

AGENDA

CANBY CITY COUNCIL MEETING

September 5, 2007, 7:30 P.M.

Council Chambers

155 NW 2nd Avenue

Mayor Melody Thompson

Council President Walt Daniels

Councilor Teresa Blackwell

Councilor Paul Carlson

Councilor Randy Carson

Councilor Tony Helbling

Councilor Wayne Oliver

CITY COUNCIL MEETING

1. CALL TO ORDER

A. Pledge of Allegiance and Moment of Silence

B. Employee of the Month Presentation – July 2007

Pg.1

2. COMMUNICATIONS

A. Letter from Pam Berry Regarding Transfer from Willamette Broadband to Wave Broadband

Pg.2

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 Minutes of the August 15, 2007 City Council Regular Meeting

B. Approval of Minutes of the August 22 City Council Work Session

C. Canby Shell Change of Ownership Liquor License

Pg.8

7. RESOLUTIONS & ORDINANCES

A. Ord. 1255, Authorizing Contract with Withnell Motor Company for the Purchase of Two 2008 Dodge Charger Vehicles with Police Packages for the Canby Police Department

Pg.10

8. NEW BUSINESS

- A. Discussion Regarding Appointment of Park and Recreation Joint Policy Committee
- B. Discussion Regarding Contracting for Parks Construction/Planning Project Management

Pg.13

9. CITY ADMINISTRATOR'S BUSINESS & STAFF REPORTS

10. CITIZEN INPUT

11. ACTION REVIEW

12. EXECUTIVE SESSION: ORS 192.660(2)(d) Labor Negotiations, ORS 192.660(2)(e) Real Property, and 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.

July 2007

City of Canby
Employee of the Month
Nomination Form

Name of Nominee: Mariann Hall

Date: August 7, 2007

Department: Library

Nominated By: Beth Saul

Which of these criteria describes the reason for your nomination of this person?

- ☐ Improved quality
 - ☐ Timely completion of a project
 - ☐ Demonstrates exemplary leadership and integrity
 - ☐ Excellent customer service (demonstrating exceptional customer service, an on-going commitment to customers, or innovation or creativity in customer service)
 - ☒ Overcame adverse obstacles or worked under unusual conditions
 - ☒ Increased program effectiveness or efficiency
 - ☒ Saves the City time/money
 - ☒ Improved levels of cooperation
 - ☐ Exceeds performance expectations
-

Can you please explain in 3 or 4 more detailed sentences, why you think this person should be nominated for "Employee of the Month", especially as it relates to the items(s) you checked above. Please attach an additional sheet if necessary.

Mariann has worked part time for the library for several years and is considered an excellent employee. She consistently demonstrates great customer service, cooperation and creativity in doing her job. Mariann often asks very intelligent questions about why we do the things we do and also can be counted on to investigate and analyze our ideas and proposals to see if they make sense and to increase efficiency and effectiveness. This ability to analyze also makes her very helpful to the public in assisting them with the use of the library.

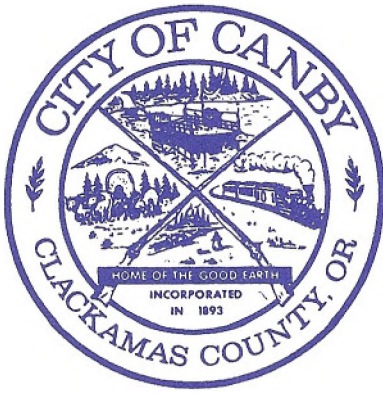
But Mariann voluntarily took on an extra big challenge this year when she began questioning the way we schedule the staff, and she did an amazing analysis of the usage of the library to help determine what the new public hours should be. Once that was done, and upon learning that I was devising a new scheduling system that would have staff trying to pick their own work hours through a dot and chart process, Mariann began working on a way to schedule everyone so that their desk hours and off desk hours would be fairly distributed. The staff was having trouble trying to pick their own hours-- it is actually a very complex thing to schedule a dozen people who all have various needs, other jobs, etc-- so Mariann stepped up to the plate with a plan that incorporated everyone's needs and availability while deftly matching it with the needs of the public schedule. The result is a schedule that has buy-in from the staff and that is on an Excel spreadsheet that can be used in the future to create scenarios for various open hours schedules. She has truly taken our staff scheduling method into the 21st century, and we are very proud of her accomplishment!

Please return this form to the Department Director of the nominee.


Department Director's Signature

8/20/07
Date

8/7/2007



City of Canby

Office of the City Attorney

Memo to: Mayor and City Council

From: John Kelley, City Attorney 

Date: August 27, 2007

Re: Letter from Attorney Pam Berry dated August 23, 2007
Transfer of Franchise from Willamette Broadband (WBB) to Wave Broadband

You received the above referenced letter from Pam Berry today. I have included it on the agenda for the next meeting under "Communications" in case you have any specific questions that I might be able to answer or can pass along to Pam. As I believe you know, Wave Broadband of Kirkland, WA is proposing to purchase all of WBB's franchises in this area, including Clackamas County, Gervais, Woodburn, Hubbard, Molalla, Stayton and Willamina. Willamette would be assigning, with the City's permission, the current Franchise agreement to Wave Broadband. The current agreement, signed in 1999 by WBB's predecessor in interest, North Willamette Telecom, is for a term of 12 years. Pam Berry represented the City in negotiating the original agreement with North Willamette Telecom. Pam also assisted the City when WBB acquired the Franchise from North Willamette Telecom in 2002. Pam's attached letter explains the transfer process in more detail, so I won't repeat that information here. Please review her letter thoroughly.

On August 15, 2007, we had a "meet and greet" with David Hankin, the representative from Wave and Wayne Vestal of Willamette here at City Hall. I was present along with Michael Maze and several OCTS Board members. I believe we left the meeting with a good feeling about the future of Wave Broadband in Canby. We discussed some of the previous problems with Willamette and OCTS's plans for their programming. Mr. Hankin was very receptive and impressed with the level of commitment OCTS personnel and Board members exhibited. He assured me that Wave has the financial backing to support its Franchise fee payments.

With respect to Pam's letter requesting information, I have already sent her a response, basically indicating that late payments have been the biggest problem we

2

have had with Willamette in the past. I included a copy of the payment record and two of my letters directed to Willamette requesting payment on time. Their most recent quarterly payment, received July 30, 2007, was paid in full and on time. I also advised her of the dates of Council meetings for October and November so that the Council could consider a Resolution approving the assignment.

You probably already understand this, but so that there is no misunderstanding, I want to point out that when the issue is one of "assignment" of an existing franchise; the only questions to be addressed involve the financial, legal and technical ability of the new transferee to operate the Cable System and to meet the requirements of the franchise. The existing Franchise Agreement is not reopened for further negotiation as to its terms. The transferee assumes all the terms and conditions of current Franchise and agrees to abide by them. Pam Berry's responsibility is to review the information submitted by Wave in the FCC Form 394 and advise if she believes Wave can comply with the current Franchise Agreement. For your information, I have seen an exchange of emails between Pam and Wayne Vestal and he has agreed to pay up to \$10,000.00 for Pam's legal fees. Hopefully, that will cover any costs on the City's behalf.

I will be available to answer questions at the meeting.



Beery Elsner
& Hammond LLP

RECEIVED

AUG 24 2007

CITY OF CANBY

August 23, 2007

SENT VIA FIRST CLASS MAIL

City of Canby
P.O. Box 930, 182 N. Holly Street
Canby, OR 97013

Re: Willamette Broadband to Wave Broadband: Proposed System Transfer

Dear Mayor and Council, City of Canby:

A Federal Communications Commission ("FCC") Form 394 has been filed with the City by Wave Broadband and Willamette Broadband. The City has some options to consider as it acts on the request for transfer of control.

Summary of analysis

The issues associated with this transfer relate both to compliance with the current franchise and with the financial, legal and technical qualifications of the proposed transferee.

There are conditions which should be attached to the transfer, discussed below.

Discussion

Federal law, under 47 U.S.C. §537, Section 617 of the Cable Act, governs transfers of control of cable systems. The entity holding the franchise and the proposed new entity file a federal form called a "Form 394" which describes the qualifications of the new company and requests that the City, as the grantor of the cable franchise, approve the transfer. The City has 120 days to review the Form 394 and to take action on it; otherwise it is deemed granted. Our records indicate that the Form 394 was received on July 11, 2007 resulting in a deadline for approval of November 8, 2007.

The City's authority under the Cable Act is to review the financial, legal and technical qualifications of the proposed transferee to operate the Cable System and to meet the requirements of the franchise. We are currently reviewing Form 394 to determine if it demonstrates such capabilities to a satisfactory degree.

Our firm has a proposal pending with both Willamette Broadband and Charter Communications that the costs of the legal review process for all of our involved clients be consolidated and billed directly to Willamette Broadband and Charter Communications. This will result in a more efficient review process and, therefore, a cost savings for the franchisees and a simultaneous savings for the City in that there will be no expense for this aspect of the transfer.

If the City has experienced significant performance problems with Willamette Broadband, they should be addressed at the time of transfer, and conditions requiring compliance with the franchise should be imposed.

If the Willamette Broadband system is scheduled for completion of system upgrade, which may already be required in your existing franchise, the City will want information about any planned upgrade by the successors and will want assurances that such an upgrade will occur.

Recommendation

Council will need to take formal action in the form of a resolution on the requested transfer of control at a future meeting, prior to the expiration of 120 days from the filing of the Form 394. Depending on the performance of Willamette Broadband in Canby and any planned or desired system upgrades, the Council may wish to make the transfer of control contingent on one or more of the following conditions. Staff can evaluate this issue before the Council meeting and provide a recommendation:

1. That the approval of the transfer of control will take effect upon the closing of the transactions identified in the Form 394 filed by the applicant, and the applicant shall file proof of such closing with the City;
2. That the new Grantee shall file with the City an unconditional acceptance of all of the terms and conditions of the existing Willamette Broadband franchise following the transfer of control;
3. That the new Grantee shall file a Faithful Performance Bond and proof of Liability Insurance in a form satisfactory to the City's legal counsel, and shall notify the City of its locally designated representative for franchise administration; and
4. A condition addressing any system upgrade or performance issues.

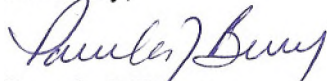
Requests

To aide in our review of the request for transfer and to assure that the review process is as thorough as possible, please forward the following to our office no later than September 10, 2007:

1. A copy of the most recent franchise fee report, along with proof of payment, so we may determine if the franchisee has been properly paying the fees due to the City;
2. A history of performance issues or disputes between the City and Willamette Broadband;
3. Examples of non-compliance by Willamette Broadband with the terms of the franchise agreement; and
4. Dates the Council will be meeting in October and November that would allow for the consideration of a resolution for approval of the request for transfer on the agenda, along with the deadlines for the submission of the relevant material for each of those dates provided.

I hope this memorandum is helpful to you as you evaluate the requested transfer of control of the Willamette Broadband system. As always, please feel free to call with any questions.

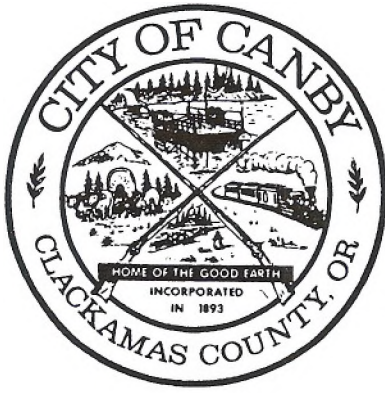
Sincerely,



Pamela J. Beery

PJB/sg

cc: John Kelley, City Attorney



City of Canby

Office of the City Attorney

August 27, 2007

Pamela J. Berry
Attorney at Law
1750 SW Harbor Way, Suite 380
Portland, OR 97201

Re: WBB Franchise to Wave Broadband

Dear Pam:

In response to your letter dated August 23, 2007, I am enclosing a payment history of WBB and some other letters, etc., we've exchanged regarding past due franchise payments from WBB over the term of the Agreement.

Except for a handful of citizen complaints over the last 8 years, which to my knowledge were satisfactorily resolved, the only major issue the City of Canby has had with WBB has been their consistently late payments. Although, you'll note that the last one was paid on time, probably for Wave's benefit.


I have scheduled a discussion with the Council at its next meeting (September 5th) to review your letter and will advise if anything further comes from that discussion. If after reviewing the enclosed material, you have questions, please call me.

Very truly yours,

John H. Kelley
Canby City Attorney

JHK/me
Cc: Mayor and Council
Mark Adcock


Memo

To: Mayor Thompson & Members of City Council
From: Chief Greg A. Kroeplin 
CC: Kim Scheafer, General Administration
Date: August 23, 2007
Re: Liquor License Application / Canby Shell

I have reviewed the attached liquor license application completed by the applicant, Josue Flores and Mary Laudon-Flores. In addition, I met with the applicants at the business (293 SW 1st Avenue) where we discussed laws involving the sale of alcoholic beverages. They told me that they would be working closely with OLCC as it relates to training for their employees on pertinent laws involving alcohol related violations and crimes.

I recommend that the Canby City Council recommend approval of this application to the Oregon Liquor Control Commission (OLCC).

Taking Ownership 8-1-07 Reg. 90 day Temp
OREGON LIQUOR CONTROL COMMISSION
LIQUOR LICENSE APPLICATION

Rec. 8/21/07 \$750 CK# 1016 Receipt# 1982


PLEASE PRINT OR TYPE

Application is being made for:

LICENSE TYPES

- ☐ Full On-Premises Sales (\$402.60/yr)
☐ Commercial Establishment
☐ Caterer
☐ Passenger Carrier
☐ Other Public Location
☐ Private Club

☐ Limited On-Premises Sales (\$202.60/yr)
☒ Off-Premises Sales (\$100/yr)
☒ with Fuel Pumps
☐ Brewery Public House (\$252.60)
☐ Winery (\$250/yr)
☐ Other: _____

ACTIONS

- ☒ Change Ownership
☐ New Outlet
☐ Greater Privilege
☐ Additional Privilege
☐ Other _____

*P21426
L89349*

Applying as:

- ☒ Individuals ☐ Limited Partnership ☐ Corporation ☐ Limited Liability Company

FOR CITY AND COUNTY USE ONLY

The city council or county commission:

City of Canby

(name of city or county)

recommends that this license be:

Granted ☐

Denied ☐

By: _____

(signature)

(date)

Name: Melody Thompson

Title: Mayor

OLCC USE ONLY

Application Rec'd by: C Ellis

Date: 8-20-07

90-day authority: ☒ Yes ☐ No

1. Applicant(s): [See SECTION 1 of the Guide]

① JOSUE FLORES

③ _____

② MARY LAUDON-FLORES

④ _____

2. Trade Name (dba): CANBY SHELL

3. Business Location: 293 SW 1ST CANBY CLATSOP OR 97013
(number, street, rural route) (city) (county) (state) (ZIP code)

4. Business Mailing Address: SAME AS ABOVE
(PO box, number, street, rural route) (city) (state) (ZIP code)

5. Business Numbers: 503-266-8595 503-266-8595
(phone) (fax)

6. Is the business at this location currently licensed by OLCC? ☒ Yes ☐ No

7. If yes to whom: HARRISON Holdings INC. Type of License: OFF-PREMISES SALES w Pump.

8. Former Business Name: CANBY SHELL

9. Will you have a manager? ☐ Yes ☒ No Name: _____
(manager must fill out an individual history form)

10. What is the local governing body where your business is located? CANBY
(name of city or county)

11. Contact person for this application: MARY LAUDON-FLORES
(name) (phone number(s))
CANBY, OR 97013 503-266-8595
(address) (fax number) (e-mail address)

I understand that if my answers are not true and complete, the OLCC may deny my license application.

Applicant(s) Signature(s) and Date:

① [Signature] Date 8-15-07 ③ _____ Date _____

② Mary Laudon Flores Date 8-15-07 ④ _____ Date _____

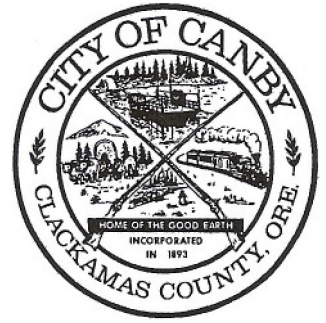
1-800-452-OLCC (6522)
www.olcc.state.or.us

RECEIVED

AUG 21 2007

CITY OF CANBY

MEMORANDUM



TO: *Honorable Mayor Thompson and City Council*
FROM: *Lt. Jorge Tro*
THROUGH: *Mark C. Adcock, City Administrator*
DATE: *August 24, 2007*

Issue: Purchase of two (2) 2008 Dodge Charger Police vehicles.

Synopsis: Scheduled replacement of patrol vehicles.

Recommendation: Staff recommends that the City Council approve Ordinance #1255 allowing the Mayor and City Administrator to execute the appropriate lease/purchase contract with Withnell Motor Company in Salem for two police vehicles.

Rationale: The purchase of these vehicles is a continuation of our vehicle replacement plan. Both of these vehicles will be assigned to our patrol division and replace older existing units.

Background: Our Fleet Services Supervisor, Joe Witt, obtained the state bid quote of \$22,282.80 from Withnell Motor Company in Salem for the vehicles as listed in the attached ordinance. The necessary Police equipment, paint and graphics will be added to the purchase price for a grand total of \$77,997.70 for both outfitted vehicles. This cost is financed through the Chrysler Municipal Lease to Purchase Program over a four year period and will be funded out of our vehicle leasing line item as approved in the adopted 2007/2008 budget.

Chief Greg Kroeplin and I recommend the approval of the attached City Ordinance #1255 as prepared by the City Attorney.

Approved by Finance
8/24/07

ORDINANCE NO. 1255

AN ORDINANCE AUTHORIZING THE MAYOR AND CITY ADMINISTRATOR TO EXECUTE A CONTRACT WITH WITHNELL MOTOR COMPANY OF SALEM, OREGON FOR THE PURCHASE OF TWO 2008 DODGE CHARGER VEHICLES WITH POLICE PACKAGES FOR THE CANBY POLICE DEPARTMENT; AND DECLARING AN EMERGENCY.

WHEREAS, the City of Canby wishes to purchase two new Dodge Charger vehicles with police packages for the City's Police Department; and

WHEREAS, the purchase will be made from Oregon Department of Administrative Services (DAS) in compliance with ORS 279.820 - 279.855 utilizing an existing solicitation for the State of Oregon Department of Transportation (ODOT) under State of Oregon Bid No. 5159 - PA; and

WHEREAS, DAS concurs with the City of Canby utilizing the existing solicitation and this purchase is in cooperation with the ORCPP; and

WHEREAS, Withnell Motor Company of Salem, Oregon submitted the low bid of Seventy-seven thousand, nine hundred ninety-seven dollars and seventy cents (\$77,997.70) for two Dodge Charger vehicles with police packages according to the required specifications of the State of Oregon; and

WHEREAS, the City Council meeting and acting as the Contract Review Board for the City of Canby has reviewed this bid and believes it to be in the best interest of the City to accept such bid; 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 Withnell Motor Company of Salem, Oregon for two Dodge Charger vehicles with police packages for the bid amount of Seventy-seven thousand, nine hundred ninety-seven dollars and seventy cents (\$77,997.70).

Section 2. Inasmuch as it is in the best interests of the City of Canby Police Department to put these vehicles into service as quickly 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, September 5, 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, September 19, 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 19th day of September, 2007, by the following vote:

YEAS _____

NAYS _____

Melody Thompson, Mayor

ATTEST:

Kimberly Scheafer,
City Recorder - Pro Tem

DATE: August 27, 2007

MEMO TO: Mark Adcock, City Administrator

FROM: Beth Saul, General Services Director

RE: Proposal to focus resources and expedite park planning and construction

Mark, in order to proceed at a more desirable pace in planning and constructing our parks you and I discussed acquiring the services of a project manager devoted to these tasks. A few years ago we did a flurry of park planning and also built the skate park using the services of an architectural firm. One of the principals of that firm is still available, although with a different firm now. I can contact her and get an estimate for project management and planning services to finish Legacy Park and also create and implement plans for the Willamette Wayside and perhaps even beyond that to the park properties we are acquiring on the north side of town in the next few months.

The virtue of hiring an architect to manage these projects is that they will provide dedicated focus to the work and expedite these projects in a way that staff has not been able to do. Funds are now available in the Park Development fund to acquire these services.

This would free me up to address the looming crisis in library funding and to continue the implementation of the Building Maintenance overview plan and timeline, as well as to complete the transition of the Fleet Department to the new work order software that will help us track costs in the future. I also need to continue working with Matilda on future park funding and governance issues and hope to complete that process more quickly with these construction projects assigned to a project manager.

If the Council agrees I can proceed with getting a proposal and estimate.