

**CANBY CITY COUNCIL
REGULAR MEETING MINUTES
July 17, 2013**

Presiding: Mayor Brian Hodson

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

Staff Present: Greg Ellis, City Administrator; Bryan Brown, Planning Director; Julie Wehling, Transit Director; and Kim Scheafer, City Recorder.

Others Present: Peter Hostetler, Nancy Muller, Roger Reif, Bob Cornelius, Marty Moretty, Joyce Ares, Ben Pollock, Doug Pollock, Sandra Pollock, and Robert Zimmer.

CALL TO ORDER: Mayor Hodson called the Regular Meeting to order at 6:00 p.m. in the City Hall Conference Room.

****Councilor Dale moved to go into Executive Session pursuant to ORS 192.660(2)(i) Performance Evaluation of Public Officer. 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.

COMMUNICATIONS: None.

CITIZEN INPUT & COMMUNITY ANNOUNCEMENTS: None.

MAYOR'S BUSINESS: Mayor Hodson said that he and the City Administrator would be meeting on Friday to discuss options after last week's URA vote. He thanked the General Canby Day organization for the Fourth of July celebration and congratulated Dragonberry Produce on their grand opening, Allegro Dance Studio on their 20th anniversary, and Kiwanis on their 75th anniversary. He thanked Kiwanis for their donations to the Swim Center and Canby Library. He thanked the Canby Livability Coalition and Public Works for getting water turned back on 2nd Avenue for the Fourth of July. The City hosted a Metals Manufacturing Summit today. The Canby Ferry would be running again on Friday morning.

COUNCILOR COMMENTS & LIAISON REPORTS: Councilor Parker thanked Councilor Dale for taking pictures of the Canby Ferry going through the locks again. The Bike and Pedestrian Committee would be meeting next week. There was a free lunch at Locust Street Park this Saturday from 10 a.m.-2 p.m. It was sponsored by Bridging Cultures.

Councilor Dale said he along with the Mayor and Clackamas County Chair Ludlow attended the opening for the Oregon Grange Convention. He also attended the Backstop Bar and Grill Preview Night, Dragonberry Produce Grand Opening, all four recitals of the 20th anniversary of Allegro Dance Studio, and saw the Canby Ferry come through the locks. Canby Utility was beginning its power rate case and BPA should have its final increases published soon.

Councilor Coleman attended the Dog Show at the Clackamas County Event Center, Backstop Bar
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and Grill Preview Night, General Canby Day, Planning Commission meeting, Canby Rodeo meeting, and Main Street Design Committee meeting. The Fair and Rodeo would be held August 13-18. The Traffic Safety Commission would be having their first meeting on Thursday.

Councilor Hensley attended the Dragonberry Produce Grand Opening, Backstop Bar and Grill Preview Night, Chamber luncheon, 75th anniversary of the Kiwanis Club, one recital of the Allegro Dance Studio, General Canby Day, Main Street Promotions Committee meeting, and Riverside Neighborhood Association meeting. She thanked everyone for all their hard work on Canby Livability Day in June.

Councilor Ares volunteered for Friends of the Library on July 4. They had a record breaking day in sales. Rotary would be having the 3-on-3 Basketball Tournament on July 27. Proceeds go back to community activities in Canby.

CONSENT AGENDA: **Councilor Dale moved to adopt minutes of the June 19, 2013 City Council Work Session and Regular Meeting and appointment of Carol Palmer to the Historic Review Board for a term to end on June 30, 2016. Motion was seconded by Councilor Parker and passed 5-0.

RESOLUTIONS & ORDINANCES: Resolution 1170 – Greg Ellis, City Administrator, said the legislature looked at PERS this last session. This resolution would create a reserve for future increases.

Councilor Ares said when they worked on the budget they had budgeted a certain amount the State said to be prepared to pay, and if the rate came in lower, the excess would be put away for future years' impact.

****Councilor Hensley moved to adopt Resolution 1170, A RESOLUTION ESTABLISHING A PERS CONTRIBUTION STABILIZATION RESERVE. Motion was seconded by Councilor Dale and passed 5-0.**

Ordinance 1383 – Julie Wehling, Transit Director, had started working with the City since 2007 and has been involved in public transit since 1999. When CAT started it grew faster than anyone expected it to. The system outgrew the small parking lot on 2nd Avenue. There was a need for more office space, a place to park the buses, and a place for maintenance. They had looked at existing properties for CAT to expand. She explained the current parking and office space challenges and how they were not adequate. The proposed lease for space was affordable and would accommodate their needs for many years and meet future growth. The cost was approved in the budget. She described the advantages of the move. She requested approval of the ordinance.

Councilor Dale asked if the total exposure on the contract was \$183,000 for five years. He asked if they knew what the cost might be above the projections of the lease.

Robert Zimmer, said there were utilities and maintenance costs that were 25% of the cost for the building.

Councilor Coleman asked when Ms. Wehling would be pursuing a secure area for parking.

Ms. Wehling was planning to pursue it once there was approval of the site.

Mr. Zimmer said there was adjacent property that was available.

Councilor Dale said they had just found out that there might be a more suitable location, where would they stand with that in this process?

Mr. Ellis had already signed the lease, but it should have come to Council first. There would be some damages if they did not move forward. The other opportunity might be available in five years when this lease was over.

****Councilor Coleman moved to approve Ordinance 1383, AN ORDINANCE AUTHORIZING THE CITY ADMINISTRATOR TO EXECUTE A LEASE AGREEMENT WITH ZIMMER VENTURES, LLC, FOR THE RENTAL OF PROPERTY FOR CANBY AREA TRANSIT OFFICES AND PARKING; AND DECLARING AN EMERGENCY to come up for second reading on August 7, 2013. Motion was seconded by Councilor Ares. Motion passed 3-2 on first reading with Councilors Hensley and Dale opposed.**

Ordinance 1384 – **Councilor Hensley moved to approve Ordinance 1384, AN ORDINANCE COMMITTING PERS CONTRIBUTION STABILIZATION RESERVE TO BE USED TO OFFSET FUTURE PERS RATE INCREASES to come up for second reading on August 7, 2013. Motion was seconded by Councilor Dale and passed 5-0 on first reading.

NEW BUSINESS: Appeal of Parks and Transportation SDC Calculation/Application Interpretation for SMS Auto Fabrics – Bryan Brown, Planning Director, said there was an administrative process that he did in collection of SDC charges from new development. With commercial property the process was much more complicated than single family development. New SDC methodology had recently been adopted for parks and transportation and that was what was being appealed. It was related to a warehouse addition for SMS Auto Fabrics. He explained the transportation and parks SDC methodologies. He had been working with the appellant to get approval of the warehouse addition and educating him how SDCs were calculated. He thought this use was unique, but he had been instructed by consultants that they should avoid if at all possible negotiating SDC rates. The appellant did not think he was impacting parks or streets by constructing a warehouse. However the methodology stated any additional square footage had some impact. The Code stated if it could be demonstrated that additions did not have an increase in impact they should be exempt from SDCs. If there was some impact, they would need to pay the full amount. He gave examples of other cities that exempted minor impacts. He proposed an interpretation of the no impact provision. It had been the past practice to charge the full amount for additions. He suggested if the size of the addition was less than 25% of what was currently existing, they would be exempt, anything between 25% and 50% of what was currently existing would start at 50% of what the normal charge would be and it would go up for every 1% increase and there would be a 2% cost for SDCs so by the time there was a building 50% of what was already existing they would be paying the full fee. The appellant was considering reducing the size of the addition to take advantage of the incremental fees as proposed. He thought this was a better option than exempting the addition as it would set a precedent for other developments.

There was discussion regarding the SDC methodology and the modification to the application.

Peter Hostetler, representing SMS Auto Fabrics, said the addition was for inventory only and SMS would not be increasing the number of employees or once a day deliveries from UPS and FED EX. They were disputing the Parks and Transportation SDCs. The Code exempted the SDC if the addition did not increase the parcel's or structure's use and the latest methodology of both parks and transportation said that additions may be exempt from SDCs. SMS was not questioning the methodology, but the applicability of the Code. SMS was considering other building options and would like the Council's interpretation of the exemption clause. They requested approval of the incremental fee as proposed by staff as it would help SMS calculate the SDCs and not be in the negotiation process.

Councilor Ares was in favor of anything that was consistently applied.

There was discussion regarding whether or not to change the Code or make this a policy.

Mr. Brown said the adopted methodology was not being changed; it changed how they were interpreting the no impact provision that was exempted in the Code.

Mr. Hostetler said this would be the interpretation that had a graduated fee and that was what SMS would like so they would know the cost of the SDCs if they did a redesign.

****Councilor Ares moved to accept staff's incremental interpretation of the no impact provision for additions to the collection of Parks and Transportation SDCs. Motion was seconded by Councilor Parker and passed 5-0.**

Councilor Ares wanted it noted in the minutes that this was #5 of staff's recommendations.

Recommended Direction to Address LUBA Remand of TA 12-01 and ZC 12-01(adopted by Ordinance No. 1365) of the Save Downtown Canby v. City of Canby, LUBA No. 2012-097 – Mr. Brown explained Save Downtown Canby was a group of existing fuel facilities who appealed the Council's decision on the Fred Meyer fuel station proposal. The City had prevailed on two of the items, but LUBA felt there was not enough evidence in the record for the other two items, the Transportation Planning Rule and the impact a proposed crosswalk would have on changing the subarea boundary. The Transportation Planning Rule was a land use topic and staff had proposed to take it back to the Planning Commission, but the Save Downtown Canby challenged placing it on the Commission's agenda without the Council's direction. He requested both LUBA matters and the revised site and design review go back through the Planning Commission for a recommendation to the Council. If the Council did not send it back to the Planning Commission, the Commission would only review the revised site and design review but not the LUBA matters.

****Councilor Parker moved to direct review of the LUBA remand issues by the Planning Commission as part of the Site and Design Review on remand by the Council. Motion was seconded by Councilor Coleman and passed 5-0.**

Councilor Ares read a letter (Exhibit "A") into the record stating he would be resigning at the end of the meeting and explained his reasons for doing so.

ADMINISTRATOR'S BUSINESS & STAFF REPORTS: None.

CITIZEN INPUT: None.

ACTION REVIEW:

1. Approved the Consent Agenda.
2. Adopted Resolution 1170.
3. Approved Ordinance 1383 to come up for second reading on August 7, 2013.
4. Approved Ordinance 1384 to come up for second reading on August 7, 2013.
5. Accepted staff's incremental interpretation of the no impact provision for additions to the collection of Parks and Transportation SDC's (Option #5).
6. Directed review of the LUBA remand issues by the Planning Commission as part of the Site and Design Review on Remand.

Mayor Hodson read the Executive Session Statement and recessed the regular meeting at 9:12 p.m.

****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.**

Mayor Hodson reconvened the Regular Meeting at 9:39 p.m. and immediately adjourned.



Kimberly Scheafer, MMC
City Recorder



Brian Hodson
Mayor

Assisted with Preparation of Minutes - Susan Wood

type of land use category involved. The more square footage built, the greater the amount of SDC collected. Presumably the only way to justify "no impact" as indicated within CMC Section 4.20.120 (C) Exemptions is if no new square footage is constructed.

- There is merit in administrative efficiency to not calculate and collect SDC's for every minor addition made. Other Cities sometimes have ordinances which specify an amount of square footage, over that currently existing, to serve as a trigger to when to apply SDC's. However, our code only addresses exempting additions when "no impact" to city facilities is determined.
- Staff's practice in the past has been to charge Park and Transportation SDC's for additions using the same calculation methodology for new buildings on vacant tracts. My interpretation of a best practice way to handle the "no impact" provision of Section 4.20.120(C) would be to make additions of less than 25% the size of the existing building exempt while those between 25% to 50% the size of the existing use would start at 50% of the usual assessment incrementally increasing to full assessment when reaching 50% or more in size of the existing use. Application of this interpretation of "no to less impact" would result in a full charge scenario for the SMS Auto Warehouse addition which is equal to 50% of building area that already existed.
- Staff agreed to reduce the applicable Parks SDC by 50%, accepting that the applicant's assessment of employment density for his business operation is more accurate than that provided within the adopted methodology for this use.

OPTION
#5 →

Decision Options

1. Uphold staff's original standard SDC assessment made for this project.
2. Accept staff's negotiated SDC assessment as reflected in the written interpretation and response to the applicant which provides a 50% reduction in the original calculated Parks SDC calculation and a 25% reduction in the Transportation SDC.
3. Accept the applicant's basis or reasoning of "no impact" to City facilities from his development project as provided in Section 4.20.120(C), and direct staff to only collect the applicant agreed upon assessment for the Stormwater SDC.
4. Modify the SDC assessment based on your own determination of what is appropriate for this new building addition in consideration of the information presented and your understanding of what is appropriate.

Sample Motion

Should the Council choose Option 2 above, staff recommends the motion be made as follows:

I move to accept staff's negotiated SDC assessment as reflected in the written interpretation and response to the applicant which provides a 50% reduction in the original Parks SDC calculation and a 25% reduction in the Transportation SDC.

Attachments:

- Written Response to Applicant - SDC Application Interpretation as Applied to Additions in General and specifically to SMS Auto Fabric's Warehouse Addition and its attachments
 - Written request from Mr. Doug Pollock with SMS Auto Fabrics questioning the

Exhibit "A"

Mayor Hodson, fellow City Councilors and City Staff

For the past 4 years I have postponed full retirement and curtailed our travel plans to commit myself to working to improve our community for all the people of Canby. I have spent virtually every Wednesday evening (and countless others) with the ideal of serving the people, not a slave to some ideology or with an eye toward my electability to some future political office. As the senior member of this council, during my tenure I have had approximately 160 meetings, just on Wednesday evenings. The mid-stream decision to kill the library project by this council and hearing the Mayor's vision for downtown made me realize I don't have the energy, nor patience to continue, especially since this council like our Congress, has adopted the philosophy that the word "No" is a strategy to improve our community. From my 43 years of community involvement experience on school boards, commissions and councils, let me assure you "No" is not a strategy. It is simply an excuse to avoid making tough decisions that benefit and improve the community as a whole for all citizens, not just special interests and select property owners. About a dozen years ago Canby had come to a standstill because of a similar agenda of "No". The community came together and voted in new leadership in the form of a forward thinking mayor and council. The community started to thrive again and progress resulted in the improvements we now see in the industrial park, downtown and annual maintenance of our streets all over town. "No" is not a strategy.

After selling \$10 million of bonds to build a library and consolidate city offices this council killed the well planned and badly needed project. Over \$600,000 has been spent on planning and implementing the project, more than \$600,000 of private donations had been committed, and the City will have to refund \$1 million to the County. The whole community will suffer the loss of about \$2.2 million because of "No" strategy.

This council will now have to figure out how to develop a library at another location, or spend the \$10 million on other projects or give the money back to the bond holders at a penalty of another \$2 million of interest and penalties. Since the library project has been killed and while the council dithers about on a strategy to spend or refund the bond money, the City is paying 2.9% interest rate while the cash sits in the bank making .5% (one-half of one percent). "No" is not a fiscally responsible strategy.

For the remaining 1 ½ years of my term this council will talk but make no concrete decisions on these questions. Showing up every Wednesday evening simply to have circular discussions that are not based on reality, where decisions will be put off, or decisions made that are later reversed is not something I have the energy to continue. I have no interest in helping repair the self-inflicted wound this council caused. Nor do I have the energy to help you figure out how to unwind the tangle of details to deal with the \$10 million bond proceeds. Furthermore, I wish the Mayor luck on explaining at election time to the voters that suffering the loss of over \$4 million

is fiscally responsible for the city. Based on my personal opinion and feelings it is best I not stay and be a hindrance to the things you need to do. "No" is not a strategy.

The Mayor and Council President have some ideas about developing another plan for the library and city offices, on a different plot of land or a different part of town. This idea is doomed to failure unless you drastically scale back the library to a substandard design. During our preliminary planning for the library we explored the idea to place the joint facilities on 3rd Ave. The cost estimate by the experts we retained and paid to advise us, and which was confirmed to us a week ago, was an additional \$3 to \$4 million plus the cost of land acquisition. If the \$10 million project was too expensive for some councilors, then an additional \$4 to \$6 million is, in the words of the Council President, a "non-starter". "No" is not a strategy.

Except for the "No" strategy, there are no goals adopted by this council to guide your path toward the future, with or without a new library. We are ¼ the way through the Mayor's term in office and we have met just twice since January to work on establishing goals, based on 'values', to set our direction. Nowhere in the draft goals is the library mentioned, nor is it included on the Mayor's Blog as a link to other city services. It is like the library doesn't exist. If this council is serious about finding a solution to our antiquated, substandard city library, I assume you will add language regarding the library to the goals before they are adopted. Without having established, realistic and achievable goals, how is this council going to determine how to spend the \$10 million and benefit the community? There seems to be some sort of an unwritten agenda the majority of this council has but what it is - is a mystery to me. Perhaps that will be clarified when goals are completed. "No" is not a strategy nor a goal.

When the gavel falls tonight to adjourn this meeting, my resignation from the Canby City Council and Urban Renewal Agency becomes effective. The City has assembled a great staff of professionals and I'm going to miss working with them. Some have been hired specifically to do a certain job, like build a library, and then due to "No" strategy we have tied their hands. I am especially going to miss those professionals I have worked most closely with: Greg Ellis, Amada Zeiber, Kim Scheafer, Renate Mengelberg, Lt. Jorge Tro, Matilda Deas, Jeff Snyder and Penny Hummel, to name just a few.

Canby deserves something better than "No" strategy!



Richard D. Ares

Date: July 17, 2013