

**CANBY CITY COUNCIL
REGULAR MEETING MINUTES
August 4, 2010**

Presiding: Mayor Melody Thompson.

Council Present: Richard Ares, Jason Padden, John Henri, Walt Daniels, Robert Bitter, and Brian Hodson.

Staff Present: Greg Ellis, City Administrator; John Kelley, City Attorney; and Kim Scheafer, City Recorder.

Others Present: Joan & Darren Monen, Stacy Sprague, Jerry Ambris, Michelle Vistica, Nancy Wilmes, Randy Carson, Leonard Walker, Keith Galitz, Bob Cornelius, Maya Ouchi, Wakana Kinomoto, Riho Yamamoto, Kenta Numuta, Mizuki Aizawa, Momoka Kakizaki, and Mokoto Kamada.

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

Nancy Wilmes, Canby City Sister City Association, spoke about the Sister City program and students visiting from Japan. She thanked the home stay families for hosting the students. The students introduced themselves and stated what their hobbies were. Gifts were presented to the students and to the City from the students.

Mokoto Kamada, Chairman of the Iwamizawa City Assembly, spoke about the Sister City Association relationship and his appreciation for the international exchange experience.

COMMUNICATIONS: None.

CITIZEN INPUT & COMMUNITY ANNOUNCEMENTS: Keith Galitz, President of Canby Telcom, said that Wave Broadband had been offering telecommunication services using the facilities in the City streets to offer telephone services, paid no franchise fees, and had no telecommunication franchise with the City. Wave claimed an exemption from the franchise fee because they offered voice services via voice over internet protocol. He said in early 2005, Canby Telcom approached the Council to provide cable over their internet services and they were compelled to enter into a franchise agreement. Wave had been delivering services in competition since January with no action from the City. They were asking for a level playing field and that Wave pay the same franchise fees they were required to pay which was 7% of the telecommunication services.

Councilor Ares spoke about his experience with cable television franchise agreements. He thought if one paid, they all should pay.

Greg Ellis, City Administrator, said staff had not known about this issue until recently and was getting a legal opinion, as it was not a switch access system. It would take time to resolve. The City had put Wave on notice.

There was a discussion regarding the penalty provision, making the fee retroactive, and how to prove a need for compliance.

Leonard Walker, Chairman of the NE Canby Neighborhood Association, said at the association's last meeting they discussed the Transportation System Plan update and why Pine Street was not being updated. They found out the County maintained the road. The street maintenance fee and gas tax would not go toward repair of the street since it was not a City street. They thought Pine needed repair and was dangerous to pedestrians because there were no sidewalks and something needed to be done.

Councilor Ares thought that the residents should go to the County Commissioners and tell them their concerns.

Councilor Padden said the County had to bring the street up to Code before the City could take it over. If the voters of the community could make the problem known, it would help the City in negotiations with the County.

Mayor Thompson said she was moving Mayor's Business, Councilor Comments, and the Consent Agenda to the end of the agenda.

PUBLIC HEARING: Request for Noise Variance from Wild Hare Saloon & Café - Kim Scheafer, City Recorder, said the applicant was requesting a noise variance for August 20, 21, and 27 to allow live music to be performed outside in a tent between 9 p.m. and 1 a.m. The City had not received any public comment regarding this request.

Joan Monen, applicant, said this would be the same set up as previous years.

Mayor Thompson opened the public hearing at 8:38 p.m.

Public Testimony: None

Mayor Thompson closed the public hearing at 8:38 p.m.

****Councilor Ares moved to grant a Noise Variance to the Wild Hare Saloon & Café on August 20, 21, and 27 between the hours of 9 p.m. and 1 a.m. to allow them to provide live music outside in a tent located at 1190 SW First Avenue. Motion was seconded by Councilor Bitter and passed 6-0.**

RESOLUTIONS & ORDINANCES: None.

NEW BUSINESS: Request for Waiver of Fees for Habitat for Humanity - Jerry Ambris, Executive Director of North Willamette Valley Habitat for Humanity, said they were building two side-by-side homes on N Locust. The School District waived their construction excise tax for this project. He spoke about the families that would be living in the homes and how they were selected.

Councilor Ares asked if there were other similar instances where the City waived fees for non-profit organizations. He would feel comfortable if the Council had some type of guidelines for these types of requests.

Councilor Henri thought they should keep it open so future Council members could decide on a case-by-case basis.

****Councilor Bitter moved that the City of Canby waive the Planning Department's plan check fee, construction Excise Tax and System Development Charges for the Habitat for Humanity low-income housing projects located at 525 and 535 N Locust Street. Motion was seconded by Councilor Padden and passed 6-0.**

MAYOR'S BUSINESS: Mayor Thompson said the Canby Community Covenant signing ceremony would be at noon on August 20 at the Clackamas County Event Center main lawn stage. This was Canby's opportunity to affirm their commitment to service members and their families.

COUNCILOR COMMENTS & LIAISON REPORTS: Councilor Henri attended the Aurora State Airport Master Plan PAC meeting to kick off the master planning for the airport. There was some animosity between Clackamas and Marion Counties.

Councilor Padden said the Bike & Pedestrian Committee met last week. They would be meeting again on August 24. There were two open seats on the Committee.

Councilor Hodson said the Planning Commission had a public hearing on a land partition and the Transit Master Plan funding was being worked out.

Mayor Thompson said the industrial park had been recertified.

CONSENT AGENDA: **Councilor Daniels moved to approve the minutes of the July 21, 2010 City Council Regular Meeting and the Clackamas County Strategic Investment Zone IGA. Motion was seconded by Councilor Ares and passed 6-0.

CITY ADMINISTRATOR'S BUSINESS & STAFF REPORTS: Greg Ellis, City Administrator, said he had been invited by Mike Maze from OCTS to do a monthly TV show on City happenings within each department. He attended a Clackamas County Board of Commissioners meeting where they discussed the creation of an Area Commission on Transportation.

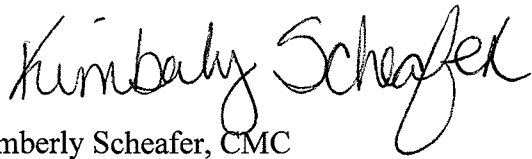
CITIZEN INPUT: None.

ACTION REVIEW:

1. Staff would continue working with their franchise attorney on the Wave Broadband issue.
2. Granted a noise variance to Wild Hare Saloon & Café on August 20, 21, and 27.
3. Approved a waiver of fees for Habitat for Humanity.
4. Approved the Consent Agenda.

There was not an Executive Session.

Mayor Thompson adjourned the Regular Meeting at 9:06 p.m.

Handwritten signature of Kimberly Scheafer in black ink.

Kimberly Scheafer, CMC
City Recorder

Handwritten signature of Melody Thompson in black ink.

Melody Thompson
Mayor

Assisted with Preparation of Minutes - Susan Wood