

**CANBY CITY COUNCIL  
REGULAR MEETING MINUTES  
March 2, 2005**

**Presiding:** Mayor Melody Thompson

**Council Present:** Roger Harris, Walt Daniels, Georgia Newton, Wayne Oliver, Teresa Blackwell and Randy Carson.

**Staff Present:** City Administrator Mark Adcock, City Attorney John Kelley, Community Development & Planning Director John Williams, Library & Parks Director Beth Saul, Finance & Court Services Director Chaunee Seifried, Associate Planner Darren Nichols, and City Recorder Pro Tem Kim Scheafer.

**Others Present:** Ken Diener, Theona Palma, Dorothy Ferguson, Robert Inman, Nelda Carroll, Robert Reynolds, Donna Petty, Helen McMartin, Gerald Mootz, Ed Netter, Susan & Alan Gallagher, Lila & Curtis Gottman, Dorothy Ferguson, H.R. Nolan, Sandy & Dawn McMartin, Michael & Bev Gornick, Donna Petty, Tom Scott, and David Howell.

**CALL TO ORDER:** Mayor Thompson called the regular meeting to order at 7:30 p.m., followed by the opening ceremonies.

**COMMUNICATIONS:** None.

**CITIZEN INPUT & COMMUNITY ANNOUNCEMENTS:** None.

**MAYOR'S BUSINESS:** None.

**COUNCILOR COMMENTS & LIAISON REPORTS:** Councilor Harris asked if the follow-up to the neighborhood associations' request for postage for their mailers would be discussed, and staff said they were not ready yet. He also asked when the Arndt Road project discussion would come up. Mayor Thompson said Councilor Newton would bring that up.

Councilor Daniels said they would be appointing Robert Ruby to the Transit Advisory Committee on March 16.

Councilor Newton said they had canceled a workshop to discuss further issues with the Arndt Road project prior to this meeting. Mayor Thompson said that the County did not want to proceed with the project. It was a large project and the consensus was to do it later. Councilor Carson said they were still waiting to hear formally from the County to say they could use the money from the State on the Berg Parkway project.

Councilor Newton said that the URD Advisory Committee had given input on projects that they thought they should do. She proposed that anyone who had projects they wanted done with URD money to prioritize those projects, send them through the URD Advisory Committee and then have the Agency do a money line. Councilor Carson thought it would be good to have it for

the budget discussions. Mayor Thompson said they wanted to discuss the short-term projects, and a long-term project discussion a little later.

Mr. Adcock said they would get a staff report out to Council with their suggestion on how to implement Councilor Newton's suggestion.

Councilor Oliver said he would like to see them bring back the Street Maintenance Fee discussion. Mayor Thompson said a few years ago, the City looked at the rising cost of street maintenance and maintenance was not being done because of the cost. The idea of a maintenance utility fee came up, but they needed to discuss it. Councilor Carson said they were not receiving enough money from the gas tax and they did not have enough General Fund money to do the maintenance. Councilor Harris said they could put it in as a referendum on the May 17 special election. Attorney Kelley said they would not have enough time as they needed to submit it to the County by March 17.

Councilor Blackwell said that the Canby Adult Center would be having a Chicken and Dumpling Dinner on Saturday, March 5 and Bingo on March 12. The General Canby Days Committee Coronation would be on Thursday, April 21. This year there would be a marching band contest during the 4<sup>th</sup> of July parade. The Clackamas County Coordinating Committee met in Salem on Monday with many of the representatives and they would be meeting tomorrow night.

**CONSENT AGENDA: \*\*Councilor Blackwell moved to approve Accounts Payable of \$231,218.36; Minutes of the February 10, 2005 City Council Special Meeting; Minutes of the February 16, 2005 City Council Regular Meeting, Appointment of Virginia Molamphy to the Canby Utility Board for a term to expire on February 28, 2006, and Reappointment of Richard Ball to the Transit Advisory Committee for a term to expire on March 31, 2008. Motion was seconded by Councilor Carson and passed 6-0.**

**PUBLIC HEARING:** ANN 04-07 McMartin – Mayor Thompson read the public hearing format.

**CONFLICT OF INTEREST:**

Councilor Harris – no conflict, plan to participate.  
Councilor Daniels – no conflict, plan to participate.  
Councilor Newton – no conflict, plan to participate.  
Councilor Oliver – no conflict, plan to participate.  
Mayor Thompson – no conflict, plan to participate.  
Councilor Blackwell – no conflict, plan to participate.  
Councilor Carson – no conflict, plan to participate.

**EX PARTE CONTACT:**

Councilor Harris – Attended the Planning Commission meeting when this was discussed. Had conversations with people in the community, but drew no conclusions.  
Councilor Daniels – Driven by the site, drew no conclusions.



Councilor Newton – Driven by the site, drew no conclusions.  
Councilor Oliver – Driven by the site, drew no conclusions.  
Mayor Thompson – Driven by the site, drew no conclusions.  
Councilor Blackwell – Driven by the site, drew no conclusions.  
Councilor Carson – Driven by the site, drew no conclusions.

STAFF REPORT: Associate Planner Darren Nichols said that this was an application to annex five tax lots consisting of 32 acres on the south side of Canby. Two of the tax lots were outside of the Urban Growth Boundary and they could not be part of that application. The applicant would like to give those two pieces of property to the City for a park along the Molalla River. The City could accept them, but they could not add them into the City limits. The property included all three of the residential zonings. The applicant provided a master plan document which would be required before development occurred. Upon annexation, they would waive all of their rights to Measure 37 claims.

Councilor Blackwell asked if they were required to meet the open space requirements within the subdivision. Mr. Nichols said a significant portion of what the applicant would give to the City consisted of steep slopes and banks, which could not be counted as official park space. It would still need to be negotiated. Councilor Blackwell said there was some question regarding ownership of one of the parcels. Mr. Nichols said that was something that would have to be worked out between the property owners before the City could accept the two tax lots. Councilor Blackwell asked about access through the property, and Mr. Nichols said they had easements to provide access, and the parcels in question were outside of the Urban Growth Boundary.

Councilor Carson asked if there was a difference between open space and park land property. Mr. Nichols said yes there was and he explained it.

Councilor Daniels asked if the property outside of the urban growth boundary could not be developed until it was brought into the City limits. Mr. Nichols said the property could be developed as park trails even though it was outside the urban growth boundary.

Councilor Harris asked about the sewer service being difficult. Mr. Nichols said the original calculation about sewer depth was not correct. The options were to extend a line down Ivy, to use an existing lift station to the west, or a placement of another lift station at the intersection of SE 13<sup>th</sup> and Mulino Road.

Councilor Harris said the master plan was a concept; the final planning would be done later. Mr. Nichols said the applicant agreed to master plan it to the City's approval prior to the City accepting any development application.

Mayor Thompson asked about the impact on the schools. Mr. Nichols said that schools grew over time and their funding was based on the number of students. As the student population grew, the school district would do what it took to educate the kids.

Mayor Thompson asked about the farmland and there was a mix of prioritization of land, A, B, and C. Mr. Nichols explained how the designations came about, and that for annexation of B and C that they needed to present a special benefit to the community. Most of the A and B land had already been annexed. The special benefit was it was a large piece of property with a master plan.

Councilor Daniels said in regard to the priority, they had to take C land to build Trost School. They were also taking A and B in this application.

Councilor Harris said none of this land was contiguous to City limits, and Mr. Nichols said it was separated from existing City limits by one parcel, 160 feet deep, to Hope Village. They would connect to S. Fir Street which was difficult to do.

Mayor Thompson opened the public hearing at 8:23 p.m.

APPLICANT: Mr. Dwayne McMartin, resident of 1100 NE 13<sup>th</sup> Pl, Canby, said that he was the son of the owner. His dad had farmed the land, but he couldn't make a living on it. He thought it brought a lot of benefit to the City and they had adopted many suggestions from citizens. Mayor Thompson asked what the property was being used for now, and Mr. McMartin said it was currently being rented out and farmed.

Mr. Ken Diener of KJD Architecture, 536 SE 17<sup>th</sup> Avenue, Portland, OR 97214, gave a PowerPoint presentation. Without doing the master plan, they could not show the benefit. The family would, upon approval, formalize the master plan. He explained the plans they had for the property.

Councilor Daniels asked if there was a timeline to build this project. Mr. Diener said they were not going to do it in phases, but they would be looking at local builders doing different housing types.

Mayor Thompson asked regarding the letter from Hope Village in opposition to the access. Mr. Diener said that letter was done early on and there was no plan for vehicle access to or through Hope Village on this piece of property.

Mr. Diener said in regard to the sewer issue, there was a difference of opinion. They made the commitment that they would make it work. They would put a lift station on the southeast side.

Mayor Thompson asked if there had been any neighborhood meetings. Mr. Diener said they had four meetings and 18-20 people attended each time with positive results. They did not have a specific phasing plan because they had to get the infrastructure from the north to the south of the property and had to recoup the costs.

PROPOSERS: Craig Morris, resident of 1382 NE 14<sup>th</sup> Place, Canby said that he was working with the McMartins. He said that they needed more houses and people to support the businesses. The senior housing was needed. It would bring families back together to have the seniors in the community. He was for this project and thought that Canby needed it.



Ed Netter, resident of 334 SE 10<sup>th</sup> Avenue, Canby said the services would be a benefit because they would be updated. As a local builder he liked the look of the subdivision. It was well planned use of the 30 acres. If it wasn't annexed, it would come in smaller pieces that would not be well planned. The McMartins were asking the Council to put it to the voters.

OPPONENTS: Allan Gallagher, resident of 25261 S Highway 170, Canby said that he was speaking against it, but there were many attractive aspects to the project. He asked if the property line and UGB matched and if the City could annex a portion of a lot. Regarding open space, if the property lines did not match, the amount of open space property would need to be recounted. There was some dilemma to say this space could not be developed unless it was developed as a whole because of the lack of services. Mr. Gallagher said that the concern he was most representing was for the river and the river bank and that whatever happened they would be protected.

Councilor Harris asked if the Urban Growth Boundary matched the property line. Mr. Nichols said the Urban Growth Boundary did not match the property lines, but matched the logical line for development. It was not a problem; the City could draw a taxation boundary.

Mr. Gallagher said his concerns were if it was annexed, how the project would be developed.

Nelda Carroll, resident of 1545 S Fir Street #212, Canby said that the senior citizen apartments at Hope Village had an age restriction of 62. In the master plan the age was 50 years old, which was not a senior citizen. She was concerned there was no restraint saying no one could live there under the age they decided. She was concerned about connecting the sidewalks to Hope Village. She did not think the things they proposed the seniors would enjoy with this development would happen. She was also concerned about the increased traffic, air pollution, loss of the beauty of the pastoral scenery, kids coming through the community, and increased crime.

Robert Inman, resident of 1545 S Fir Street #111, Canby said that his concern was that the sewer and water system were not on the property currently. It was farmland and was a big project and not in context with its surroundings. He would like to see the roads repaired if the property was developed.

Dorothy Ferguson, resident of 1545 S Fir Street #119, Canby said she was confused because the applicant was making a big thing about senior housing. There was enough senior housing already. The farmland was important. There were going to be many people living there. Overcrowding bred conflict. Those at Hope Village were not for the project.

Susan Gallagher, resident of 25261 S Highway 170, Canby said that her issue was the safety at the river. She was concerned because Mr. Diener said this development could reduce trespass and crime, which was ignorant and presumptuous. Crime used to be a problem there, and it could be there again. She was not opposed to this development. She thought there was an opportunity to get some commitments and to make it safe. There were various owners of the property and to presume that the owners would police the river was misplaced.

Mayor Thompson asked what commitment she was looking for from the developer. Ms. Gallagher said a neighborhood association that would commit to policing it, working with City police to patrol it, something along that line.

Theona Palma, resident of 1545 S Fir Street #105, Canby said that the Planning Commission had said that it was compatible with Hope Village and the two portions would have an age restriction of 50. Unless there was a restriction for no children in the high residential, those who were 50-55 could still have school age children at home. She thought that age 50 was too low for senior housing. This was productive farmland. Access on South Fir Street contributed a lot of traffic to an otherwise quiet neighborhood. A traffic light would be needed on S Ivy and on SW 13<sup>th</sup>. She was not sure how the project would alleviate trespassing and pollution at the river as there would be more access to it. There would be more air pollution and traffic.

Robert Reynolds, resident of 8403 S Vale Garden Road, Canby said he was a homeowner across the river and was the president of the Molalla River Improvement District. He complimented the design of this. Mr. Reynolds said the river was too warm for the fish and they wanted to increase the fish. The buffer zone helped to cool the river. He was against taking out more trees. He wanted them to take the outlook away from it and just have walking paths and roads.

Tom Scott, resident of 2018 N Vine Street, Canby said that he was one of the owners of the four acre parcel to the north of the site and a 12 acre to the southeast corner. He thought this was a great piece of property. He questioned the timing. He was surprised at the Planning Commission Meeting at the lack of discussion. The site was not contiguous to the City, and that was a criteria for annexation. Could any property come before the Council that was in the Urban Growth Boundary and be annexed? In regard to availability of public utilities, how far was too far? How were the voters going to view this annexation? If they had parcels that were very difficult and expensive to develop and did not meet all of the criteria but had a special benefit, was that a policy decision that the Council and staff was willing to make. What effect would this 30 acre development have on future annexation? The voters were cautious on the size and impact. A 32 acre annexation would anger the voters because they had been denying large annexations and his fear was this might actually make the annexation process go backwards.

Mayor Thompson asked if he was objecting to this on principal. Mr. Scott said he didn't think the criteria was flexible and he did not think the voters would view it positively.

Councilor Carson asked if the lift station would be of benefit to him and those in Tofte Farms, would that sway his opinion. Mr. Scott said financially this would benefit him, but the connections would happen whether now or later.

Mayor Thompson recessed the meeting at 9:28 p.m. and reconvened the meeting at 9:38 p.m.

Mayor Thompson asked for staff to address Mr. Scott's concern about the annexation criteria.

Community Development and Planning Director John Williams said that yes, the State law allowed them to annex properties that were contiguous, connected by right-of-way, or connected across a body of water as long as they were in the Urban Growth Boundary. They did not



normally do that. When the applicant came in they were told this was unusual, a connection to public right-of-way by annexing a street.

REBUTTAL: Mr. Diener said that both Lake Oswego and Clackamas County had used that type of annexation technique. Regarding the age limit discussion, the number they were talking about was 62. The McMartins were very committed and would have an active homeowners association and several of the family members hoped to live in the development. In regard to the concerns about the river, the homeowners association could help with that and more houses there would help deter crime. The overlook that was on the model was in the early plan. They would not affect the trees. They didn't want to do anything that would affect the integrity of the riverbank. The sidewalks along Fir and Ivy would be improved allowing people to walk from Hope Village into the development along the river. The density in this development followed the Comprehensive Plan. In terms of timing, there was always a risk of annexation voting. It was not financially viable to farm.

Councilor Carson asked about the trails on the bluff. Mr. Diener said there was no physical connection from their proposed project off the bank. In 1938 there was a transfer of .1 acre that did not show up in the record books, but it was outside the annexation area and UGB.

Mayor Thompson said their intentions were to capture and memorialize these points and they were committed to implementing them as much as possible. Mr. Diener said there was a development agreement and it would go through the Planning Commission. They were planning to follow through with these.

Mr. Allan Gallagher asked about the lots that were additional undevelopable and outside the UGB, was the intention to donate it as park land to the City, and Mr. Diener said yes.

Mayor Thompson closed the public hearing at 9:50 p.m.

DISCUSSION: Councilor Carson asked if they would have to recalculate the open space and parkland because of the land outside the Urban Growth Boundary. Mr. Williams said before the property was developed, there was an agreement that a master plan be developed which would decide how much parks and open space there would be. Mayor Thompson said it was safe to assume if it couldn't be used, other land would have to be located. Attorney Kelley said that when it came back before the Planning Commission they would decide if it did or did not satisfy the criteria.

Councilor Daniels said he appreciated all the citizen input. He had not heard anyone really opposed to the project, they just had concerns. He said they were voting on annexation, not the actual development. He reminded people when they moved in next to an empty piece of property to find out what that property was zoned for. They were following the Comprehensive Plan designation. As far as the river, Canby Utility would also be concerned about development around it. It was a bigger parcel, but there was advantage because of its planning. In regard to farmland, it was not viable.

Councilor Harris said he was trying to think of the benefit to the City overall. This plan was an excellent plan of what could be done. He wondered about the appropriateness of timing, that Canby was a bedroom community where residential growth outpaced commercial and industrial growth. He was conservative on residential growth and more proactive on commercial to balance the local economy. The property was large, and created an island. It was an aggressive approach to annexations especially after they took a survey that showed the public had hesitation on residential growth. The Planning Commission approved it, but he felt hesitant about annexing a non-contiguous large piece of farmland. Mayor Thompson asked if adding to the housing supply provided a special benefit. In a community that was trying not to grow and housing prices going up and they were not providing housing stock, what was their obligation in conjunction with the wishes of the community and demands of the State that they had an adequate housing supply? Councilor Harris said that was a tough decision.

Councilor Blackwell asked regarding the contiguous policy. Were they going to start creating islands? It was one of her reservations.

Councilor Newton said it was done in other places. It was much better when they had a plan. There were problems, but that was not what they were there to do that night. The benefit was to master plan the services and provide all different densities within one area which outweighed the contiguous policy. She thought it met the criteria and they were just sending this to the voters.

Mayor Thompson said she also had concerns, but the voters got to decide if they wanted it or not. The McMartins went the extra mile by doing a master plan. They could not deny an application if it met the criteria simply because it was large.

Councilor Blackwell said she would encourage the applicants to take into consideration every concern and detail.

**\*\*Councilor Daniels moved to approve ANN 04-07, and request that the City Attorney return with ballot title and language appropriate to forward the final decision to Canby voters in the general election on May 17, 2005. Motion was seconded by Councilor Newton.**

Councilor Harris said he had a different perspective, and he saw 1a, 1b, and 3 as the reasons for opposing the annexation. Councilor Carson went through the criteria and showed how the application met it in his opinion.

**Motion passed 5-1 with Councilor Harris opposed.**

Mr. Gallagher asked that the original proposal was for five tax lots, and in the course of discussion, two of the tax lots were not going to be included as well as the portions of the property that does not match. What they approved did not reflect that. Attorney Kelley said they approved to have him bring the language back and he would have that reflected in it.



## **RESOLUTIONS & ORDINANCES:**

Resolution 891 – Attorney Kelley said the resolution incorporated the Interagency Agreement with the General Canby Days Committee to reflect the duties of the City and Committee.

**\*\*Councilor Harris moved to adopt Resolution 891, A RESOLUTION ADOPTING AN INTERAGENCY AGREEMENT BETWEEN THE CITY OF CANBY (CITY) AND GENERAL CANBY DAYS, INC., A NON-PROFIT CORPORATION, FOR THE PURPOSE OF COORDINATING THE GENERAL CANBY DAYS 4<sup>TH</sup> OF JULY CELEBRATIONS AND REPEALING RESOLUTION NO. 815. Motion was seconded by Councilor Daniels and passed 6-0.**

Ordinance 1171 – Library and Parks Director Beth Saul said the contract was for \$40,400 for the paving of Maple Street Park. The irrigation portion was almost done, and the renovation of the infields was next.

**\*\*Councilor Daniels moved to approve Ordinance 1171, AN ORDINANCE AUTHORIZING THE MAYOR AND CITY ADMINISTRATOR TO EXECUTE A CONTRACT WITH SIGNATURE PAVING SERVICES, INC. OF NEWBERG, OREGON FOR THE INSTALLATION OF NEW PATHWAYS AND RESURFACING OF EXISTING PATHWAYS FOR THE MAPLE STREET PARK RENOVATION PROJECT AND DECLARING AN EMERGENCY to come up for second reading on March 16, 2005. Motion was seconded by Councilor Blackwell and passed 6-0.**

**CITY ADMINISTRATOR'S BUSINESS & STAFF REPORTS:** None.

**NEW BUSINESS:** None.

**CITIZEN INPUT:** None.

## **ACTION REVIEW:**

1. Approving the consent agenda.
2. Bringing back information regarding financial support for neighborhood associations.
3. Bringing back a process calendar to help prioritize short and long term projects within the Urban Renewal Plan.
4. Scheduling a workshop regarding the outreach and public education of a street maintenance fee.
5. Approving ANN 04-07 and directing the City Attorney to bring back ballot language.
6. Approving Resolution 891.
7. Approving Ordinance 1171 to come up for second reading on March 16, 2005.

**\*\*Councilor Blackwell moved to go into Executive Session pursuant to ORS 192.660(2)(e) real property. Motion was seconded by Councilor Harris and passed 6-0.**

Mayor Thompson recessed the regular session at 10:21 p.m.

Mayor Thompson reconvened the regular session and immediately adjourned at 10:46 p.m.

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**CANBY CITY COUNCIL  
EXECUTIVE SESSION  
March 2, 2005**

**Presiding:** Mayor Melody Thompson

**Council Present:** Roger Harris, Walt Daniels, Georgia Newton, Wayne Oliver, Teresa Blackwell and Randy Carson.

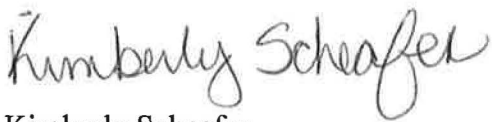
**Staff Present:** City Administrator Mark Adcock, City Attorney John Kelley, Library & Parks Director Beth Saul, and Project Planner Matilda Deas.

**Others Present:** None.

Mayor Thompson called the Executive Session to order at 10:27 p.m.

ORS 192.660(2)(e) – The Council discussed the possible purchase of real property for park purposes.

Mayor Thompson adjourned the Executive Session at 10:45 p.m.



Kimberly Scheafer  
City Recorder Pro Tem



Melody Thompson  
Mayor

Assisted in Preparation of Minutes – Valerie Kraxberger & Susan Wood