit "A" and by this reference incorporated herein; and

WHEREAS, within 30 days of the date of this contract, the City Council meeting and acting as the Contract Review Board for the City of Canby has reviewed this contract and the staff report and believes it to be in the best interest of the City to ratify this contract; now therefore

THE CITY OF CANBY ORDAINS AS FOLLOWS:

Section 1. The Contract, marked as Exhibit "A" hereto, with KinTechnology, Inc., of Canby, Oregon executed on December 13, 2006 by the City Administrator is hereby authorized and ratified as an emergency contract entered into under circumstances that created a substantial risk of interruption of services to the City of Canby, Oregon and the Council finds that awarding the contract in this manner was unlikely to encourage favoritism in the awarding of public contracts or substantially diminish competition for public contracts and will result in a substantial cost savings to the City.

2nd Reading

Section 2. In so much as it is in the best interest of the citizens of the City of Canby, Oregon to ratify the new contract 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 January 3, 2007, 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 January 17, 2007, commencing at the hour of 7:30 P.M. in the Council Meeting Chambers at Canby City hall in Canby, Oregon.

Kimberly Scheafer
City Recorder - Pro Tem

PASSED on second and final reading by the Canby City Council at a regular meeting thereof on the 17th day of January, 2007, by the following vote:

YEAS _____

NAYS _____

Melody Thompson, Mayor

ATTEST:

Kimberly Scheafer,
City Recorder - Pro Tem

DATE: January 9, 2007

MEMO TO: Honorable Mayor Thompson and City Councilors

FROM: Beth Saul, General Services Director

Through: Mark Adcock, City Administrator

RE: Extension of contract for professional services for Transit Department

Issue:

With the resignation of the former Transit Director there has been a need for assistance from a contractor who has a background in transit systems. This contractor, Cynthia Thompson, was brought on board under a personal services contract to help the City meet impending deadlines for grants and to help evaluate the department's budget and operations. With the City budget cycle approaching, staff feels that extending this contract is in the best interests of the City and the Transit Department.

Recommendation:

Staff recommends that the Council approve the personal services contract with Cynthia Thompson of BCB Consulting as presented.

Background:

Cynthia Thompson has over twenty years of experience in the transit field, including five years as director of the Wilsonville SMART system. She has already brought the City up to speed in terms of meeting grant cycle deadlines and is now reviewing the operation and budget of the department, as well as monitoring existing grants. She is assisting staff with the review of applicants for the Transit Manager position, which we hope to have filled in early spring. Since that position will not be filled before the City budget process, staff believes the contractor's experience and knowledge of transit system operations and budgets is critical to the successful preparation of the 2007-2008 budget and thus wish to extend her contract.

Fiscal Impact:

Funds are available in the unused portion of the former Transit Director's salary line item.

ORDINANCE NO. 1229

AN ORDINANCE AUTHORIZING THE MAYOR AND CITY ADMINISTRATOR TO EXECUTE A CONTRACT WITH CYNTHIA THOMPSON OF BCB CONSULTING FOR PROFESSIONAL SERVICES FOR INTERIM MANAGEMENT OF CANBY AREA TRANSIT SERVICE; AND DECLARING AN EMERGENCY.

WHEREAS, the City of Canby currently has need of interim management services for Canby Area Transit to prepare and submit grants, monitor existing grants, assist with budget analysis and development, assist with future planning, and other such activities until such time as a permanent Transit Manager is selected by the City; and

WHEREAS, the City wishes to employ Cynthia Thompson of BCB Consulting, as an independent contractor under a personal services contract for the purpose of carrying out the these activities; and

WHEREAS, Cynthia Thompson of BCB Consulting has proposed a personal services contract which is acceptable to the City; and

WHEREAS, in accordance with ORS Chapter 279 and Canby Public Purchasing Rules set forth in Ordinance No 1170 and Resolution No. 897, Exhibit A, Section 6 B (7), the city may enter into personal service contracts not exceeding \$75,000.00 by direct appointment without competition; and

WHEREAS, the City Council meeting and acting as the Contract Review Board for the City of Canby has reviewed this proposal, reviewed the staff report and finds that the contract is in the best interest of the City to enter into; 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 contract with Cynthia Thompson of BCB Consulting, the copy of said contract is attached hereto and marked as Exhibit "A" and by this reference fully incorporated herein.

Section 2. Emergency Declared.

It being necessary for the health, safety, and general welfare of the citizens of Canby that this master plan be completed as soon as possible, 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 thereof on Wednesday, January 17, 2007, 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 Wednesday, February 7, 2007, commencing at the hour of 7:30 PM in the Council Meeting Chambers at Canby City Hall in Canby, Oregon.

Kimberly Scheafer, City Recorder Pro-tem

PASSED on second and final reading by the Canby City Council at a regular meeting thereof on the 7th day of February 2007, by the following vote:

YEAS _____

NAYS _____

Melody Thompson, Mayor

ATTEST:

Kimberly Scheafer, City Recorder Pro-tem

PERSONAL SERVICES AGREEMENT

THIS AGREEMENT is between the CITY OF CANBY (City) and BCB CONSULTING through CYNTHIA THOMPSON (Contractor).

- A. City requires services which Contractor is capable of providing, under terms and conditions hereinafter described.
- B. Contractor is able and prepared to provide such services as City requires, under those terms and conditions set forth.

The Parties Agree as Follows:

- 1. Scope of Services. Contractor's services under this Agreement shall consist of the following:
 - A. See Exhibit "A" attached hereto.
- 2. Contractor Identification. Contractor shall furnish to City is employer identification number as designated by the Internal Revenue Service, or Contractor's Social Security Number, as City deems applicable.
- 3. Compensation:
 - A. City agrees to pay Contractor for services provided as set forth in Exhibit "B"
 - B. City agrees to pay Contractor within 30 days after receipt of Contractor's itemized statement. Amounts disputed by the City may be withheld pending settlement.
 - C. City certifies that sufficient funds are available and authorized for expenditure to finance costs of the Agreement.
- 4. Contractor is Independent Contractor.
 - A. Contractor's services shall be provided under the general

Reviewed by JNK 11-5-06

supervision of the Transit Department with day to day oversight provided by the Beth Saul. Contractor shall be an independent contractor for all purposes and shall be entitled to no compensation other than the compensation provided for under Paragraph #3 of this Agreement.

B. Contractor certifies that it is either a carrier-insured employer or a self-insured employer as provided in Chapter 656 of the Oregon Revised Statutes. Contractor will provide proof of such coverage to the City, upon request.

C. Contractor hereby represents that no employee of the City, or any partnership or corporation in which a City Employee has an interest, will or has received any remuneration of any description from Contractor, either directly or indirectly, in connection with the letting or performance of this contract, except as specifically declared in writing.

5. Subcontractors and Assignment. Contractor shall neither subcontract any of the work, nor assign any rights acquired hereunder, without obtaining prior written approval from City. City, by this Agreement, incurs no liability to third persons for payment of any compensation provided herein to Contractor. Any subcontract between Contractor and subcontractor shall require the subcontractor to comply with all applicable OSHA regulations and requirements

6. Work is Property of City. All work performed by Contractor under this Agreement shall be the property of the City.

7. Term.

A. This Agreement shall terminate upon completion of all work tasks unless terminated previously by:

1. Mutual written consent of the parties.

2. Either party, upon thirty (30) days written notice to the other, delivered by certified mail or in person.

3. City, effective upon deliver of written notice to Contractor by certified mail, or in person, under any of the following:
 - a. If Contractor fails to provide services called for by this Agreement within the time specified or any extension thereof.
8. Professional Standards. Contractor shall be responsible to the level of competency presently maintained by others practicing the same type of work in City's community, for the professional and technical soundness, accuracy and adequacy of all work and materials furnished under this authorization.
9. Insurance. Insurance shall be maintained with the following limits:
 - A. Liability - \$500,000.00

The City may require current copies of insurance certificates.
10. Legal Expense. In the event legal action is brought by City or Contractor against the other to enforce any of the obligations hereunder or arising out of any dispute concerning the terms and conditions hereby created, the losing party shall pay the prevailing party such reasonable amounts for attorneys fees, costs, and expenses as may be set by the court both at trial and all appeals therefrom.
11. Limitation of Liability. Any and all liability or claims for damages, costs of defense or expenses will be limited to a sum not to exceed One Hundred Thousand Dollars (\$100,000), or the amount of its fee, whichever is greater on account of any injury or damage to persons or property arising out of any design defect, error, omission or professional negligence.
12. Notices. Any notice, bills, invoices, reports, or other documents required by this Agreement shall be sent by the parties by United States mail, postage paid, or personally delivered to the address below. All notices shall be in writing and shall be effective when delivered.

If mailed, notices shall be deemed effective forty-eight (48) hours after mailing unless sooner received.

CITY: Beth Saul
City of Canby
182 N. Holly Street
Canby, OR 97013

CONTRACTOR: Cynthia Thompson
BCB Consulting

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly appointed officers.

CONTRACTOR:

CITY OF CANBY:

By: 

By: 

Date: 12/6/04 Date:

City of Canby
Canby Area Transit

Scope of Work

December 2006-January 2007

BCB Consulting agrees to provide the following products and services to the City of Canby, Canby Area Transit.

Deliverables

- **Transit Management**

- **Operations**

- Review OHAS contract and services and make recommendations
 - Assist with day to day operations as needed
 - Manage and work with City and OHAS management and staff.

- **Financial Management**

- **Grants**

- 5310, 5311, Special Transportation Fund (STF) grants

- Review, prepare, and submit necessary grant reports and grant applications.
 - 5310 & STF/Innovative grant application due December 20th, 2006, BCB will take necessary steps to ensure these applications are completed and submitted by the December 20th deadline.
 - Contact appropriate representatives for the various grant funds and take appropriate steps to ensure Canby is well represented in the funding process for each grant.
 - Attend necessary funding review committee meetings and other pertinent meetings
 - Educate and train Tracy on transit grants and grant management to the extent possible during this contract period.

- **BETC**

- Review existing BETC application and assess current situation. If possible take steps to complete any BETC application if due and take steps to secure BETC pass through partner(s).
 - BCB will make every attempt to secure approval from the Dept of Energy if necessary and to secure a partner, yet it appears this may be more complex than appears on the surface. BCB will work closely with City staff as we work through this process.

- **Contracts**

- Review transit contracts and make necessary recommendations

- **Budget**

- Review existing budget and make necessary recommendations for fiscal year 07/08 budget.
 - Assist in preparation of 07/08 budget if required

- **Community Relations/Marketing**
 - **Internal**
 - Attend City Council meetings as required
 - Attend city staff meetings, planning meetings etc. as necessary.
 - **Community Relations**
 - Evaluate and recommend a public relations approach during this transition period and during the recruitment process for a new Transit Director for CAT if desired by the City manager.
 - **Peer Relations**
 - Maintain contact with community transit partners, local, regional, and state transportation agencies and any other pertinent organizations.
- **Planning**
 - Review assess and make recommendation on the CAT strategic plan
- **Recruitment Process**
 - Advise and assist management during the recruitment process for a new CAT Transit Director.

Contract Attachment B

City of Canby

Canby Area Transit Personal Services Contract with BCB Consulting, Cynthia Thompson

Payment Schedule:

A \$2500 retainer will be paid upon signing this contract and payments of \$2500 will be paid on the 20th of December, and on the 5th, and 20th of January. The remaining balance of \$4000 will be paid upon completion of deliverables outlined in the scope of work (Attachment A). Additional work beyond the agreed upon scope may be negotiated individually at the contractor's hourly rate of \$100/hour or at a negotiated project rate.

MEMORANDUM OF AGREEMENT (CANBY CINEMA LLC)

THIS MEMORANDUM OF AGREEMENT (the "Agreement") is made this 27th day of December, 2006, by and between the CITY OF CANBY (the "City"), acting by and through its Urban Renewal District ("URD") and CANBY CINEMA LLC, an Oregon limited liability company ("Developer").

RECITALS

The Parties desire to outline the proposed process for the Developer to construct and operate a facility contemplated to be initially comprised of an 8-plex motion picture theater complex within the City of Canby (the "Theater"). To bring the Theater into being, the parties contemplate the occurrence of the following steps:

- A. The parties shall sign this Agreement;
- B. The City shall acquire an option to purchase the land or shall purchase the land where the Theater is to be located, as more particularly described on the attached **Exhibit A** (the "Site");
- C. The Developer shall initiate, submit and diligently pursue all land use approval required for the development of the Theater on the Site;
- D. The City shall negotiate for a long term lease in order to construct a parking lot on adjacent property, shown in **Exhibit B**, for the use of the Theater and others, consistent with the terms outlined in this Agreement ("Parking Lot");
- E. The Developer shall proceed to take all steps necessary to construct and operate the Theater at the Site;
- F. The City and the Developer shall negotiate and execute a long term lease for the Site and an easement lease or use agreement for a portion of the Parking Lot ("Parking Lot Agreement"); and
- G. The parties acknowledge that this Agreement is not intended to cover all of the obligations of the parties under a Lease or Parking Lot Agreement and there are many other critical and essential provisions yet to be negotiated.

Now, therefore, in consideration of the mutual promises and obligations of the parties, the Developer and the City agree with each other as follows:

SITE ACQUISITION

1. It is contemplated that the City will purchase the Site from its current owners and will then lease the Site to the Developer for a term of fifty-five (55) years. The Site consists of certain land situated in Clackamas County, Oregon legally described on the attached **Exhibit A**.

2. It is also contemplated that the City will obtain a long term lease for the Parking Lot and will enter into some form of use agreement for a portion of the Parking Lot with the Developer.

SITE PLANNING

3. **Land Use Decision.** The Developer shall make application to the City for all required land use and development permits necessary to develop the Site for use as a Theater, as more particularly described in the Multiplex Theater Concept Plan, attached hereto as **Exhibit C**. The Developer understands that the City cannot guarantee or pledge the manner in which the zoning and development powers of the City may be exercised with respect to the Site and the Theater, and no covenant or other promise is made inconsistent with the legislative power of the City Council to approve or deny any development application associated with the Site. However, failure by the City to exercise zoning and planning powers to allow implementation of the Multiplex Theater Concept Plan shall enable the Developer to terminate this Agreement upon written notice to the City.

4. **Permitted Use.** Developer shall use the Site for the sole purpose of development and operation of an 8-plex motion picture theater complex with possible expansion to a 12-plex motion picture theater complex. It is agreed that the Theatre shall be a first class multi-plex Theater showing first run general entertainment films as is typical in a family oriented theater complex. Developer understands that it is part of the City's strategic plan that the Site remain in the Theatre use over the long term. Notwithstanding the foregoing, however, it is also agreed that the Lease will provide for an alternative strategy for the Developer if the Theatre cannot be operated profitably by Developer. This alternative will include a right for the City to purchase the assets of the Theatre, based on a formula to be negotiated by the parties and set forth in the Lease, if the City wishes to find another theatre operator and release the Developer from the Lease. In the alternative, if the City does not want to buy the Theatre improvements, as provided in the Lease, the City will allow the Developer to change the use of the Site to another use acceptable to the City but with the express requirement that if the Site is used for anything other than the Theatre, the Developer will be required to pay fair market value rent immediately upon change in use. Based on the foregoing, any proposed change in the use of the Site shall require the prior written consent of the City, which consent shall not be unreasonably withheld.

SITE DEVELOPMENT

5. **Ground Lease.** The City intends to lease the Site to Developer for the express purpose of operating a Theater on the Site (the "Lease"). The City and the Developer intend to work cooperatively to reach agreement on the reasonable terms of the Lease for the Site and Parking Lot Agreement which will be consistent with the terms contained in this Agreement.

6. **Development Commitment.** Developer shall develop the Site covered by the Lease as a Theater initially containing a minimum of eight (8) screens with a possible expansion to twelve (12) screens. Developer shall design the Theater (including, without limitation, the location of major public improvements and buildings that are appropriate for the Site) in cooperation with the City.

7. **Site Design.** Developer intends to proceed with design of the Theater in an expeditious manner and will submit its proposed designs to the City for review and approval.

8. **Site Improvements.** Developer intends to develop the Theater on the Site consistent with applicable City requirements for streets water, sewer, storm sewer, and other utilities. . Developer shall comply with all applicable land use and building rules, regulations, ordinances and laws of the City of Canby, Clackamas County, Oregon in connection with the development of the Theater.

9. **Construction and Maintenance Obligations.** The Developer and the City shall cooperate to develop the Theater and the parking lot serving the Theater. The Developer will be responsible for constructing, operating, and managing the Theater. The City will be responsible for developing the Parking Lot.

10. **Financial Responsibilities.** Developer shall be financially responsible for the design and construction of the Theater. The City shall be financially responsible for: (i) acquisition of the Site, and (ii) the design and construction of parking facilities required for the adjacent Parking Lot. Developer shall pay for all sidewalk improvements around the Site. The City will supply sewer, water, standard electrical power lines and telephone lines to the boundary of the Site, with the Developer being responsible to extend them to the Theater from that point.

TERMS OF PARKING LOT AGREEMENT TO DEVELOPER

11. **Terms of Agreement.** The term of the Parking Lot Agreement shall begin on the date of execution of the Parking Lot Agreement and shall end when the Theater Lease ends. Developer shall have the non-exclusive right to park vehicles on the Parking Lot. The exact terms and conditions of the Parking Lot Agreement shall be agreed to by the Developer and the City within sixty (60) days after the date of this Agreement; provided, however, the terms of the Parking Lot Agreement shall be consistent with the terms and provisions of this Agreement.

12. **Covenants of the Developer.** Once constructed, the Developer shall operate, maintain and keep in suitable condition a portion of the Parking Lot described on the attached **Exhibit D** (the "Multiplex Parking Lot Area"), at no cost to the City.

13. **Monthly Rent.** Developer shall pay the City the sum of \$10.00 as monthly Parking Lot Rent and shall be adjusted to fair market value, along with the Ground Lease Base Rent, as described in Section 18.

14. **Access.** The City retains the right to inspect the Parking Lot at any time, to patrol it for law enforcement purposes, and to make such use as will not interfere with the Developer's use of the Parking Lot. The City retains the right to enter the Parking Lot at any reasonable time or times upon reasonable prior notice to Developer to repair or modify City facilities located

within the Parking Lot or to conduct investigations or other work on the Parking Lot property. The City also retains the right to use, lease or sublease the Parking Lot for other lawful purposes so long as such other uses do not in any way interfere with the operation of the Theater, including, without limitation, the parking rights granted to the Theater under the Agreement described in **Section 12**.

15. Property Taxes. Developer shall pay, before delinquent, all real property taxes which may become due with respect to the Multiplex Parking Lot Area, and shall, upon written request, provide proof of payment to the City.

BASIC TERMS OF GROUND LEASE TO DEVELOPER

16. Preliminary Agreement. The exact location of the footprint of the Theater, and the exact dimensions of the premises to be leased pursuant to the Lease (the "Theater Premises") have not yet been identified. The exact terms and conditions of the Lease shall be agreed to by Developer and the City within sixty (60) days after the date of this Agreement consistent with the intent of this Agreement.

17. Term of Lease. The term of the Lease shall begin on or about _____ and shall end fifty five (55) years thereafter.

18. Monthly Rent. The Lease will be a Triple Net Lease. Developer shall pay the City the sum of \$20.00 as monthly base rent ("Base Rent") for the initial fifty (50) years of the Lease and then shall be set at fair market value, based on an appraisal for the final five (5) years of the Lease. The formula for arriving at fair market value will be more particularly described in the Lease.

19. Ownership of Improvements. Title to all improvements, including the Theater Complex constructed on the Site by Developer, during the term of the Lease shall be vested in the Developer. Developer shall be entitled to and shall be required to remove all of Developer's personal property upon termination of the Lease. If any improvement remains on the Site ninety (90) days after termination of the Lease, such improvements, including any personal property, shall be considered abandoned. Thereafter, the City may demolish or dispose of the same at the City's sole cost and expense.

20. Subordination of Mortgages. It is intended that the Developer shall obtain commercial financing for the construction of the Theater and that the City's interest in the improvements (but not the underlying fee interest in the Site) shall be subject and subordinate at all times to the rights of the commercial lender. The Lease shall contain reasonable mortgagee protection provisions, to be negotiated, such that Developer's lender can protect its security interest should Developer be in default of the Lease. The City shall not be required to subordinate its underlying fee interest in the Site to the lien of any trust deed or mortgage securing financing for the Theater.

21. Property Taxes. Developer will be responsible for all real property taxes for the leased Site.

22. Utility Payments. Developer shall pay all utility charges for water, sewer, garbage, phone, internet, garbage, and electricity which may become due with respect to the Theater Premises.

23. Maintenance. Developer shall be responsible for the maintenance and repair of the Theater and all improvements associated therewith and for all maintenance of the Site.

MISCELLANEOUS TERMS

24. Assignment. This Agreement is personal to the parties and may not be assigned; provided, however, that the Lease may be assignable with the prior written consent of the City, which consent shall not be unreasonably withheld, conditioned or delayed.

25. Notices. A notice or communication under this Agreement by a party to the other party shall be in writing and sufficiently given upon personal delivery or upon sending of a confirmed facsimile copy (either by automatic electronic confirmation or by declaration of the sender) directed to the fax number of the party set forth below, or if dispatched by registered or certified mail, postage prepaid, return receipt requested or by a delivery service or "overnight delivery" service that provides a written confirmation of delivery, and addressed to a party as follows:

If to the Developer:

Canby Cinema LLC
801 C. Street, Suite 200
Vancouver, Washington 98660-3334
Phone: 360-993-0010
or 503-781-1699
Facsimile: 360-993-0013
Attention: Elie Kassab or Tammie Ferguson

With a Copy to:

Brad Miller
Ball Janik LLP
101 S.W. Main St., Suite 1100
Portland, Oregon 97204
Phone: 503-228-2525
Facsimile: 503-295-1058
E-mail: bmilller@bjllp.com

It to the City:

City of Canby/City of Canby Urban Renewal District
PO Box 930
182 N. Holly Street
Canby, Oregon 97013

Attention: John Williams
Phone: 503-266-4021
Facsimile: 503-266-7961
E-mail: williamsj@ci.canby.or.us

With a Copy to:

Barbara Jacobson
Preston Gates & Ellis
222 SW Columbia, Suite 1400
Portland, Oregon 97201
Phone: 503-226-5787
Facsimile: 503-553-6287
E-mail: bjacobson@prestongates.com

Each party may, by notice to all other parties, specify a different address or facsimile or confirmation number for subsequent notice purposes. Notice shall be deemed effective on the date of actual receipt or three days after the date of mailing, whichever is earlier.

26. Press Releases. The parties hereto agree that any press releases relating to this Agreement shall be subject to review and approval by the parties to this Agreement.

27. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

28. Exhibits. All Exhibits attached to this Agreement and the provisions thereof are incorporated herein by this reference.

29. Parties Bound. This Agreement shall be binding upon the parties hereto and/or assigns of the respective parties hereto.

30. Parties Authority. The person executing this Agreement on behalf of the Developer acknowledges that he is acting within the scope of authority granted to him by Canby Cinema LLC. The person(s) executing this Agreement on behalf of the City acknowledges that he/she is acting within the scope of his/her authority as the authorized agent(s) of the City.

31. Captions and Construction. The captions in this Agreement are for convenience only and do not in any way limit or amplify the provisions of this Agreement. This Agreement has been negotiated at arm's length between the parties, each represented by legal counsel. Therefore no ambiguity or error contained herein shall be construed against the drafter.

32. Term of Agreement. This Agreement shall be effective for a period of One Hundred Twenty (120) days from the date first above written. If it is not implemented for any reason or for no reason by the execution of the Parking Lot Agreement and the Lease and the acquisition of the Site by the City within such One Hundred Twenty (120) day period, then this Agreement shall be of no further force and effect. This Agreement shall be superseded and of no

further effect as soon as the parties enter into the above described Lease and Parking Lot Agreement.

{Remainder of page intentionally left blank}

THE PARTIES UNDERSTAND THIS AGREEMENT DOES NOT CONSTITUTE A BINDING CONTRACTUAL OBLIGATION BUT RATHER IS AN EXPRESSION OF THE INTENT OF THE PARTIES TO COMPLETE GOOD FAITH NEGOTIATIONS FOR A LEASE AND PARKING LOT AGREEMENT THAT WILL INCORPORATE THESE TERMS AS WELL AS OTHER TERMS YET TO BE DISCUSSED AND AGREED UPON.

CITY OF CANBY

CITY OF CANBY URBAN RENEWAL
DISTRICT

By: _____
As Its: _____

By: _____
As Its: _____

STATE OF OREGON)
)ss
County of Clackamas)

On this _____ day of _____, 2006, personally appeared the above-named, _____, City Manager and _____, Mayor, and acknowledged the foregoing instrument to be the City's voluntary act and deed.

NOTARY PUBLIC FOR OREGON

My Commission Expires: _____

DEVELOPER:

Acceptance: Developer accepts the City's MEMORANDUM OF AGREEMENT this 27 day of December, 2006.

CANBY CINEMA LLC

By: [Signature]

Elie Kassab,

As Its: Managing Member

STATE OF WA

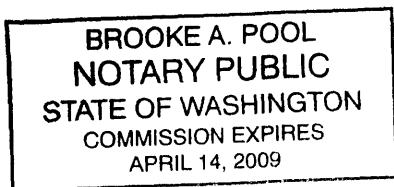
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County of Clark

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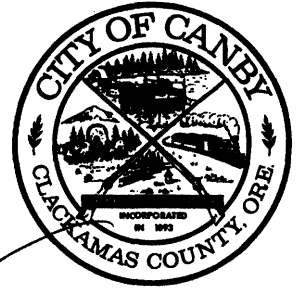
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On this 27 day of Dec., 2006, personally appeared the above-named, Elie Kassab, Managing Member of Canby Cinema, LLC and acknowledged the foregoing instrument to be the limited liability company's voluntary act and deed.



[Signature: Brooke A. Pool]
NOTARY PUBLIC FOR WASHINGTON
My Commission Expires: 4.14.09

MEMORANDUM



TO: *Honorable Mayor Thompson and City Council*
FROM: *Mark C. Adcock, City Administrator*
DATE: *January 9, 2007*
PREPARED BY: *John Williams, Community Development & Planning Director*

Issue: Extension of water service to Canby Chapel Church of the Nazarene.

Synopsis: The church is located at 2323 SE Territorial Road at the SE corner of Highway 99E and Territorial Road. They are asking to connect to an existing water line. Extension of city services outside of city limits requires approval from the City Council and concurrence from Clackamas County.

Recommendation: Staff recommends that the City Council approve the extension of water service to the Canby Chapel Church of the Nazarene at 2323 SE Territorial Road and approve a letter from the Mayor requesting the County's concurrence on this extension.

Rationale: In October 2001 the Council approved a policy covering the review of extraterritorial service requests (attached). The policy states that an application may be viewed favorably if there is an area of "still water" which can be alleviated by a proposed water service extension. As documented in the attached letter from Canby Utility, the dead-end water line in this area is in need of more use. Therefore, staff recommends approval of this application.

Background: In May 2001 the Council approved water service to the New Life Foursquare Church, on the east side of 99E. Then, in October 2001 the Council denied an application by Wayne and Sheila Job, who live across the street from the Foursquare Church. At that time the Council formulated the policy guidance that is attached. Staff believes the current proposal meets the criteria established by the Council.

Options:

1. Deny the application. Although one of the criteria has been met, several others are lacking: no direct health hazards have been reported (although the church's current well is not adequate) and no annexation request is pending nor has any been proposed.
2. Require an application for annexation prior to approving the request. The Council has previously indicated a preference for providing urban services only to properties within the City, although this was not a requirement for the Foursquare Church.

Attached: Letter from Canby Chapel; vicinity map; October 2001 policy statement; letter from Canby Utility in support of request; draft letter to Clackamas County.

Canby Chapel
Church of the Nazarene
2323 SE Territorial Rd.
Canby, OR 97013-9732

November 17, 2006

City of Canby
Attn: John Williams
PO Box 930
Canby OR 97013-0930

Dear Mr. Williams;

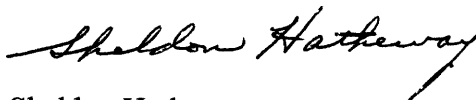
On behalf of Canby Chapel Church of the Nazarene, I would like to petition the City of Canby that our church be included in the municipal water and sewer district.

We currently have a well, but because of the high iron and mineral content, the water does not taste good and it stains our fixtures. The work currently being done by ODOT at the intersection has also brought the newly widened 99-E even closer to our well, increasing the risk of contamination from runoff. The water pressure also fluctuates to the extent that the valves on our lavatory fixtures often do not operate properly.

Our two existing septic systems are working satisfactorily at this point, but we realize that sometime in the future we will need to connect to the municipal sewer system in order to be allowed to build on the areas now occupied by our drain fields.

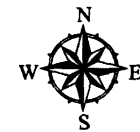
Fortunately the water and sewer lines have already been extended under highway 99-E and our neighbors across the street, New Life Foursquare Church, have been connected for some time.

Sincerely,



Sheldon Hatheway
Church Board Secretary,
Chairman, Board of Trustees

22



Geographic Information Systems
121 Library Court
Oregon City, OR 97045

January 9, 2007 02:19 PM

M E M O R A N D U M

TO: *Honorable Mayor Prince and City Council*

FROM: *Mark C. Adcock, City Administrator*

DATE: *October 8, 2001*

PREPARED BY: *John Williams, Community Development & Planning Director*



Following is staff's understanding of the Council's direction on future water and sewer extensions proposed for areas beyond City limits:

- New extensions will be reviewed on a case-by-case basis. No hard and fast rules are proposed.
- In general, new water and sewer connections outside City limits will be discouraged. If one or more of the following conditions apply, the application may be viewed more favorably:
 - Health or environmental hazards which can be mitigated by the proposed service;
 - An area of "still water" which can be alleviated by a proposed water service extension;
 - A pending annexation or promise to annex in the future; or
 - An overall infrastructure master plan is in place for the area specifying the planned location for streets and utilities.

This is based on the Council's discussion of October 3. Staff will present future applications in this context. Please contact me if you have any questions.

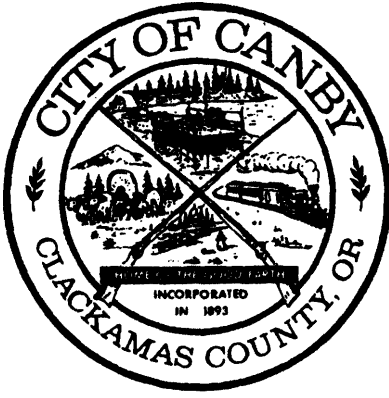
From: "Larry Hepler" <lhepler@CANBYUTILITY.ORG>
To: "John Williams" <WilliamsJ@ci.canby.or.us>
Date: 11/28/06 9:15AM
Subject: Canby Chapel Church of the Nazarene Request for Services

John,

From the stand point of Canby Utility's water system, having another customer connected on the east side of 99E would be a good thing. We have a large diameter dead end pipe under 99E with limited flow that requires periodic flushing in order to maintain water quality. This additional customer near the end of this line would lessen the amount of water we dump on the ground during flushing. We likely would still have to flush, but less volume would be wasted.

Larry

CC: "Dirk Borges" <dborges@CANBYUTILITY.ORG>



City of Canby

General Administration Office

January 17, 2007

Mike Kuenzi, Director
Clackamas County WES
9101 SE Sunnybrook Blvd., Suite 441
Clackamas, OR 97015

Re: Concurrence for Extension of Water Service to 2323 SE Territorial Road

Dear Mr. Kuenzi:

The Canby City Council approved the Canby Chapel Church of the Nazarene's request for City water service at its meeting of January 17, 2007. Their property is outside city limits but is inside Canby's Urban Growth Boundary. Under the terms of the Clackamas County-City of Canby Urban Growth Management Agreement dated November 4, 1992, Clackamas County's concurrence is required for this service to be installed. Therefore, the City requests your concurrence with our decision to provide water service to this property.

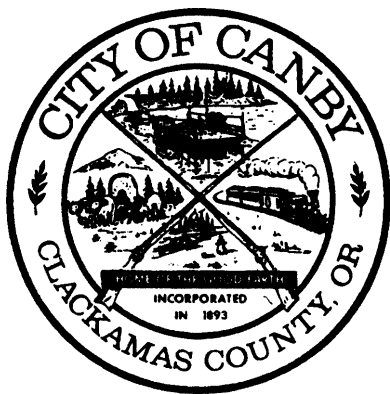
This follows a similar request and approval to the New Life Foursquare Church at 2350 Territorial in May 2001 and the Seventh-Day Adventist Church in May 2002. The City Council believes municipal water service to this property is appropriate, provides direct benefits to our community, and is in the best interest of the County and the City. We have included our staff report, including the exhibits, for your benefit and review.

Thank you in advance for your time and consideration. If you require any further information, please contact John Williams, Canby's Community Development & Planning Director, at (503) 266-7001.

Sincerely,

Melody Thompson
Mayor, City of Canby

26



City of Canby

Office of the City Attorney

Memo to: Mayor and City Council

From: John Kelley, City Attorney

Date: January 3, 2007

Re: Memo of Understanding II with Canby Livability Coalition.

I have been meeting with Beth Saul, Tim Stuart and Bob Tice from the CLC to work out a memo of understanding regarding the development of the "Canby Green Space and Art Park" located at the corner of N. Maple and Territorial Road in Canby.

I have attached a copy of the proposed memo for your review and approval. Beth and I are supportive of the agreement as drafted; however, the very last sentence of the last paragraph was something the CLC wanted included in the event the City chose to sell the property sometime in the future. They feel they should receive their money back if the project is ultimately discontinued and the lot sold for whatever reason.

Given that request, I believe the Council should discuss the MOU and resolve this issue. I have invited both Bob and Tim to the meeting.

MEMORANDUM OF UNDERSTANDING II

WHEREAS, the City of Canby, a Municipal Corporation, hereinafter referred to as "City" and the Canby Livability Coalition, a non-profit corporation, hereinafter referred to as "CLC" wish to enter into a second agreement which shall be referred to Memorandum of Understanding II between the parties, and

WHEREAS, Holly Corners, LLC subdivided and developed a single family housing project known as Territorial Estates located at the corner of N. Holly Street and Territorial Road in Canby, Oregon during the spring of 2002. Local neighbors wished to preserve one lot of the subdivision for park and open space purposes and formed a non-profit corporation known as "CLC" to support the City and help raise funds for the purchase and development of this park and open space, and

WHEREAS, CLC offered to pay up to thirty-five thousand dollars (\$35,000.00) of the total purchase price of the lot, if the City would purchase and preserve one lot in the subdivision for park and open space purposes, and

WHEREAS, the City, by Ordinance No. 1101, authorized the purchase of Lot 30 of Territorial Estates Subdivision for the total sum of Sixty Seven Thousand Dollars (\$67,000.00) and the City did purchase said lot on or about August 7, 2002, and

WHEREAS, in June of 2004, the City and CLC entered in a written agreement entitled Memorandum of Understanding setting forth the terms of the relationship between the parties, and

WHEREAS, on November 1, 2006, CLC paid the sum of \$35,000.00 to the City of Canby pursuant to the Memorandum of Understanding and the City and the CLC wish to enter into a new written agreement, entitled Memorandum of Understanding II, to set forth conditions regarding the development of the site as a park and open space, **now therefore, the parties to this Memorandum of Understanding agree as follows:**

1. The CLC will form a steering committee to oversee the development of the open space to be known as the "Canby Green Space and Art Park". That committee will be made up of members of the Canby community and local organizations and will work in conjunction with the Clackamas County Arts Action Alliance to develop a master park design for the Canby Green Space and Art Park.
2. The completed master park design shall be presented to the Canby Parks and Recreation Advisory Board for approval and once that approval is obtained, the CLC shall seek to fund the development of the Park.

3. The CLC may develop the Canby Green Space and Art Park in phases under the following conditions:

a. Phase I shall be commenced no later than March 30, 2008 and shall be completed no later than September 30, 2008. It shall consist of at least ground preparation and the installation of walkways. The plan for Phase I shall take into account that irrigation will be necessary in the second phase, and shall plan installation of the irrigation system accordingly.

b. Phase II shall be completed no later than September 30, 2010. It shall consist of an irrigation system, art pieces, structures and plantings.

c. The entire park shall be completed no later than September 30, 2012.

d. The CLC shall be responsible for regular maintenance and clean up of the area beginning upon the date of this agreement.

4. The City recognizes the need for flexibility in the development process and will grant the CLC such flexibility when needed. For instance, if funding becomes available for art pieces during the first two years, they may be installed in Phase I. Questions regarding flexibility issues shall be resolved by the Parks Board.

5. Pursuant to Memorandum of Understanding I, the City will fund the first \$3000.00 of the budget for Phase I of the development of the Canby Green Space and Art Park. The total cost of each phase of development shall be raised in full in advance of any construction on the site.

6. In the event the CLC fails to complete Phases I and II as set forth above, the City Council may review the project to determine if it is still viable to continue. If the Council determines the project is no longer viable, or if the CLC indicates it does not wish to continue with the development process, the Council may, in its discretion, cancel the project and either complete it, itself or sell the property. In the event that the property is sold, the \$35,000 paid to the City by the CLC will be returned to the CLC without interest.

Dated this ____ day of January, 2007.

IT IS SO UNDERSTOOD AND AGREED:

On behalf of the CLC

On behalf of the City of Canby

On behalf of the CLC

1 BEFORE THE LAND USE BOARD OF APPEALS

2 OF THE STATE OF OREGON

JAN05'07 PM 1:21 LUBA

3
4 ALEX KRISHCHENKO,
5 *Petitioner,*

6
7 vs.

8
9 CITY OF CANBY,
10 *Respondent.*

11
12 LUBA No. 2006-173

13
14 FINAL OPINION
15 AND ORDER

16
17 Appeal from City of Canby.

18
19 Kenneth P. Dobson, Portland, filed the petition for review and argued on behalf of
20 petitioner. With him on the brief was the Dobson Law Firm, LLC.

21
22 John H. Kelley, City Attorney, Canby, filed the response brief and argued on behalf of
23 respondent.

24
25 BASSHAM, Board Chair; HOLSTUN, Board Member; RYAN, Board Member,
26 participated in the decision.

27
28 AFFIRMED

01/05/2007

29
30 You are entitled to judicial review of this Order. Judicial review is governed by the
31 provisions of ORS 197.850.

NATURE OF THE DECISION

Petitioner appeals a city decision on remand denying petitioner's application for an exception or variance to an access spacing standard and to modify a previous partition approval.

FACTS

We repeat the relevant facts from our earlier decision in *Krishchenko v. City of Canby*, (*Krishchenko I*) __ Or LUBA __ (LUBA No. 2006-037, July 24, 2006):

"Petitioner owns a lot in the Cedar Ridge subdivision, developed with a single family dwelling in the western portion of the lot. The lot is zoned Medium Density Residential (R-1.5), which imposes a 5,000-square foot minimum lot size for new lots. At the time petitioner purchased the lot, it was approximately 7,732 square feet in size. In 2002, petitioner acquired an undeveloped 4,800-square foot parcel that adjoins his backyard to the east. That 4,800-square foot parcel is not part of the Cedar Ridge subdivision. The 4,800-square foot parcel fronts onto SW 13th Avenue, a city arterial. Petitioner's original lot is located at the intersection of SW 13th Avenue and S. Cedar Loop, a private street in the Cedar Ridge subdivision, and is accessed by a driveway connecting to S. Cedar Loop. Shortly after acquiring the 4,800-square foot parcel, petitioner received city approval to combine the two properties into a single, 12,532-square foot lot.

"The city municipal code requires a minimum 300-foot access spacing requirement on city arterials. Immediately east of petitioner's property is a large tract developed with a church and parking lot. The parking lot accesses SW 13th Avenue over a small triangular-shaped parcel that is currently owned by the church. The short distance between the S. Cedar Loop/SW 13th Avenue intersection and the church parking lot access makes it impossible to provide access from petitioner's property to SW 13th Avenue in compliance with the 300-foot access spacing requirement.

"In 2004, petitioner applied to the city to partition the 12,532-square foot lot into two parcels each approximately 6,275 square feet in size, as allowed under R-1.5 zoning. Proposed parcel 1 would include the existing dwelling, and use the existing access onto S. Cedar Loop. Proposed parcel 2 would include the eastern portion of the lot, and would access directly onto SW 13th Avenue. The city planning commission approved the partition, but denied petitioner's request that parcel 2 directly access SW 13th Avenue, pursuant to the code spacing requirement. The planning commission concluded that 'access should be provided by another street or by a shared access agreement

1 with neighboring properties. * * * Accordingly, the planning commission
2 imposed a condition prohibiting direct access to SW 13th Avenue, and
3 requiring petitioner to 'provide proof of adequate alternate access' prior to
4 final plat approval.

5 "At the time of the 2004 planning commission decision, the city owned the
6 adjoining triangular parcel over which the church accessed SW 13th Avenue.
7 The city had acquired the triangular parcel from the church in 1984, in
8 anticipation of road improvements that never transpired. Based on discussions
9 with city staff, petitioner apparently hoped that he could provide 'proof of
10 adequate alternate access' by obtaining city permission to use the triangular
11 parcel to access proposed parcel 2. However, that possibility was eliminated
12 when the city subsequently deeded the triangular parcel back to the church in
13 2005. Petitioner attempted to obtain the church's permission to use the
14 triangular parcel for access, but the church declined. Petitioner then filed a
15 request to modify the partition condition of approval and allow proposed
16 parcel 2 to access SW 13th Avenue directly, as an exception to the 300-foot
17 spacing requirement." Slip op 2-3 (footnote omitted).

18 The city council denied the exception request, under a city code standard prohibiting a
19 variance when the "hardship is self-created."¹ The city concluded in relevant part that the
20 "applicant's desire to partition his property" created the "hardship." *Id.* at 4. Petitioner
21 appealed the city's denial to LUBA, arguing in part that the city's finding on that point was

¹ Canby Municipal Code (CMC) 16.46.070 provides:

"A. An exception may be allowed from the access spacing standards on City facilities if the applicant can provide proof of unique or special conditions that make strict application of the provisions impractical. Applicants shall include proof that:

"1. Indirect or restricted access cannot be obtained;

"2. No engineering or construction solutions can be reasonably applied to mitigate the condition; and

"3. No alternative access is available from a street with a lower functional classification than the primary roadway.

"B. The granting of the exception shall be in harmony with the purpose and intent of these regulations and shall not be considered until every feasible option for meeting access standards is explored.

"C. No exception shall be granted where such hardship is self-created."

1 inadequate. We agreed, remanding for the city to adopt more adequate findings explaining
2 why the hardship is self-created. We denied all other assignments of error.

3 On remand, the city council adopted additional findings, concluding that petitioner's
4 decision to consolidate the two lots created the hardship, and again denied the exception
5 request. This appeal followed.

6 **FIRST ASSIGNMENT OF ERROR**

7 In *Krishchenko I*, we found inexplicable the city's apparent conclusion that
8 petitioner's desire to partition the subject property is a "self-created" hardship. We observed
9 that, "[i]f the mere desire to develop property at a density allowed under applicable zoning
10 laws is a self-created hardship, then it is doubtful that any variance to development standards
11 could ever be allowed under CMC 17.46.070 or similar variance standards." *Krishchenko I*,
12 slip op 7.

13 The city's findings on remand first identify the specific "hardship" as the "inability to
14 comply with the 300 foot access standard." Record 8. The city then identifies petitioner's
15 2002 consolidation of the two existing parcels into a single lot as the act that "created" the
16 hardship.² According to the city, the intended purpose of that consolidation was to enlarge

² The city's findings state, in relevant part:

"[T]he applicant originally owned a single lot, approximately 7,732 square feet in size in the Cedar Ridge subdivision with a developed single family dwelling in the western portion of the lot. In 2002, the applicant acquired an undeveloped 4,800-square foot parcel that adjoins his backyard to the east. The 4,800-square foot parcel fronts on SW 13th Avenue, a city arterial. The applicable zoning for both of these properties is Medium Density Residential (R-1.5), which has a 5,000-square foot minimum lot size for new lots. Shortly after acquiring the 4,800-square foot parcel, the applicant applied for and received city approval to combine the two properties into a single, 12,532-square foot lot. Testimony in the record of this proceeding suggests that the applicant's stated reason for seeking lot consolidation was in order to enlarge his back yard. Had the applicant left the second lot as a separate lot, it may have been entitled to access via SW 13th either by right under common law or through an exception as the hardship of obtaining access would not have been self-created. However, the Council finds that by consolidating lots such that the entire lot fronted onto S Cedar Loop eliminated any expectation of obtaining common law access onto SW 13th then or at anytime in the future." Record 8-9.

1 the backyard of petitioner's original lot, and that consolidation had the effect of eliminating
2 any expectation that any part of the combined lot would obtain access onto SW 13th Avenue.

3 Petitioner argues that the city's rationale for denial on remand is simply a variant of
4 the position LUBA rejected in *Krishchenko I*, that petitioner's desire to partition the lot
5 consistent with the density of development allowed in the R-1.5 zone created the hardship.
6 Petitioner contends that it is the city's R-1.5 density requirements that created the hardship,
7 by making it possible to partition the existing 12,253-square foot property into two parcels.
8 According to petitioner, the city has twice approved variances to access spacing requirements
9 to facilitate partitions where the city had applied a higher density zoning to the parent parcel.
10 Petitioner submits that the same reasoning and result should apply in the present case.
11 Petitioner also repeats his arguments made in *Krishchenko I* that it was the city's decision to
12 sell the adjoining triangular parcel right-of-way to the church that eliminated that potential
13 access and thus created the need to rely on SW 13th Avenue for access.

14 The city's code does not define the relevant terms or inform the circumstances under
15 which a variance request must be denied because the "hardship is self-created." The city has
16 considerable discretion in interpreting its variance code provisions, and LUBA must defer to
17 that interpretation if it is consistent with the plain language, purpose and underlying policy.
18 ORS 197.829(1) and *Church v. Grant County*, 187 Or App 518, 524, 69 P3d 759 (2003); *see*
19 *also deBardelaben v. Tillamook County*, 142 Or App 319, 922 P2d 683 (1996) (that a
20 governing body's interpretation of local variance criteria is inconsistent with general
21 principles of variance law is not a basis to reject the interpretation).

22 The city apparently understands a "self-created" hardship to exist for purposes of
23 CMC 17.46.070(C) when the applicant for a variance has taken an action in the past that is
24 inconsistent with proposed development of the property that requires a variance. We cannot
25 say that that view of CMC 17.46.070(C) is inconsistent with the text, purpose or policy
26 underlying that code provision, and petitioner does not argue otherwise. Under that view, the

1 city concluded, petitioner's choice in 2002 to consolidate the two lots to enlarge his existing
2 backyard was inconsistent with, and had the effect of abandoning, any expectation under
3 common law or the city's variance procedures to obtain future access to SW 13th Avenue that
4 petitioner may have had prior to consolidation.

5 Petitioner appears to dispute the city's finding that, but for consolidation, the lot
6 acquired in 2002 may have been entitled to access via SW 13th either by right under common
7 law or through a variance. We understand petitioner to argue that any access to SW 13th
8 Avenue would have required an exception to the street spacing requirement, and thus
9 consolidation of petitioner's two lots did not necessarily affect potential access or otherwise
10 create the difficulty of access that is the relevant hardship. Petitioner may be correct that a
11 hypothetical attempt to obtain access to SW 13th Avenue prior to lot consolidation would
12 have required at least an exception to the street spacing requirements. However, the point of
13 the city's reasoning seems to be that there would have been no self-created hardship in that
14 case because petitioner would have done nothing at that point inconsistent with obtaining
15 access to SW 13th Avenue.

16 With respect to petitioner's remaining arguments, contrary to petitioner's
17 characterization, the city's findings on remand do not simply reiterate its earlier conclusion
18 that it is petitioner's desire to partition the lot consistent with the density of development
19 allowed in the R-1.5 zone that creates the hardship. As explained, the city identified a
20 different action by petitioner that, it concluded, created the hardship. Unlike the city's earlier
21 rationale, the rationale articulated in the present case is focused on a specific action by
22 petitioner, not merely a general desire to develop property that all variance applicants
23 presumably share.

24 Petitioner cites to two city actions that, in petitioner's view, are the actual causes of
25 the hardship: application of the R-1.5 zoning to the property and the decision to sell the
26 adjoining triangle of land to the church. However, as the city points out, both R-1.5 zoning

1 and the access spacing requirements were in place prior to petitioner's 2002 acquisition of the
2 vacant lot adjoining his original property. As far as we can tell, that fact alone distinguishes
3 the present case from the two city variance decisions briefly cited by petitioner.

4 With respect to the adjoining triangular parcel, the city adopted a finding on remand
5 explaining that at no time did the city represent to petitioner that access was available over
6 that adjoining parcel.³ Petitioner does not challenge that finding. If the city gave petitioner
7 no reason to expect that it would grant permission to use the triangular parcel for access, it is
8 difficult to understand why the sale of that parcel to the church "created" the hardship. Even
9 if city actions were partly responsible for reducing the available options for access, petitioner
10 does not explain why such actions compel the city to grant the requested variance, given the
11 city's conclusion, affirmed above, that petitioner initially created the hardship by
12 consolidating the two lots.

13 For these reasons, petitioner's arguments under this assignment of error do not
14 provide a basis for reversal or remand. The first assignment of error is denied.

15 **SECOND AND THIRD ASSIGNMENTS OF ERROR**

16 The city council adopted on remand alternative findings that purport to deny the
17 requested variance based on alleged traffic concerns along SW 13th Avenue, and to deny the

³ The city's findings state, in relevant part:

"* * * During the hearing before the City Council, the applicant claimed that the City assured him that access would be available on land owned by the City. There is nothing in the record to show that the City made any statements during the first proceeding or subsequently that it would provide access to the applicant on city-owned property or that some other solution for providing access would be available. To the contrary, condition 6 to the original partition approval makes clear that alternate access shall be required and does not identify any alternatives that may be available to satisfy this requirement. The triangle of land was intended to provide a future road extension that turned out to be unnecessary and was thus sold back to the neighboring church property. It was never intended, nor suggested that this area would provide any right of access to the applicant. Thus, there is no basis to the applicant's claim that the City somehow induced the applicant into believing that access over City property would be available." Record 9.

1 requested modification of the partition approval based on minor review standards requiring
2 adequate access facilities.⁴

3 Petitioner argues that LUBA's remand was limited to a single issue, and that the city
4 council erred in adopting alternative reasons to deny the application based on alleged traffic
5 concerns, without affording petitioner a hearing or opportunity to submit argument or
6 evidence regarding such traffic concerns. Under the third assignment of error, petitioner
7 argues that even if no new evidentiary hearing was required on remand, the city's findings
8 regarding traffic concerns on SW 13th Avenue are not supported by substantial evidence.

9 We need not and do not resolve these assignments of error, because they challenge
10 only the city's alternative bases for denial of the requested variance and modification.
11 Generally, LUBA will affirm a local government's decision to deny a land use application if
12 any one of the bases for denial is affirmed. In that circumstance, no purpose is served by
13 addressing challenges to alternative or other bases for denial. *Wal-Mart Stores, Inc. v. Hood*
14 *River County*, 47 Or LUBA 256, 266, *aff'd* 195 Or App 762, 100 P3d 218 (2004), *rev den*
15 338 Or 17 (2005); *Wild Rose Ranch Enterprises v. Benton County*, 37 Or LUBA 368, 378

⁴ The city's findings state, in relevant part:

“* * * the Council places significance on the permissive term ‘may’ in the exception standards and concludes that even if all of the exception criteria were met, the City would have discretion to refuse to grant an exception. In this case, the City exercises that discretion because of the significant safety concerns associated with SW 13th Avenue, especially when coupled with road expansion and new development that will occur in the future. * * *

“* * * * *

“Finally, even though division of a 12,000 square foot parcel may be permitted pursuant to R-1.5 zoning, it is not automatically allowed unless all of the applicable review criteria are met. Minor review criteri[a] 16.60.030(C), (D), and (E) require that access facilities be adequate, safe and not unduly hinder the use of adjacent properties. The Planning Commission found that these criteria could be satisfied only through imposing a condition that adequate alternative access is obtained. The applicant has failed to carry his burden of showing the exception to the access spacing criteria are satisfied. Thus, the partition is still in place consistent with the Planning Commission's decision, City File No. MLP 04-03. Development on the partitioned lot can occur when the applicant or subsequent owner can show that adequate and safe access can be secured that complies with the City's access spacing requirements.” Record 9-10.

1 (1999); *Garre v. Clackamas County*, 18 Or LUBA 877, 881, *aff'd* 102 Or App 123, 792 P2d
2 117 (1990). We affirmed above the city's main rationale for denial. Accordingly, we do not
3 reach the second and third assignments of error.

4 The city's decision is affirmed.

Certificate of Mailing

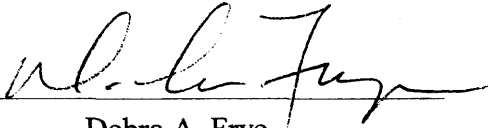
I hereby certify that I served the foregoing Final Opinion and Order for LUBA No. 2006-173 on January 5, 2007, by mailing to said parties or their attorney a true copy thereof contained in a sealed envelope with postage prepaid addressed to said parties or their attorney as follows:

John H. Kelley
City of Canby
PO Box 930
Canby, OR 97013

Kenneth P. Dobson
The Dobson Law Firm, LLC
601 SW Second Avenue, Suite 1940
Portland, OR 97204-3176

Dated this 5th day of January, 2007.

Kelly Burgess
Paralegal


Debra A. Frye
Executive Support Specialist

**DIRECTOR'S MONTHLY REPORT
CANBY ADULT CENTER
Dec. '06**

CENTER INFORMATION

The Center experienced more than the usual amount of generosity this year. The Lions club donated enough poinsettias for everyone who wanted one. A group of children made gift bags to send out with meals, another group of children made candy packages for everyone and Weyerhauser donated dozens of beautiful wreaths. There were even lap robes distributed. People were generous with their musical talent as well. We had music 10 days out of the month! As usual, Ida & Friends were here every Monday.

The kitchen will be installing a brand new refrigerator and a new freezer the first week of January.

Mary Gottlieb will be getting a new computer about the same time. Hers has become too unreliable to use anymore for the important information she needs to store. We were able to find a good price (under \$500) on a Dell.

We are also in the process of replacing the printer for the alarm system. The other printer quit over a year ago, and we have managed without it. The alarm system still works. The problem is that we lose the ability to track who enters and leaves the building at what hour without a printer.

Our new defibrillator finally arrived. The City of Canby and the fire department are covering the cost and the fire department is providing a free CPR class (with defibrillator training) in January.

The new television is working very well since a visit from Willamette Broadband.

All in all, it's been a very productive year for the Center. We're looking forward to 2007!

Anna Phillips
Center Director

DIRECTOR'S MONTHLY REPORT

CANBY ADULT CENTER

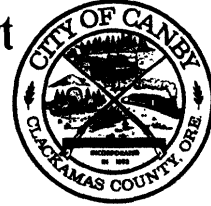
Dec. '06

Corrected 10/19/06

Dec. Meals	Avg/Day	YTD	Dec. '06	Dec. '05	Difference		
16	serving days						
CONGREGATE +60 (INCLUDES CONGREGATE, GUESTS & LATE CALL INS)							
		71	7,318	1137	1,116	21	
							Donations \$1,971.50
\$1.73	avg. donation						
MEALS ON WHEELS +60							
		82	7,773	1316	1,593	-277	
							Donations \$1,427.00
\$1.08	avg. donation						
MEALS ON WHEELS +60 (T19) Medicaid. Pmt. Comes through State.							
		8	642	124	117	7	
MEALS ON WHEEL -60 (T19). Medicaid. Pmt. Comes through State.							
UNDER 60 (Includes volunteers, guests & staff)							
		9	806	151	215	-64	
O.P.I. (Project Independence)							
						0	
TOTAL MEALS		16,539	2728	3,041	-313		
CLIENT SERVICES							
Undup. Clients							
		253	56	58	-2		
Assessments							
		57	7	16	-9		
Case Monitoring							
		147	20	27	-7		
Community Outreach							
		59	3	3	0		
Info & Referral							
		571	92	134	-42		
						0	
TRANSPORTATION							
						0	
Rides (one way)							
		1111	94	175	-81		
VOL. HOURS							
						0	
		6348	907	905	2		
OTHER USERS-(Those who use the Center, but not to eat or volunteer)							
						0	
		6,169	1122	1346	-224		
FUNDRAISING							
Gifts, etc.							
			\$142.64	\$130.00	\$12.64		
Rentals							
			\$855.00	\$527.00	\$328.00		
Center Projects							
			\$7,133.33	\$5,744.34	\$1,388.99		
Bingo							
			\$197.00	\$424.50	-\$227.50		
TOTAL							
			\$8,327.97	\$6,825.84	\$1,502.13		

City of Canby Bi-Monthly Report

Department: Administration



For Months of: November & December 2006

Date: January 8, 2007

Prepared by: Kim Scheafer, Executive Assistant/City Recorder Pro Tem

Through: Mark Adcock, City Administrator

1. **Business Licenses** – Twenty-five new business licenses and one change of ownership were processed for the months of November and December 2006. One hundred ten renewals were sent out.
2. **Complaints/Inquiries** – Thirty-nine complaints/inquiries were received for November and December. Thirty-seven of those have been resolved and twenty-five were resolved within twenty-four hours.

Meetings/trainings that were attended:

November 3 – Kim Scheafer attended Excelling as a Manager Training

November 14 – Kim Scheafer attended LOC Performance Coaching Training

November 21 - Kim Scheafer and Valerie Kraxberger attended City Safety Committee Meeting

December 4 – Judi Christiansen attend LOC Customer Service Training

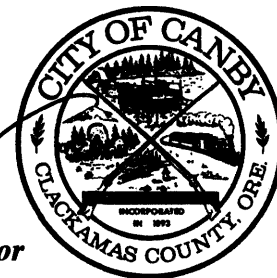
December 6 – Kim Scheafer and Melissa York attended OAMR Region II Meeting

December 11 – Kim Scheafer & Valerie Kraxberger attended Ethics Training

December 12 – Melissa York & Judi Christiansen attended Ethics Training

December 19 - Kim Scheafer and Valerie Kraxberger attended City Safety Committee Meeting and Facility Inspections

COMMUNITY DEVELOPMENT UPDATE



TO: *Honorable Mayor Thompson and City Council*
FROM: *John Williams, Community Development & Planning Director*
DATE: *January 4, 2007*
THROUGH: *Mark C. Adcock, City Administrator*
RE: *Community Development project status*

Following is the status of major Community Development projects as of January 4. Please call me or the appropriate staff if you have any questions. At the end of this report you will also find a list of new land use applications and permit activity.

Items shown with a * are completed and will be deleted from the next report; items underlined are new additions.

Street Projects

- 1. SE 2nd Avenue CDBG project.** We are *still* working with Clackamas County on final design issues relating to turning movements from 2nd onto Ivy and finalizing the project manual for the bid advertisement. It appears we may have agreement on an alignment and will be able to move to bidding and construction this winter. We need to coordinate the changes with CTA first. *Background:* This project will realign 2nd Avenue through the Canby Telephone parking lot, vacate a section of the existing 2nd Avenue, and improve the rest of 2nd from Juniper east with sidewalks. The Community Development Block Grant program is federal money to fund projects benefiting low-income areas. The project utilizes \$260,000 of CDBG funds with a \$95,000 City match.
- 2. Street maintenance funding.** We are planning to hold task force meetings this month. *Background:* The Street Maintenance Funding Task Force will be making recommendations to the Council on funding methodologies, amounts, and equity issues.
- 3. 99E/Territorial intersection.** ODOT has installed interim traffic control in order to reopen Territorial for the time being. This is necessary because the railroad's work will take longer than expected. The intersection will not be fully operating until mid 2007. *Background:* ODOT's \$2.97 million project will fully signalize this intersection.
- 4. S. Berg Parkway.** ROW acquisition is complete, which has allowed us to move forward with bid document preparation and advertisement, looking to a spring construction. *Background:* ODOT has approved \$1.23 million for our Berg Parkway connection project. Combined with a 10% local match this means we have the funds to move forward with the project. This project will connect S. Berg Parkway near Highway 99E with SW 13th Avenue. The local match will come from a combination of URD and SDC funds.
- 5. Traffic calming.** *Ongoing.* Staff is working on finalizing several demonstration traffic calming projects for Council consideration. *Background:* Matilda and a group of interested citizens have been looking at ways to slow traffic and increase pedestrian safety. Lessons learned here will also be applied to new streets. Matilda will also be working with a technical committee of local experts, including Public Works, engineering, Canby Fire District, and

First Student.

6. **2006-2008 CDBG applications.** *No change.* Clackamas County has awarded Canby \$200,000 to build sidewalks in downtown areas that currently have none. This project will be funded in 2008.
7. **99E/Ivy Intersection.** *No change.* ODOT is planning a minor project at this intersection to eliminate the often-hit signal pole in front of Ace Glass (there will be an extra-long armed pole coming from the 7-11 side). We are attempting to get pedestrian safety improvements included in this project. *Background:* ODOT has estimated costs on the full intersection renovation at \$1.5 million +. Costs include building improvements, underground tank removal, relocating signal poles, new sidewalks and crossings, and other activities.
8. **N. Pine/4th Avenue intersection.** *No change.* I have been working with property owners to see if there's any way to improve alignments at this troublesome intersection (by the Depot Museum). We will need a lot of cooperation because there is very little room to maneuver in this area. Unfortunately, we have not found a plan that works for all parties yet.
9. **N. Cedar/NW 3rd Avenue intersection.** *No change.* This intersection has alignment problems and vision clearance issues. We are drawing up a plan to realign the intersection and improve traffic flow and safety, which will be even more important as traffic flows increase from the new subdivision.

Please see Roy Hester's monthly report for additional information on Public Works activities.

Wastewater Treatment Plant & sewer collections

10. **SDC study.** The Council adopted the revised SDC methodology on January 4.
11. **Hazel Dell Way pump station.** Construction on this project is nearly complete.

Please see Darvin Tramel's monthly report for additional information on WWTP activities.

Cemetery

12. **Cemetery rates.** We continue to provide quarterly reports to the Council regarding sales activity following the fee increases in fall 2005. The latest report is attached. Sales activity continues to be low.
13. **Cemetery fencing.** The Council has approved use of some of the Dybvad bequest to install security fencing at the cemetery shops building. This construction is mostly complete.

Planning

14. **Measure 37.** The City has received a Measure 37 claim but it was for property outside City Limits. Staff has requested more information from the applicant about specific details of which of our zoning codes impact them at this time. *Background:* The City Council has approved Ordinance 1156 establishing a process for Measure 37 claims. Measure 37 will affect property owners who can demonstrate that a land use regulations adopted since they or their family acquired a piece of property reduced the value of their property. If this can be

shown, such owners can ask the city to either waive the regulations or pay the property owner the difference in value.

15. **Annexation process.** The Planning Commission gave direction to staff on changes to the City's annexation process. Staff will be returning to the Commission with more detailed language in February. *Background:* The Planning Commission and staff are working on a matrix idea focused on providing better information to voters about annexation proposals. Other concepts include a master planning requirement and reviewing our current criteria.
16. **Public facilities and services element of the Comprehensive Plan.*** The Council has approved this project by Ordinance and staff will work to get the changes incorporated into all relevant city documents. *Background:* We received a \$15,000 grant from the state to complete this and a couple of other small elements of our periodic review work plan.
17. **Neighborhood Associations.** *No change – ongoing.* Matilda has been talking to the Neighborhood Associations about a S. Canby group, and is waiting to hear from them to move forward. *Background:* the Council has officially recognized two new neighborhood associations: Riverside and Northeast Canby. Staff will continue to work with these groups to provide information and training.
18. **Historic Review Board.** *No change.* The HRB is in need of new volunteers to keep the group energized. There are currently no regularly scheduled meetings of the HRB.
19. **Northwood subdivision.*** Construction is underway on Phase I of this project. *Background:* Northwoods applied to amend the City's Urban Growth Boundary to include approximately 30 acres of land north of Knight's Bridge Road and rezone it from Agricultural to low density residential. After a lengthy process in court and at LUBA, this application has been approved and the property can be developed at urban densities.
20. **NE Canby Master Plan.** *No change.* Adoption of the concept plan is on hold pending completion of the City's TSP update. ODOT will not approve the plan as written (even though they funded it) because of future traffic problems at Canby's 99E intersections. These will need to be addressed by capital project scheduling in the TSP. *Background:* This \$75,000 grant project created a master plan addressing land use, design, parks/open space provision, and infrastructure issues for the area bounded by Highway 99E, SE 1st Avenue, Haines Road, and NE Territorial. The TGM program has allowed us to add several "peripheral" elements to this grant, including the development of a traffic model for Canby and an analysis of traffic projects needed to develop the Canby Pioneer Industrial Park.
21. **N. Redwood Street master plan.** *No change.* Matilda has completed a wetlands inventory and mapping project and will be going back to area residents for more meetings to discuss infrastructure locations, park design, and other relevant issues. *Background:* This project will produce a comprehensive land use, parks, and infrastructure plan for the area between N. Redwood Street and OR 99E.
22. **Stormwater planning.** *No change – ongoing work.* Planning staff is working with Roy Hester, Darvin Tramel, Jeff Crowther, and Curt McLeod to address new DEQ/EPA requirements regarding stormwater disposal. We are working to develop a long-range vision for stormwater disposal and a maintenance/financing plan.
23. **Quality of Life survey.** Matilda has sent out a follow-up survey to ask more detailed questions about park utilization. *Background:* The City Council has authorized staff to issue

a statistically valid survey of Canby citizens to identify issues, shared values, and goals. This will be used as departments and the Council move forward.

- 24. Traffic modeling.** *No change.* We will be reporting to the Planning Commission and Council soon on the first findings from the new traffic model. This will assist with planning a variety of projects, including Berg Parkway, the Arndt Road extension, and the signalization of Township and Ivy. *Background:* I have been working with Andy Mortenson at the Transpo Group to create a new traffic model for the City. This will assist us with traffic studies and planning efforts, and will make all of our work more accurate in the future. This effort is being funded partially by the Council's commitment of additional funds for the planning department in 2004-2005, and partially by grants from the State of Oregon and Metro.
- 25. Planning/Building customer service survey.** The results are in for the first half of 2006, and they're very similar to the 2005 results. We plan to update the Council on results annually.
- 26. Subdivision design standards.** *Ongoing.* Planning staff is beginning work on a look at how subdivisions get designed and built. We would like them to be better and more compatible with their surroundings. We are going to be looking at big issues – from stormwater provision, street design, and parks locations – and small issues, like pedestrian pathway design and fencing. This will lead to work with the Planning Commission and neighborhood groups on this topic and eventually to text amendments if agreement can be reached. We hope to avoid Measure 37 implications on this work by ensuring everyone's property values are increased by our work.
- 27. Miscellaneous code update.** Staff is putting together a long-overdue development code overhaul application. Since it's been five years since our last one, it's a bit longer than we would like but most of the changes are very minor and it should be a simple application to process. It will be in front of the Planning Commission in February.

Urban Renewal

- 28. Business Development Plan.** *Ongoing.* Catherine Comer and Matilda are leading the work on this program, which was approved for funding in FY 05-06 by the Agency. *Background:* The Business Development Plan will contain a city-wide business inventory, trends survey, and target business list, and a retention, expansion, and recruitment plan.
- 29. Development of ED Web Site.** *No change – ongoing.* The site (www.canbybusiness.com) is up and running. *Background:* We hope to have a very user-friendly economic development web site to serve as a home for our industrial and commercial recruitment efforts. This work became a priority as we've learned that many site selectors now do their initial research entirely on the internet and screen out communities that don't have easily accessible information.
- 30. Hazel Dell Way.*** The Urban Renewal Agency has approved LID assessments for this project. *Background:* Hazel Dell Way will serve as a connection between SE 1st Avenue and Sequoia Parkway (this will take on increased importance when the 1st/Sequoia intersection becomes right-in/right-out only). The project cost approximately \$1,160,000 including right-of-way acquisition.
- 31. Urban Renewal Advisory Committee.** The Urban Renewal Advisory Committee currently has no meetings scheduled. It will meet again in preparation for the annual budget process.

- 32. Job creation/SDC waiver program.** The Agency has approved a final version of this program following a legal opinion from Harvey Rogers. Staff will be asking if the Agency would like to continue offering this incentive in FY 07-08. *Background:* The Agency has set aside \$100,000 in the FY 05-06 budget for a program to incentivize new construction and job creation within the URD.
- 33. Site certification.** We are working with Clackamas County and the State of Oregon to “recertify” the CPIP as each certification only lasts for two years. *Background:* A 163-acre section of the Pioneer Industrial Park has been designated as a “certified opportunity site” by the State of Oregon, greatly increasing its marketability. Obtaining this certification was very time-consuming and we are hoping that the recertification process will be simpler.
- 34. Downtown Redevelopment Grants.** Three of the four projects that grants were awarded to are moving forward at this time. *Background:* The Urban Renewal Agency approved this program to provide some incentive for property owners to construct mixed-use developments within Canby’s commercial districts. The program offers a 1:1 match of up to \$3,000 towards architectural and financial studies of such projects. Funding for four projects was approved by the Agency.
- 35. Façade improvement program.** The Urban Renewal Agency has approved a façade improvement grant for the Canby *Herald* building. Construction is expected to begin soon. *Background:* The URD has approved the use of funds for up to five grants for façade design work and no-interest loans for construction work. Staff is also working to finalize a program with West Coast Bank, who will be reviewing and funding the construction loans.
- 36. Infrastructure Planning.** Staff has developed a more detailed road system plan including street cross-sections and improvement costs for the CPIP, and has held several meetings with property owners to discuss implementation of the plan.
- 37. Sequoia Parkway extension – Stage 5 (4th – Township).*** We are working on ROW acquisition, tree assessment, and a myriad of roadway design issues. *Background:* In November 2006, the Agency directed staff to work toward constructing this section of roadway to facilitate future industrial development.
- 38. Sequoia Parkway extension – Stage 6 (south of Township).*** In November 2006 the Agency approved a Memorandum of Understanding with the Weygandts that establishes funding and cost allocation for the construction of this segment of road. *Background:* Sequoia Parkway will be continued to a location approximately 450’ south of Township Road to enable development of industrial sites south of Township Road.
- 39. Intersection of Sequoia and SE 1st Avenue.** Staff is working with property owners to design the reconfiguration of this intersection. *Background:* Lancaster Engineering has completed a study of this intersection and we’re working with property owners on implementation of the closure that will be required.
- 40. Activity in Canby Pioneer Industrial Park.** Following is the status of the projects that have moved into the public realm. We continue to work on a variety of other leads and projects that remain confidential at this point.
- a. **Willamette Falls Hospital urgent care (6 acres – Sequoia/First Avenue).**
Construction is underway.

- b. **Pioneer Pump/VATA (4 acres – Sequoia Parkway):** Nearing completion.
- c. **WW Grigg (2 acres – 4th Avenue):** Construction is nearing completion.
- d. **Trend Business Center (4 acres – Sequoia Parkway):** The first building has been sold and the second building is nearing completion. The owner has plans to construct more buildings if market demand shows a need.
- e. **Bowco project (3.44 acres – Hazel Dell Way):** Under construction.
- f. **Root Holdings (9 to 13 acres – Hazel Dell Way):** Gordon Root, an investor from West Linn, has acquired most of the remaining property between Hazel Dell Way and SE First Avenue. He met in a work session with the Planning Commission on February 27 and we will be working with him on a Comprehensive Plan Amendment to rezone this area to commercial. Our goal is to ensure the project does not conflict or compete with the downtown core, so Mr. Root is focusing on users that would not fit downtown – such as a hotel and a large daycare provider.
- g. **Mountain Glass (2.9 acres – Hazel Dell Way):** Nearing completion.
- h. **American Steel (10 acres – Township Road):** The Urban Renewal Agency has met with this company and has agreed to initiate needed infrastructure improvements.

NEW LAND USE APPLICATIONS, November and December 2006

In addition to the applications below, we received 6 minor applications including modifications, a parking lot paving project, and a road vacation.

SUB 06-05/ZC 06-04 (Willow Creek) – A subdivision located off S. Ivy Street, across from HOPE Village.

SUB 06-06/DR 06-11 (Knott Commons) – 8 townhomes located on S. Knott Street, behind Locust Street Park.

DR 06-12 (Burger King) – Located at the SW corner of Berg Parkway and Highway 99E.

MLP 06-16 (WVCC) – Proposal to create several residential lots located along the Logging Road near NE 34th Avenue.

DR 06-13 (City of Canby) – Reconstruction of the Maple Street Park restrooms and new construction of restrooms at Legacy Park.

City of Canby
Annual Summary for 2006

1/4/2007

PERMIT TYPE	PERMITS ISSUED												YTD Total
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	
BUILDING PERMITS MULTIFAMILY	0	0	0	0	0	0	1	0	0	0	0		1
ADDITIONS NONRESIDENTIAL	1	2	3	6	3	5	4	0	0	0	0		24
OTHER	3	2	6	2	1	1	6	7	8	8	11	9	64
YEAR	22	96	151	207	278	335	386	472	534	592	648	700	
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	
BUILDING PERMITS MULTIFAMILY							293,916	-	-	-	-	-	293,916
ADDITIONS NONRESIDENTIAL	29,105	22,000	26,440	1,011,052	2,507,498	485,000	1,106,753	-	-	-	-	-	5,187,848
OTHER	882,335	20,000	47,600	167,988	864,913	1,425,000	239,577	775,209	705,404	2,457,617	1,599,575	1,335,330	10,520,548
YEAR	4,521,946	9,483,272	13,120,794	18,107,068	26,332,559	32,835,119	37,063,548	42,915,900	47,662,209	52,810,730	57,572,971	60,294,559	
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	YTD Total
Sewer SDC Fees	46,266	61,103	33,712	31,605	56,713	50,568	25,284	59,554	35,014	28,507	28,600	27,949	484,875
Parks SDC Fees	77,932	137,025	74,600	70,875	104,855	94,935	58,001	119,142	58,122	57,754	52,459	36,251	941,951
Planning Department Fees	1,146	1,465	905	1,725	1,781	1,725	605	1,530	1,445	1,330	1,143	870	15,669
Business License	-	-	-	-	50	-	-	-	-	100	-	50	200
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	
YEAR	394	892	1,491	1,950	2,519	2,944	3,400	3,975	4,457	4,972	5,414	5,761	

Canby Development
Monthly Report
November - December 2006

PERMIT TYPE	PERMITS ISSUED		VALUATION	
	Nov	Dec	Nov	Dec
<i>BUILDING PERMITS - SFR</i>	12	8	\$3,124,978	\$1,293,579
<i>BUILDING PERMITS</i>	0	0	\$0	\$0
<i>MULTIFAMILY</i>				
<i>MECHANICAL</i>	31	31	\$0	\$0
<i>ADDITIONS NONRESIDENTIAL</i>	0	0	\$0	\$0
<i>ADDITIONS</i>	2	4	\$37,688	\$92,679
<i>RESIDENTIAL</i>				
<i>OTHER</i>	11	9	\$1,599,575	\$1,335,330
MONTH	56	52	\$4,762,241	\$2,721,588
YEAR	648	700	\$57,572,971	\$60,294,559

	MONTH		YEAR
	Nov	Dec	
<i>Stormwater Fees</i>	\$1,870	\$4,481	\$31,003
<i>Sewer SDC Fees</i>	\$28,600	\$27,949	\$484,875
<i>Construction Excise Tax</i>	\$17,921	\$5,522	\$226,695
<i>Parks SDC Fees</i>	\$52,459	\$36,251	\$941,951
<i>Transportation Improvement</i>	\$74,257	\$127,984	\$783,367
<i>Planning Department Fees</i>	\$1,143	\$870	\$15,669
<i>Advanced Financing</i>	\$0		\$16,929
<i>Business License</i>	\$0	\$50	\$200
<i>Building Department Fees</i>	\$15,478	\$9,437	\$211,898

	Nov	Dec
MONTH	442	347
YEAR	5414	5761

HOUSING UNITS WITH BUILDING PERMITS

For Months Ending December 31, 2006

YEAR	SFR*	MH*	MFR*	TOTAL*
1977	205	0	160	365
1978	157	0	22	179
1979	64	0	12	76
1980	49	0	5	54
1981	29	0	24	53
1982	12	0	38	50
1983	7	0	0	7
1984	21	0	0	21
1985	21	20	0	41
1986	22	46	0	68
1987	37	34	0	71
1988	40	10	1	51
1989	47	6	37	90
1990	85	6	42	133
1991	84	21	10	115
1992	69	8	9	86
1993	108	32	59	199
1994	150	38	34	222
1995	51	54	58	163
1996	71	53	104	228
1997	89	25	189	303
1998	77	4	24	105
1999	139	3	62	204
2000	96	3	17	116
2001	122	0	13	135
2002	131	2	104	237
2003	85	1	72	158
2004	61	3	52	116
2005	123	2	4	129
2006	201	3	1	205
TOTAL	SFR	MH	MFR	TOTAL
1977 - 2006	2453	374	1153	3980
% of Total	61.6%	9.4%	29.0%	

2006	SFR*	MH*	MFR*	TOTAL*
MONTH	SFR*	MH*	MFR*	TOTAL*
Jan	16	0	0	16
Feb	34	0	0	50
Mar	17	0	0	67
Apr	15	1	0	83
May	21	0	0	104
Jun	20	2	0	126
Jul	11	0	1	138
Aug	26	0	0	164
Sep	11	0	0	175
Oct	10	0	0	185
Nov	12	0	0	197
Dec	8	0	0	205
Total	201	3	1	205
% of Total	98.0%	1.5%	0.5%	

* Totals do not include demolitions or replacements.

* Duplexes are included as MFR.

SFR = Single Family Residential

MH = Manufactured Housing

MFR = Multi-Family Residential

TOTAL	SFR	MH	MFR	TOTAL
1990 - 1999	1019	247	608	1874
% of Total	54.4%	13.2%	32.4%	
2000 - 2006	819	14	263	1096
% of Total	74.7%	1.3%	24.0%	

* Totals do not include demolitions or replacements; identifies total number of new dwelling units not new permits.

PARKS SDC
IMPROVEMENT

\$0.00

\$0.00

\$0.00

\$0.00

\$0.00

\$0.00

\$0.00

Cemetery Sales Review														
2003-2004	Jul-03	Aug-03	Sep-03	Oct-03	Nov-03	Dec-03	Jan-04	Feb-04	Mar-04	Apr-04	May-04	Jun-04	Total	
Cemetery Plot (preneed)	3	3	1	4	1	2	3	2	4	1		5	29	
Cemetery Plot (full size)		2	1		1	3	4		2	2	1		16	
Cemetery Plot (not full size)		1		2	3						4		10	
Mausoleum Space (preneed)										2			2	
Mausoleum Space					2	2		1					5	
Niche Space (preneed)	2				1				2	1	3	4	13	
Niche Space					1								1	
Grave Open & Close (full)		3	4	1	3	8	9	2	4	4	6	3	47	
Grave Open & Close (cremains)	1	2		2	1	3	1			2	1	2	15	
Maus Open & Close		1			1	1					1		4	
Niche Open & Close		3		1	1								5	
Liner			3	1	1	6	6	1	2	3	5	1	29	
Weekend		2				2			2		2		8	
2004-2005	Jul-04	Aug-04	Sep-04	Oct-04	Nov-04	Dec-04	Jan-05	Feb-05	Mar-05	Apr-05	May-05	Jun-05	Total	Change from prior year
Cemetery Plot (preneed)	2	2	2	6	2	1	9	1	2	6	2	5	40	11
Cemetery Plot (full size)		1	3	1		1	2	1			1	1	11	-5
Cemetery Plot (not full size)		1	1								1	1	4	-6
Mausoleum Space (preneed)												2	2	0
Mausoleum Space			2										2	-3
Niche Space (preneed)	2				1		1	2	3			3	12	-1
Niche Space					1		2		1	1		1	6	5
Grave Open & Close (full)	1	4	7	5	5	2	8	4	5	2	2	5	50	3
Grave Open & Close (cremains)	2	2	4	1	1	2	2	1	5	3		1	24	9
Maus Open & Close			2						3			1	6	2
Niche Open & Close	1		2		1		2	1	2	1		1	11	6
Liner	2	3	2	5	3	4	5	3	4			3	34	5
Weekend		3				1		1	2		2	2	11	3
2005-2006	Jul-05	Aug-05	Sep-05	Oct-05	Nov-05	Dec-05	Jan-06	Feb-06	Mar-06	Apr-06	May-06	Jun-06	Total	Change from prior year
			Price increases effective September 1, 2005											
Cemetery Plot (preneed)	2	33			1		2	2		1		1	42	2
Cemetery Plot (full size)	1	2					2				1	2	8	-3
Cemetery Plot (not full size)		2						5			2		9	5
Mausoleum Space (preneed)						2							2	0
Mausoleum Space												1	1	-1
Niche Space (preneed)		4							2	1			7	-5
Niche Space		3	1							1			5	-1
Grave Open & Close (full)	2	5	1		4	1	5	3	3		6	7	37	-13
Grave Open & Close (cremains)	3	2			4	1	1	5	3	1	1		21	-3
Maus Open & Close												1	1	-5
Niche Open & Close	2	2	2	1	1			1	1	1		1	12	1
Liner	2	3	1		3		3	1	1		3	6	23	-11
Weekend	3	1			3		1	1					9	-2
2006-2007	Jul-06	Aug-06	Sep-06	Oct-06	Nov-06	Dec-06	Jan-07	Feb-07	Mar-07	Apr-07	May-07	Jun-07	Total	Change from prior year
Cemetery Plot (preneed)	2		1	2									5	-37
Cemetery Plot (full size)			1	1	1	1							4	-4
Cemetery Plot (not full size)		1				3							4	-5
Mausoleum Space (preneed)	2												2	0
Mausoleum Space													0	-1
Niche Space (preneed)	4	1		2	2								9	2
Niche Space													0	-5
Grave Open & Close (full)	2	2	3	3	2	4							16	-21
Grave Open & Close (cremains)	1	5	1		1	2							10	-11
Maus Open & Close				1									1	0
Niche Open & Close		1	1	2	1								5	-7
Liner	1	2	1	3	2	3							12	-11
Weekend				1	2	1							4	-5

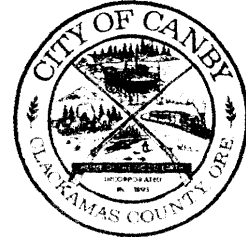
City of Canby Bi-Monthly Report

Department: Court

For Month of: November & December, 2006
Date prepared: January 4, 2007
From: Chaunee Seifried, Finance and Court Services Director
Through: Mark Adcock, City Administrator
Prepared by: Kathy Mashek, Court Supervisor

- ! 21 attended the seatbelt class for the months of November & December. This generated \$315.00 towards the purchase of helmets.
- ! Court trials for the months of November & December were held for 63 defendants. This required 15 officers, at various times, to come to testify.
- ! 649 cases were filed and 678 cases were concluded during these months.
- ! Revenue for the both months was \$98,689.28. Out of this amount, Oregon Department of Revenue received checks totaling \$7,256.60, Oregon Judicial Department \$588.00 and Clackamas County received \$2,588.40.
- ! 62 defendants appeared with attorneys. With the defendants there were a total of 13 different attorneys present.

**CANBY PUBLIC LIBRARY
BI-MONTHLY REPORT
November - December 2006**



TO: Honorable Mayor Thompson
and City Council
FROM: Mark Adcock, City Administrator
Beth Saul, Library Director
PREPARED BY: Marty Moretty, Library Supervisor
DATE: January 9, 2007

Facility:

- *We've had repair work done to the front and rear doors which seem to get out of alignment with the weather changes so now we have more confidence that the doors will securely latch again.**
- *Outside lights have been replaced with enclosed units that mount directly on the building so they are less apt to get damaged (by passing garbage trucks!). It will also reduce the possibility of exposed bulbs which should discourage vandalism.**
- *We have certainly been en"light"ened this month with about 20 ballasts being replaced and approximately 40 florescent tubes.**
- *A new heavy duty mat has been ordered for behind the circulation desk. Over the years, the glue holding the carpeting down to the floor has lost its adhesive powers and although the carpeting has been amazing, we notice some buckling so hope to protect these high travel areas.**
- *Canby Telcom has been in touch with us to set up a meeting to discuss WiFi at the Library. We've had lots of inquiries from patrons so it is obviously something that needs to be on the front burner.**
- *We are conducting research with the intent on purchasing a security system using panic buttons. Our Library operates into the evenings with limited staff and we need to err on the side of caution. We are too far away to piggyback onto the system at City Hall, Court, etc. so we are getting quotes at this time.**

Staff:

- *Attended the citywide ethics training at Old Town Hall.
- *Marty met with auditors to review our cash receipting process.
- *Marty attended a workshop of Performance Coaching through the League of Oregon Cities on November 14th.

Programs:

- *A Chautauqua series was held here on November 15th with readings and songs from the Civil War. It was very moving and the actors wore period costumes to add to the authenticity.
- *Family Nite was held on the 4th Thursday of November. These programs are made possible through the Ready to Read Grant from the Oregon State Library and the Friends of the Canby Library. Author Roy Ryan brought a powerpoint presentation of "The Adventures of Bonkers" a little pig with a big heart.
- *The Library held presentation and slide show on December 28th at 3pm on the Wounaan Indians of Panama, indigenous basketmakers. Humberto Teucama Membache President of the Wounaan Congress spoke and displayed examples of baskets, carvings and sculptures. A Canbyite MaryAnn Westfall has traveled many times to Panama and did the interpreting.
- *Molalla artist Noel Rodriguez has had an art exhibit for the months of November and December. Very unique and a local artist!
- *Staff and volunteers once again had a great time eating, laughing and generally enjoying each others' company at the Volunteer Appreciation dinner on Friday, December 8th. It's so rare that everyone gets together....we always make the best of it. Once again, the white elephant exchange lived up to its reputation and a mother-daughter duo, Karen and Claire Batridge were awarded the Volunteers of the Year award. Now, about the poor guy who won the woman's blouse.....
- *Art Fest student posters are once again on display for voting for your favorite and the winner's will be used for the large posters announcing the event.
- *The Library was closed December 24 and 25th to observe the holiday and opened on the 26th to throngs!

Grants:

- *Ready to Read Grant has been received and being used for family evenings, toddler storytime and enhancing our storytime collection.
- *A small portion of the Ready to Read grant is being used to purchase the licensing rights to give public movie performances for the year. Peggy and Hanna will be planning some events once the new system is purchased.

Volunteers:

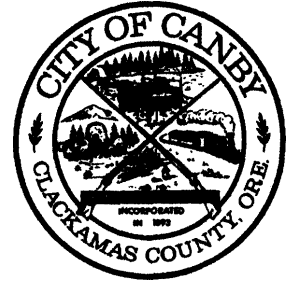
- *Contributed 341 hours for November and 318 hours for December assisting in shelving, sorting, pick lists, cataloging and processing, book mending, programs, shelf shifting, and cleaning, First Friday, even outside litter patrol, cleaning and sweeping.
- *Volunteer Abi Arnold painted three items on behalf of the library which were auctioned at the first Baker Prairie "Chair"-ish Our Kids silent auction. All three of her painted items sold for maximum bid so on behalf of the Library, her items fetched \$425 for the school and a great presence for us!
- *Abi also strolled in one day with a fleece muffler she'd made and the result was two work parties later, her picture in the paper and over 130 scarves on sale for a fundraiser for the Library – lovingly made by staff and volunteers.

Friends of the Library:

- *Sorting and shelving donations three times a week.
- *Purchased new projector system for programming and it made its debut presentation for the December program. It allows us to project all kinds of media on a screen or as large as a wall. It is a much-needed piece of equipment for us with the demise of our television and will allow us to expand our programming to many venues.
- *Ongoing smaller book sales confined to lobby and Friends sale room seem to be holding their own. Workers have been rotating sale items to keep new items visible. Blood pressure monitoring once a month has moved into the room and it seems to be working well. With Pat Sugden at the helm of the bookstore, proceeds from the store netted \$1074.16 in November and \$1587.33 in December. Wow and thanks to all the hard work from the ladies who tediously sort through the donations and make the books "irresistible" for sale.
- *The new free-standing fireplace in the Northwest Room has proven to be a cozy little nook where people are sitting quietly to read. We're even trying to decorate it for the season.
- *The book club met in November with "A Thread of Grace" by Mary Doria Russell and with "Can't Wait to Get to Heaven" by Fannie Flagg, the December selection.

City of Canby Bi-Monthly Report

Department: Parks



For The Months of November-December

Date: January 3, 2007

Prepared by: Jeff Snyder, Park Maintenance Supervisor

Through: Mark Adcock, City Administrator

1. Issue/project: Park Renovations

The Architect (Scott R. Beck) for the new restroom buildings at Legacy and Maple Park walked and measured the sites with us so we could determine the exact location of the proposed restroom buildings. The restroom plans will now go before the City of Canby Planning Commission to be reviewed in early January. Upon approval the plans will be posted in the Daily Journal of Commerce as an Invitation to Bid.

Three quotes were obtained for the repair of the damaged sidewalks at Wait Park. David Garber Construction Inc. of Hubbard was awarded the contract to repair the damaged sidewalks. The repairs are tentatively scheduled to take place in February, weather permitting.

2. Issue/Project: Park Maintenance

All the assets the Parks Department is responsible for were winterized by mid November. The last mowing schedule was completed in the beginning of December. Shrubs were fertilized and trimmed and the majority of all the leaves and storm debris were removed by the end of the month. Seven dead trees were removed from along the river bank at Community Park by the graveled parking area.

Western Power and Equipment Territory Manager Mark Ten Eych trained Parks and Public Works Employees on the new John Deere 6420 with the 20' Tiger flail mower. Since the training the Parks Department has logged over 85 hours of brush clearing along the Molalla Forest Rd. walking path, Fish Eddy, Log Boom and the property below the Skate Park. Once all of the properties have been cut back the plan will be to develop a maintenance schedule. A regular mowing schedule will reduce the man hours needed to maintain the road and trail edges.

Graffiti was painted over at a couple parks and playground equipment repairs were also addressed. Storm damage did occur at Arneson Gardens, the wind blew a tree from the GRAMOR property into the park which knocked one of our trees down and they both crushed two sections of chain link fence. GRAMOR stated they will repair the fences. Overall the parks are entering into 2007 in good shape.

Regular maintenance was performed at the 24 areas the parks department is responsible for, the Adult Center, Arneson Gardens Horticultural Park, Baker Prairie Cemetery, City Hall, Community Park (River), Eco Park natural area, Faist V property, Holly & Territorial welcome sign property, Hulbert's welcome sign property, Library, South Locust Street Park, Logging Road Trail and Fish Eddy/Log Boom property, Maple Street Park, Nineteenth Loop Natural area, Skate Park, Shop Ground, Swim Center, Legacy Park, Territorial Estates Future CLC Park, Transit Building, Transit Bus Stop, Triangle Park, Wait Park & Willow Creek Wetlands.

3. Issue/Project: City Facility Maintenance

Facilities maintenance request forms were received from City Hall (1), Transit (6), Library (4), Courts (1), Adult Center (2), City Shops (1), Finance Office (1) and the Police Department (2). It took 27 hours to complete the 18 request forms.

4. Issue/Project: Clackamas County Corrections Crews

C.C.C.C raked leaves and picked up debris at Wait Park, Arneson Gardens and Community Park. CCCC performed approximately 288 hours of labor for the City of Canby in the months of November and December.

Meetings attended:

Beth and I met with Debbie Nabb and Larry Hepler from Canby Utility to discuss maintenance needs at the Shop Complex.

I met with Chamber of Commerce representatives to discuss the procedures for turning on the power for the lighting ceremony at Wait Park.

Caleb Hawkins attended the City of Canby Safety Committee Meetings. The Parks, WWTP, Streets and Fleet Services departments held a Crew Safety Committee Meeting in December.

Ben and I met with Matilda to pass on the details for the North Woods irrigation system.

Attach statistics or other information of interest.

Victoria Harris; a teacher from Baker Prairie Middle School, took 100 students and cleaned the Molalla Forest Rd. walking path from Fred Meyers to SW 13th Ave. The student gathered twenty bags of debris in a couple of hours.

The Parks department received twenty seven applications for the Park Maintenance 1 position approved by the City Council. The top five applicants were interviewed and the first choice of the interview team is now in the final stages of the background investigation.

The Parks Department is responsible for 180 acres of property.

Bi-Monthly Report

From: Eric Laitinen, Aquatic Program Manager

Date: November 8, 2006

Re: September and October Report

The Canby Swim Center had a very busy November and December. Nathan started up masters swimming practices in November and attendance has been growing steadily. Monday, Wednesday and Fridays in the evening starting at 7:00pm, Nathan coaches practices geared for adults. The response has been very positive. November and December also had a return of the Ackerman elective classes. Ackerman has taken a couple years off from offering classes at the Canby Swim Center, but we were happy they were able to return this winter. Ackerman will also have more classes at the pool this spring.

Over the last two months attendance is up almost 1000 swims over last year. The total number of swims for the year over last year is about 3,500 swims. I think it is great to see that attendance is up and more people are using the facilities. As for revenue we are down about \$6,500.00 in November and December of last year, but only down about \$1,300.00 for the year. The Canby Swim Club has not paid there second payment of almost \$5,000.00, that we received last year in December. When we do receive the payment we will be up for the year around \$3,700.00. As usual our revenue and attendance moves around a lot from month to month but usually all works out at the end of the year.

The Canby Gators hosted two large meets this winter one in November and one in December. The annual Canby Ford Mile Open was very successful again with one hundred and seventy two swimmers swimming the mile at our meet. Again this year about forty of the swimmers needed to swim at a second pool in order to for everyone to swim in one day. Mt. Hood Swim Team helped us out again. The Canby Animal Meet celebrated it's 25th year this December. The senior meet was won by Morgan Scroggy a resident of Canby swimming with Tualatin Hills Swim Team and Brett Nagel of Parkrose Swim Team. Over the two day meet 280 swimmers participated in the meet. There were three different sessions of the meet. The senior Animal Meet and two Jr Animal Meets.

FROM : ERIC LAITINEN, AQUATIC PROGRAM MANAGER
SUBJECT: MONTHLY REPORT FOR NOVEMBER 2006
DATE: January 9, 2007

CANBY SWIM CENTER NOVEMBER 2006	ADMIT 2005	ADMIT 2006	PASS 2005	PASS 2006	TOTAL 2005	TOTAL 2006	YTD TOTAL 05-06	YTD TOTAL 06-07
MORNING LAP	21	22	250	200	271	222	1202	1187
ADULT RECREATION SWIM	61	39	454	472	515	511	2218	2614
MORNING WATER EXERCISE	216	241	0	0	216	241	1029	1125
PARENT/ CHILD	66	60	0	0	66	60	732	952
MORNING PUBLIC LESSONS	0	201	0	0	0	201	3068	3740
SCHOOL LESSONS	0	453	0	0	0	453	1050	1623
NOON LAP	59	42	186	169	245	211	1035	948
FAMILY SWIM	3	0	0	0	3	0	9	0
AFTERNOON PUBLIC	203	248	5	19	208	267	2296	2365
PENGUIN CLUB	0	0	0	0	0	0	1054	1469
CANBY H.S. SWIM TEAM	0	0	674	629	674	629	674	629
CANBY SWIM CLUB	0	0	814	868	814	868	2997	3086
MASTER SWIMMING	0	6	0	56	0	62	0	62
EVENING LESSONS	316	313	0	0	316	313	3171	4153
EVENING LAP SWIM	39	49	16	33	55	82	420	450
EVENING PUBLIC SWIM	297	225	0	45	297	270	2892	2663
EVENING WATER EXERCISE	108	76	0	0	108	76	622	456
ADULT LESSONS	0	0	0	0	0	0	16	24
GROUPS AND RENTALS	504	481	0	0	504	481	1365	1608
WATER POLO	0	0	0	0	0	0	32	0
OUTREACH SWIMMING	0	0	0	0	0	0	449	589
TOTAL ATTENDANCE	1,893	2,456	2,399	2,491	4,292	4,947	26331	29743

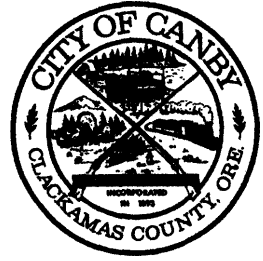
FROM : ERIC LAITINEN, AQUATIC PROGRAM MANAGER
SUBJECT: MONTHLY REPORT FOR DECEMBER 2006
DATE: January 9, 2007

CANBY SWIM CENTER DECEMBER 2006	ADMIT 2005	ADMIT 2006	PASS 2005	PASS 2006	TOTAL 2005	TOTAL 2006	YTD TOTAL 05-06	YTD TOTAL 06-07
MORNING LAP	18	21	223	199	241	220	1443	1407
ADULT RECREATION SWIM	40	26	414	381	454	407	2672	3021
MORNING WATER EXERCISE	171	186	0	0	171	186	1200	1311
PARENT/ CHILD	32	14	0	0	32	14	764	966
MORNING PUBLIC LESSONS	0	0	0	0	0	0	3068	3740
SCHOOL LESSONS	0	100	0	0	0	100	1050	1723
NOON LAP	68	40	189	156	257	196	1292	1144
FAMILY SWIM	10	0	0	0	10	0	19	0
AFTERNOON PUBLIC	172	191	5	12	177	203	2473	2568
PENGUIN CLUB	0	0	0	0	0	0	1054	1469
CANBY H.S. SWIM TEAM	0	0	606	619	606	619	1280	1248
CANBY SWIM CLUB	0	0	849	753	849	753	3846	3839
MASTER SWIMMING	0	3	0	33	0	36	0	98
EVENING LESSONS	180	294	0	0	180	294	3351	4447

EVENING LAP SWIM	26	25	14	21	40	46	460	496
EVENING PUBLIC SWIM	149	190	4	34	153	224	3045	2887
EVENING WATER EXERCISE	66	49	0	0	66	49	688	505
ADULT LESSONS	0	0	0	0	0	0	16	24
GROUPS AND RENTALS	309	363	0	0	309	363	1674	1971
WATER POLO	0	0	0	0	0	0	32	0
OUTREACH SWIMMING	0	0	0	0	0	0	449	589
TOTAL ATTENDANCE	1,241	1,502	2,304	2,208	3,545	3,710	29876	33453

City of Canby Bi-Monthly Report

Department: PUBLIC WORKS



For Months of: November & December 2006

Date: January 4, 2007

Prepared by: Roy Hester

November 1-30, 2006

1. **Streets:**

- Picked up a load of road oil in Portland.
- Swept streets, 11-2-06.
- Cleaned walkway between NW 11th and NW 12th, leaf debris.
- Swept streets, 11-3-06.
- Cleaned leaf debris off City streets, 11-6-06.
- Swept streets, 11-7-06.
- Swept streets, 11-8-06.
- Swept streets, 11-9-06.
- Swept streets, 11-13-06.
- Swept streets, 11-15-06.
- Patched chuck holes with cold mix.
- Swept streets, 11-16-06.
- Swept streets, 11-17-06.
- Swept streets, heavy with leaf debris, 11-20-06.
- Swept streets, 11-21-06.
- Removed a bush in vision clearance area.
- Cleaned walkway between NW 11th and NW 12th, heavy leaf debris.
- Swept streets, 11-22-06.
- Put out high water signs at the Pioneer Industrial Park.
- Swept streets, 11-29-06.
- Patched numerous holes around town with cold mix, 11-29-06.
- Swept streets, 11-30-06.
- Picked up load of cold mix in Portland.
- Patched numerous holes around town with cold mix, 11-30-06.
- Completed (16) locates for the month of November.
- Fixed or repaired (37) complaints for the month of November.

2. Sewer, Erosion Control and Storm System:

- TV'd new sewer main on Territorial Road at Northwood Estates.
- Inspected work at storm out fall on Logging Road.
- Cleaned catch basins, 11-3-06.
- Cleaned catch basins from leaf debris plugging them up, 11-6-06.
- Unplugged catch basins throughout the City, 11-7-06.
- Met with contractor at Willamette Falls Heath Center and inspected sewer manhole connection.
- Re-installed lift station pump at NE 11th and N Pine Street.
- Pulled, unplugged and cleaned lift station pump at NW 3rd and N Baker Street.
- Removed grease from floats at 34th Street lift station.
- Witnessed repair of sewer main on Territorial Road at Northwood subdivision, approved the repair.
- Washed sewer main on SE 1st behind the Canby Farm Store.
- High water alarm at Knights Bridge lift station, we pumped it down and found no problems.
- Repaired hydro-tornado sewer nozzle.
- Located sewer lateral on S Berg Parkway.
- Updated erosion inspections in the computer.
- Witnessed lift station installation at SE 1st Street.
- Completed (15) sewer laterals and mains for the month of November.
- Inspected (23) Erosion Control applications, permits and finals.

3. Street Sign/Trees/Lights:

- Emergency tree removal on NW 1st it was split from wind and rain storm.
- Removed tree at NW 9th and N Holly Street that broke in half.
- Replaced (2) street name signs that blew down.
- Fixed and repaired (20) street lights for the month of November.

4. Miscellaneous:

- Applied thermo-plastic stop bars at railroad as directed by ODOT.
- After a crime at the Honda Pitts, we removed all buildings, equipment and garbage from the site.
- Picked up dead cat on S Locust Street.

- Traveled to Washougal, WA to pick up lift station pump and swim center pump.
- Attended demo on Aries Sewer TV system.
- Attended boom mower operation training.
- Changed cable on red truck winch.
- Removed tree on SE 2nd and S Juniper Street.
- Purchased "Ice Melt" for sidewalks.

Meetings attended:

- Attended pre-application meeting for 4-lot subdivision at Tofte Farms.

Monthly Report for December 1-31, 2006

1. Streets:

- Swept streets, 12-1-06.
- Patched chuck holes around town with cold mix.
- Hauled away sweeper debris.
- Graveled shoulder on NW Territorial by River City Club House.
- Patched chuck holes with cold mix.
- Swept streets, 12-13-06.
- Swept streets, 12-15-06.
- Swept streets, 12-22-06.
- Swept streets, 12-29-06.
- Fixed chuck holes with cold mix.
- Completed (7) locates for the month of December.
- Fixed or repaired (21) complaints for the month of December.

2. Sewer, Erosion Control and Storm System:

- Washed the sewer line at the sewer plant.
- TV'd sewer main on NW 3rd and N Birch.
- Washed and TV'd sewer lateral at NW 6th, due to a root problem.
- Worked on Erosion Control permits.
- Washed sewer mains around town.
- Washed sewer main at the 800 block of NW 6th Avenue.

- Excavated sewer lateral at 935 NW 6th Ave to install cleanout at the property line.
- Finished repairing and installing cleanout at 935 NW 6th Avenue.
- Checked sewer installation progress on SE 1st Avenue.
- Inspected sewer lateral replacement at 425 NW 3rd Avenue.
- Installed storm overflow in the yard at the Shop Complex.
- Laid out storm project on N Baker Drive.
- Heavy rains caused major flooding around town and we cleaned catch basins all day.
- TV'd sewer lateral at 426 Knight Bridge Road. Property owner called in and found a possible broken line at the curb.
- Repaired the sewer lateral at 426 Knights Bridge Road.
- Worked on the storm line at N Baker Drive.
- Witnessed air test and mandrel pull on new sewer system on SE 1st Street Hazeldell Lift Station.
- Completed storm line at N Baker Drive.
- Emptied sewer manhole on Hazeldell Way until the sewer lift station is operational.
- TV'd new sewer main on SE 1st.
- Completed (14) sewer laterals and mains for the month of December.
- Inspected (9) Erosion Control applications, permits and finals.

3. Street Sign/Trees/Lights:

- Repaired street signs around town due to weatherization.
- Installed stop sign at NE 16th Avenue and N Manzanita.
- Replaced post and stop sign at Transit Center.
- Called out after hours because of downed trees.
- Cleaned up tree debris and brush out of the streets around town.
- Picked up downed tree logs between S Ivy, S Elm and NW 1st Streets.
- Put up temporary stop sign at 99E and S Locust Street because it was hit.
- Installed new stop sign and post at 99E and S Locust Street.
- Cleaned up brush on City's right-of-way between N Locust and N Juniper Streets.
- Fixed and repaired (10) street lights for the month of December.

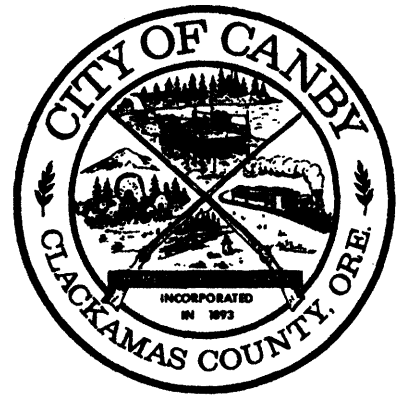
4. Miscellaneous:

- Met with Bud Fawver about Fawver's subdivision's sewer laterals.

Meetings attended:

- Attended pre-application meeting for 655 NW Territorial Road.
- Attended pre-application meeting for 441 S Knott Street
- Ethics training all day 12-11-06 for Roy, Dan, Daniel, Jerry and Ronda.
- Ethics training all day 12-12-06 for Craig and Lou.
- Attended meeting pre-con for Canby Highway Market Place aka Canby Professional Center.
- Attended pre-construction meeting at 505 N Baker Drive.
- Attended Traffic Safety meeting.
- Attended pre-application meeting for Canby Excavating sewer line.

**WASTEWATER TREATMENT FACILITY
MONTHLY REPORT**



To: *Honorable Mayor Thompson, City Council*

From: *Mark Adcock*

Through: *John Williams*

Prepared by: *Darvin Tramel*

Subject: *November & December 2006 Wastewater Treatment Report*

Date: *January 9, 2007*

Facility Operations & Maintenance & Construction:

Facility operations and effluent quality at the wastewater treatment plant for the months of November and December remain excellent, with no interruption of services or violations for either month. November and December were extremely wet months and the fields that we apply Biosolids to were so soggy to drive our equipment on. Owners of two of our application sites asked that we not haul on their properties until the fields firm up enough to not cause rutting and a mess on their properties. In order to keep up with production we worked with Fred Kahut to get us approved to haul the Biosolids to Riverbend landfill, until we can start hauling again, hopefully in January. This is the first year that we were not able to haul during the winter.

During the months of November and December staff replaced a motor and gear reducer on the South clarifier, repaired old boot in lime silo, replaced water jets on both North and South clarifiers, installed a new and larger hot water heater in old biosolids and replaced a PLC unit in the Biosolids building. Staff, as always, performed routine preventative maintenance as needed.

Construction activities for the month of November and December included oversight and completion of the remediation work at the stormwater outfall on the Willamette River and continuing to look at design parameters for the Phase III plant upgrade

NOVEMBER

New Connections: 12
Total Connections: 5611
Average Flow: 1.1713 mgd
E. Coli : 3

Monthly Averages:
Effluent BOD₅: 3 mg/l
Effluent CBOD₅: 2 mg/l
Effluent TSS: 6 mg/l

DECEMBER

New Connections: 08
Total Connections: 5619
Average Flow: 1.1488 mgd
E. Coli : 2

Monthly Averages:
Effluent BOD₅: 4 mg/l
Effluent CBOD₅: 2 mg/l
Effluent TSS: 8 mg/l

Biosolids Program:

In November the City applied 120 cubic yards of Biosolids to the Hein property and 167 cubic yards of Biosolids were hauled and disposed of in the Riverbend landfill. Due to a sale of property we lost one of our winter Biosolids sites and we began the solicitation process to take on new application sites. Currently we are advertising in the Canby Herald and to date have gained one forty acre site. We will begin the DEQ application process in January and hopefully will be able to haul on this new site sometime in late spring or summer. The Biosolids program had no violations or odor complaints for the past two months.

Pretreatment & Storm Water:

In November and December I continue to work on audit activities and EPA Streamlining rule changes. In December staff and I completed another semi annual sampling and analysis for heavy metals and priority pollutants. Everything went smoothly and I expect to see no problems with our effluent quality. The results of the December sampling will not be issued until the middle of January. I continue to work with Oregon ACWA on the formulation of training brochures for Industrial Pretreatment and Grease management.

Pretreatment inspections for the last two months included Johnson Controls Inspection and Semi Annual priority pollutants scan. Also during the last two months we worked with Safeway to get them on a regular maintenance program for grease interceptor cleaning and inspection. Jeff and staff completed a baseline Mercury sampling of sewer lines to compare Mercury concentrations between commercial, residential, industrial and dental establishments within our jurisdiction. This sampling is part of our Mercury reduction program. Also related to the Mercury reduction plan was a personal follow up with dentists in the City to make sure they completed the City Dental Mercury survey we sent out in late summer.

Storm water activities were based around defining the responsibilities of Jeff Crowthers (Assistant Supervisor Wastewater) to characterize exactly what his role will be with Storm Water and the amount of FTE's we can attribute to move our City storm water program forward. In January Jeff will be chairing another meeting of our Storm water committee to try and develop an implementation plan that will get us caught up and keep us informed with the ever changing rules of storm water.

Meetings and Training Attended

I attended meetings with Oregon ACWA, Curran & McLeod Engineering, Economic and Financial Consultants, the PNPC and attended a seminar on the Oregon Drug Take Back program. Jeff Crowthers attended meetings with the ACWA Stormwater and attended a training seminar on the Oregon Drug take back program, Administrative Assistance course and a seminar on Microsoft Power Point. All staff member's participated in our monthly safety meeting, facility emergency preparedness and a City wide seminar on ethics.