

**CANBY CITY COUNCIL
CITY COUNCIL WORK SESSION
May 1, 2013**

Presiding: Mayor Brian Hodson

Council Present: Rich Ares, Traci Hensley, Clint Coleman, Tim Dale, Greg Parker, and Ken Rider.

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

Others Present: None.

Mayor Hodson called the Work Session to order at 6:40 p.m. in the City Hall Conference Room.

The Council met in a Work Session to discuss a proposed transient room tax and a fee increase for sanitary and storm sewer service.

{The audio recording for the Work Session failed}

Greg Ellis, City Administrator, said a transient motel tax ordinance would be coming to the City Council on May 15. The tax charged would be 9% and collected quarterly. He was recommending that proceeds from tax help fund the Main Street program. He had called the owner of the hotel in Canby so he could tell him about the proposed tax, but his phone call had not been returned.

Councilor Coleman arrived at 6:50 p.m.

Joseph Lindsay, City Attorney, reviewed the exemptions to the tax, which included renting a room for more than thirty (30) successive calendar days; any person whose rent is of a value less than \$5 per day; any person who rents a private home, vacation cabin, or like facility from any owner who personally rents such facilities incidentally to his own use thereof; any occupant whose rent is paid for hospital room or to a medical clinic, convalescent home or home for aged people; or employees, officials or agents of the U.S. Government occupying a hotel in the course official business. The operator would be permitted to deduct as a collection expense 5% of the total taxes collected for that quarter.

Mr. Ellis said in May of 2012 the Council had approved a 5% sewer and storm water rate increase. He was proposing the same this year. The Master Fee Schedule would be coming to Council at the May 15 meeting for its annual adoption. A public hearing would be held prior to adoption.

There was discussion about the importance of updating fees annually so there were not large increases at any one given time.

Councilor Ares said he wanted to the City to move to a privilege tax of 5 % for utility companies using City right-of-way. Wording in the current franchise agreement did not create equality among the utility companies.

Mr. Lindsay talked about the two franchise agreements that would be coming to Council. He had told both companies that running lines overhead was not an option.

A discussion took place about a privilege tax and the need to change the current code.

Mr. Lindsay said he would work on preparing an Ordinance for the privilege tax and inform TW Telecom and Clackamas County Broadband that the code was being changed so their franchise agreements would be delayed in going before the Council until after the code had been adopted.

Mayor Hodson adjourned the Work Session at 7:25 p.m.

**CANBY CITY COUNCIL
REGULAR MEETING MINUTES
May 1, 2013**

Presiding: Mayor Brian Hodson

Council Present: Rich Ares, Traci Hensley, Clint Coleman, Tim Dale, Greg Parker, and Ken Rider.

Staff Present: Greg Ellis, City Administrator; Joseph Lindsay, City Attorney; Bryan Brown, Planning Director; Angie Lehnert, Associate Planner; Eric Laitinen, Aquatics Program Manager; and Kim Scheafer, City Recorder.

Others Present: Patricia House, Irene Breshears, Darren Monen, Gretchen McCallum, Brad Holcom, Bob Backstrom, Bob Cornelius, Mike Connors, Lee Leighton, Jake Tate, and Chris Taylor.

CALL TO ORDER: Mayor Hodson called the Regular Meeting to order at 7:30 p.m. in the Council Chambers followed by opening ceremonies.

Water Safety Month Proclamation – Mayor Hodson read a proclamation proclaiming the month of May 2013 as Water Safety Month in Canby and presented it to Eric Laitinen, Aquatics Program Manager.

Mr. Laitinen said there were a lot of activities going on at the pool. It was a good time to sign up for swim lessons. Around 300 participants would be participating in the Gator Grinder Triathlon the day before Mother's Day.

Poppy Days in Canby Proclamation – Mayor Hodson read a proclamation proclaiming May 26 – June 1, 2013 as Poppy Days in Canby.

Patricia House, American Legion Auxiliary, said that poppies would be available at several stores through the month of May.

NALC Food Drive Day Proclamation – Mayor Hodson read a proclamation proclaiming May 11, 2013 as the 2013 National Association of Letter Carriers National Food Drive Day.

Irene Breshears, Canby resident, said yellow bags would be in mailboxes next week and food would be collected on May 11 and taken to the food bank in Canby.

Street Excavation Application for 655 SW 2nd Avenue – Greg Ellis, City Administrator, said several years ago there were meetings regarding putting a dance studio on 2nd Avenue. A year later the street was paved. The applicant wanted to connect to water, but it was questioned whether or not to break up the newly paved road to put in the connection.

Darren Monen, applicant, said in the pre-application meeting it was brought to his attention they were going to pave that road but there was no way it would have worked in his timeframe. They were being made to fill out an application so they could connect to water for a fire suppression system.

Mr. Ellis said the City Attorney was working on a street cutting ordinance that addressed newly paved streets.

There was discussion regarding the definition of a new road.

****Councilor Dale moved to approve the Street Excavation for 655 SW 2nd Avenue. Motion was seconded by Councilor Coleman and passed 6-0.**

COMMUNICATIONS: None.

CITIZEN INPUT & COMMUNITY ANNOUNCEMENTS: None.

MAYOR'S BUSINESS: Mayor Hodson thanked the Chamber of Commerce for Shred-It Day and for working together with the City on the Business Safety Town Hall. He attended training with the City Recorder and City Administrator on Council and staff relations. He also attended the Canby Utility Board meeting on water rates and Canby Educational Foundation dinner. The Mayor's Prayer Breakfast would be held on May 2.

COUNCILOR COMMENTS & LIAISON REPORTS: Councilor Ares said Canby Rotary would be working at the Food Bank on May 11 to help unload the food and put it away on the shelves.

Councilor Hensley said the Canby School Board would be having a work session tomorrow night. Canby Educational Foundation was sponsoring a Teacher Appreciation Program. Tracy Hodson of the Canby

would soon be opening on July 1. The Committee also wanted to work more closely with the Main Street program. First Friday and Cash Mob would be held on May 3. He also attended the Canby Education Foundation dinner.

CONSENT AGENDA: **Councilor Dale moved to adopt the minutes of the April 17, 2013 City Council Regular Meeting; reappointment of Ryan Oliver, Matt Olsen, and Bethany Davis to the Parks and Recreation Advisory Board for terms to expire on June 30, 2016, and reappointment of Gwen Polgar and Elaina Canutt to the City Budget Committee for terms to expire on June 30, 2016. Motion was seconded by Councilor Hensley and passed 6-0.

PUBLIC HEARING: Appeal of Planning Commission's Decision on Fred Meyer Stores, Inc. Site and Design Review Application DR 12-03 –

Mayor Hodson read the public hearing format.

Conflict of Interest:

Councilor Ares – No conflict, plan to participate.
Councilor Hensley – No conflict, plan to participate.
Councilor Coleman – No conflict, plan to participate.
Mayor Hodson – No conflict, plan to participate.
Councilor Dale – No conflict, plan to participate.
Councilor Parker – No conflict, plan to participate.
Councilor Rider – No conflict, plan to participate.

Ex Parte Contact:

Councilor Ares – No contact. Ryan Oliver was on the Parks and Recreation Board and they had not discussed it.
Councilor Hensley – Had been by the site, drew no conclusions.
Councilor Coleman – No contact, drew no conclusions.
Mayor Hodson – One of the property owners was his insurance agent and served on the Chamber Board together. They had not discussed this issue.
Councilor Dale – No contact, drew no conclusions.
Councilor Parker – Ryan Oliver was his insurance agent. They had not discussed the topic.
Councilor Rider – No contact, drew no conclusions.

Mayor Hodson said the appeal would be limited to the specific issues raised unless the hearing body allowed additional evidence or testimony concerning any other relevant issue. He explained the findings needed to overturn the decision of the Planning Commission. He asked if the Council wanted to hear new information regarding design changes submitted since the Planning Commission hearing.

Councilor Hensley questioned why new designs were coming to the Council before being approved by the Planning Commission. It seemed out of order to her.

Council consensus was that the new design should be taken back to the Planning Commission. The testimony would be limited to the material that was already presented.

Bryan Brown, Planning Director, said this was an appeal and they would be hearing from the opposition first. The new evidence was Fred Meyer's response to the applicant of the appeal to

present minor modifications to the site plan. There was nothing in the Code that would prohibit the Council from looking at it if they chose.

Steve Able, attorney representing the applicant, said the submittals were design review responses to the appellant's arguments with respect to the design review package. They were submitted in order to rebut the allegations that were made by the appellant and were relevant to the core of the hearing. He thought the appropriate action was to remand the whole issue back to the Planning Commission so they could have a full hearing on the revised plans.

Mike Connors, attorney for Saving Downtown Canby, was in favor of remanding it back to the Planning Commission as long as they did not have to pay another appeal fee.

Joseph Lindsay, City Attorney, said the only other issue would be the 120 day rule.

Mr. Able said they would work with staff to waive the 120 days.

Mr. Brown said they did not have to charge another appeal fee. The Planning Commission would not be able to hold a public hearing on the matter until June 10 and if appealed, it would come back to Council in July or August.

****Councilor Ares moved to remand APP 13-01 back to the Planning Commission for consideration of the proposed changes. Motion was seconded by Councilor Coleman and passed 6-0.**

RESOLUTIONS & ORDINANCES: Ordinance 1373 – **Councilor Ares moved to adopt Ordinance 1373, AN ORDINANCE AMENDING CANBY MUNICIPAL CODE (CMC) CHAPTER 9.48.050 REGARDING NOISE CONTROL EXCEPTIONS AND VARIANCES. Motion was seconded by Councilor Hensley and passed 6-0 by roll call vote.

NEW BUSINESS: None.

ADMINISTRATOR'S BUSINESS & STAFF REPORTS: Mr. Ellis said a proclamation would be on the May 15 agenda for Public Works Week. Special events were planned to spot light the staff and equipment they used.

CITIZEN INPUT: None.

ACTION REVIEW:

1. Approved the Consent Agenda.
2. Remanded APP 13-01 back to the Planning Commission.
3. Adopted Ordinance 1373.

There was no Executive Session.

Mayor Hodson adjourned the Regular Meeting at 8:25 p.m.



Kimberly Scheafer, MMC
City Recorder



Brian Hodson
Mayor

Assisted with Preparation of Minutes - Susan Wood