

**CANBY CITY COUNCIL
CITY COUNCIL WORK SESSION
November 6, 2013**

Presiding: Mayor Brian Hodson

Council Present: Todd Rocha, Traci Hensley, Tim Dale, Greg Parker, and Ken Rider. Councilor Clint Coleman was absent.

Staff Present: Greg Ellis, City Administrator; Joseph Lindsay, City Attorney; Bryan Brown, Planning Director; and Kim Scheafer, City Recorder.

Others Present: Scott Sasse and Tyler Smith.

Mayor Hodson called the Work Session to order at 6:15 p.m. in the City Hall Conference Room.

The Council met in a Work Session to discuss landscaping requirements in the Municipal Code.

Bryan Brown, Planning Director, summarized what was included in the Code in relation to landscaping, changes that had been made through the years, purpose of the landscaping ordinance, difficulties with the Code, and possible changes.

There was discussion regarding street trees, parking vs. landscaping downtown, maintenance costs, and the Council's role and Planning Commission's role in making changes to the Code.

Mr. Brown suggested the Planning Commission look at whether the 7.5% downtown landscaping was appropriate and 95% ground cover in three years was the right number. The Council questioned if the Code created long term inordinate maintenance costs.

Councilor Rocha said he thought Canby's code was in line with other cities.

Scott Sasse, Canby resident, thought before changing the rules the Council should discuss it with Public Works and landscapers who were doing the maintenance. He gave examples of problem areas in the City.

The Council would think about possible changes to send to the Planning Commission.

Mayor Hodson adjourned the Work Session at 7:27 p.m.

**CANBY CITY COUNCIL
REGULAR MEETING MINUTES
November 6, 2013**

Presiding: Mayor Brian Hodson

Council Present: Todd Rocha, Traci Hensley, Tim Dale, Greg Parker, and Ken Rider. Councilor Clint Coleman was absent.

Staff Present: Greg Ellis, City Administrator; Joseph Lindsay, City Attorney; Bryan Brown, Planning Director; Jorge Tro, Police Lieutenant; and Kim Scheafer, City Recorder.

Others Present: Bob Cornelius, Paul Hauer, Roger Reif, Don Peterson, Scott Sasse, Bev Doolittle, Steve Able, Jim Coombes, Lee Leighton, Debbie Jewell, Richard Kosesan, Tim Fisher, Duke Dexter, and Kevin Batridge.

CALL TO ORDER: Mayor Hodson called the Regular Meeting to order at 5:45 p.m. in the City Hall Conference Room.

****Councilor Dale moved to go into Executive Session pursuant to ORS 192.660(2)(h) Pending Litigation. Motion was seconded by Councilor Hensley and passed 5-0.**

OPENING CEREMONIES: Mayor Hodson reconvened the Regular meeting at 7:30 p.m. in the Council Chambers followed by the flag salute.

Fallen Officer Proclamation – Mayor Hodson read a proclamation honoring the fallen Police Reserve Officer of Oregon City, Oregon, and supporting the City of Oregon City as it healed.

COMMUNICATIONS: None.

CITIZEN INPUT & COMMUNITY ANNOUNCEMENTS: None.

MAYOR'S BUSINESS: Mayor Hodson thanked Main Street for the Halloween event downtown and Kiwanis for the Haunted House. He attended a round table with Clackamas County Chair Ludlow regarding a proposed transportation district for unincorporated Clackamas County. The second phase for the Northwoods development was being planned. He discussed the Reopening Celebration of the American Legion, Friends of the Library Bookstore Grand Opening on November 16, Ribbon Cutting for the new Canby Center on November 14, and ribbon cutting for the Davies Clinic.

COUNCILOR COMMENTS & LIAISON REPORTS: Councilor Rocha reported the Fire Department had hired a consultant to look at reducing operational costs. He had played golf with the Board President of Willamette Valley Country Club and they spoke about the irrigation system which had been featured on a show called The Green Economy.

Councilor Hensley attended the Taste of the Season event, Spooktacular Parade and trick or treating downtown, Chamber luncheon, and Phase 2 Northwoods development meeting. Light Up the Night would be held on December 6. Canby School Board would be meeting on November 7. The Canby American Legion Auxiliary Community Breakfast would be on November 10.

Mayor Hodson reported for Councilor Coleman who attended a tour of the Blue Heron site with Councilor Hensley. The Traffic Safety Commission was researching how to gain authority for reducing speed limits. He also attended the Phase 2 Northwoods development meeting.

Councilor Dale attended the Taste of the Season event and American Legion reopening. He extended congratulations to Joanie Brockman on her new Allegro Dance Studio.

Councilor Parker attended the Taste of the Season, American Legion reopening, Halloween event,

and reported the Bike and Pedestrian Committee was refining the proposed bicycle maps.

Councilor Rider reported Canby Area Transit held their last meeting at the new transit office. The facility was wonderful with lots of room and the City could be proud of what they accomplished. He also attended a Team Track meeting.

CONSENT AGENDA: **Councilor Dale moved to adopt the minutes of the October 10, 2013 City Council Special Meeting and October 16, 2013 City Council Work Session and Regular Meeting. Motion was seconded by Councilor Rocha and passed 5-0.

RESOLUTIONS & ORDINANCES: Ordinance 1386 – **Councilor Dale moved to adopt Ordinance 1386, AN ORDINANCE ADDING CANBY MUNICIPAL CODE (CMC) CHAPTER 5.06 REGARDING THE REGULATION OF SECONDHAND DEALERS IN THE CITY OF CANBY. Motion was seconded by Councilor Hensley and passed 5-0 by roll call vote.

Ordinance 1387 – Joseph Lindsay, City Attorney, said this ordinance would slightly amend the telecommunication facilities chapter of the Code and incorporated some of the best practices and recommended changes that were put forth by the League of Oregon Cities and the law firm of Berry, Elsner & Hammond. He explained the proposed changes. The purpose was to level the playing field to best regulate those who were using the public rights-of-way for business. There would be a registration fee but the amount had not yet been set and there would be a credit for those who already had a franchise so they would not be charged double.

Paul Hauer, Canby Telcom President, was concerned about unintended consequences that would have to be dealt with later. Another concern was the competitive disadvantage that could arise especially with wireless competitors. They wanted to make sure everyone was paying their fees. Canby Telcom invested a significant amount of money in fiber optics and electronic equipment to provide services to their customers. The other concerns were the breadth of the services the fee would apply to, companies that bought services from Canby Telcom, tracking transiting service providers, and services provided by agencies with federal grants. They wanted to continue to invest in the facilities they had and support the programs in the community.

Roger Reif, Attorney for Canby Telcom, had three issues. They wanted to know if internet was included. If it was yes, they had an objection. If no, he requested it be put in the exceptions in the ordinance. They wanted the ordinance with the resolution so they could discuss the fees. He thought they should not exclude telecommunication providers that were owned and operated by State or public subdivisions. He asked the Council to consider adding a sentence, "State or political subdivisions which transfer signed lease, sub-lease, wholesale, or retail telecommunication services and the recipient of such services shall be subject to an annual registration fee."

Mr. Lindsay said none of the language discussed was a change to the current ordinance. The internet was not included due to the Internet Freedom Act. He did not think it needed to be included as the language in the ordinance stated it would be subject to all State and federal laws.

Greg Ellis, City Administrator, said the ordinance required two readings and the resolution with the fees would be brought forward at the same time as the second reading.

Mr. Lindsay explained if a public entity started serving anyone other than itself and there were revenues being made or it sold to other people, then it could be taxed.

****Councilor Rider moved to approve Ordinance 1387, AN ORDINANCE AMENDING CANBY MUNICIPAL CODE CHAPTER 12, SECTION 12.36 TELECOMMUNICATIONS FACILITIES to come up for second reading on November 20, 2013. Motion was seconded by Councilor Parker and passed 5-0 on first reading.**

Ordinance 1388 – Mr. Lindsay said this had previously been before the Council and it was tabled. Ordinance 1388 along with Ordinance 1389 were similar to a franchise previously granted to LightSpeed Networks in March. The ordinances would incorporate the Code and set the rate as highest under law at 7%. He thought this was a good deal for the City.

Councilor Dale asked how the registration fee would come into play.

Mr. Lindsay said the ordinances had within them flexibility that if the franchise fee went down in the master telecommunications ordinance then it would go down for the franchisees as well. Depending on the registration fee, they might not have to pay anything due to the amount of the franchise fee. They would be subject to the registration fee, but any franchise fee they paid would be credited for the registration fee.

****Councilor Parker moved to approve Ordinance 1388, AN ORDINANCE GRANTING TO CLACKAMAS COUNTY, A POLITICAL SUBDIVISION OF THE STATE OF OREGON, A NONEXCLUSIVE FRANCHISE TO CONSTRUCT, OPERATE & MAINTAIN A TELECOMMUNICATIONS NETWORK AND PROVIDE TELECOMMUNICATIONS SERVICES WITHIN THE CITY OF CANBY OREGON, AND DECLARING AN EMERGENCY to come up for second reading on November 20, 2013. Motion was seconded by Councilor Rocha and passed 5-0 on first reading.**

Ordinance 1389 – ****Councilor Parker moved to approve Ordinance 1389, AN ORDINANCE GRANTING TO TW TELECOM OF OREGON LLC (“TWTC”), A DELAWARE LIMITED LIABILITY COMPANY, A NONEXCLUSIVE FRANCHISE TO CONSTRUCT, OPERATE & MAINTAIN A TELECOMMUNICATIONS NETWORK AND PROVIDE TELECOMMUNICATIONS SERVICES WITHIN THE CITY OF CANBY OREGON, AND DECLARING AN EMERGENCY to come up for second reading on November 20, 2013. Motion was seconded by Councilor Rider and passed 5-0 on first reading.**

Ordinance 1390 – Jorge Tro, Police Lieutenant, said the ordinance would replace two worn out patrol vehicles which were about nine years old. The total price was \$91,892.30. One question that came up was why choose a Tahoe SUV instead of Dodge Charger Sedan. The main reason was for the extra room as there were several tall officers and a lot of equipment in the cars.

****Councilor Dale moved to approve Ordinance 1390, AN ORDINANCE AUTHORIZING THE MAYOR AND CITY ADMINISTRATOR TO EXECUTE A CONTRACT WITH HUBBARD CHEVROLET OF HUBBARD, OREGON; AUTO ADDITIONS OF SALEM, OREGON; AND FORD MOTOR CREDIT CORPORATION FOR THE LEASE/ PURCHASE OF TWO (2) 2014 CHEVROLET TAHOES WITH POLICE EQUIPMENT PACKAGES FOR THE CANBY POLICE DEPARTMENT; AND DECLARING AN**

EMERGENCY to come up for second reading on November 20, 2013. Motion was seconded by Councilor Hensley and passed 5-0 on first reading.

NEW BUSINESS: Findings, Conclusions & Final Order TA 12-01/ZC 12-02/DR 12-03 – Bryan Brown, Planning Director, said on September 4 the Council approved the three consolidated applications from Fred Meyer. The Findings attempted to reflect the Council's intent of the decision and supply necessary details to place it on the record. The Findings were prepared by Fred Meyer's attorney and were reviewed by staff who made grammatical changes. He thought they reflected Council's intent except for possibly Condition 3 where the traffic mitigation proposed was curb extensions as opposed to other types of measures or a fee in lieu. It did not fully reflect the discussion Council had. Staff thought it was appropriate to install curb extensions.

Mr. Lindsay discussed how the findings needed to be defensible and definitive if it was appealed which was the reason for the specificity in the mitigation measure to meet Code.

There was discussion regarding whether the curb extensions were the correct mitigation.

Mr. Lindsay explained these were the necessary conditions and there might be a traffic calming compromise that could be made.

Councilor Dale thought flashing crosswalks would be the better option.

Mr. Brown stated the study done by Fred Meyer showed the curb extensions were the proper mitigation and it would be defensible if appealed.

Councilor Hensley would also prefer flashing crosswalks, but wanted to make sure the conditions were strong enough to keep from being appealed.

****Councilor Rocha moved to adopt the Findings, Conclusions & Final Order TA 12-01/ZC 12-02/DR 12-03. Motion was seconded by Councilor Rider and passed 5-0.**

ADMINISTRATOR'S BUSINESS & STAFF REPORTS: None.

CITIZEN INPUT: Timothy Fisher, Canby resident, discussed an issue on NW 9th Avenue. A neighbor had piled leaves into the street. He read Canby Municipal Code Chapter 8.12.070 and discussed the definitions of the terms. There was confusion regarding the language and whether anything could be done. He saw it as a safety hazard and cause for flooding. He suggested making the Code clearer and that Code Enforcement needed to take care of it.

Councilor Parker said staff should look at a possible Code change to insert the word leaves.

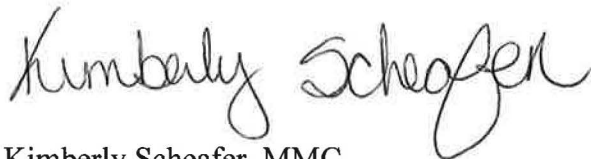
The City Administrator or City Attorney would get back to Mr. Fisher by Friday.

ACTION REVIEW:

1. Approved the Consent Agenda.
2. Adopted Ordinance 1386.
3. Approved Ordinance 1387 to come up for second reading on November 20, 2013.
4. Approved Ordinance 1388 to come up for second reading on November 20, 2013.
5. Approved Ordinance 1389 to come up for second reading on November 20, 2013.
6. Approved Ordinance 1390 to come up for second reading on November 20, 2013.
7. Adopted the Findings, Conclusions & Final Order TA 12-01/ZC 12-02/DR 12-03.

There was no Executive Session.

Mayor Hodson adjourned the meeting at 9:20 p.m.



Kimberly Scheafer, MMC
City Recorder



Brian Hodson
Mayor

Assisted with Preparation of Minutes - Susan Wood