

**CANBY CITY COUNCIL  
REGULAR MEETING MINUTES  
September 7, 2005**

**Presiding:** Mayor Melody Thompson

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

**Staff Present:** Mark Adcock, City Administrator; John Kelley, City Attorney; John Williams, Community Development & Planning Director; Beth Saul, Library & Parks Director; Margaret Yochem, Ken Pagano, Police Chief; Greg Kroeplin, Police Lieutenant; Transit & General Services Director; Melissa York, Office Specialist; and Kim Scheafer, City Recorder.

**Others Present:** Geoff Carson, Irene Breshears, Bev Doolittle, Lila & Curtis Gottman, Steve St. Amand, Dell Craven, Nathan Mitchell, Arlyn Palmer, Ben Edwards, Keaton Entze, Alex Krishchenko, and Kim Lewis.

Mayor Thompson said that Ordinance 1189 was being pulled from the agenda per staff request.

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

Stepfamily Day Proclamation – Mayor Thompson read a proclamation proclaiming September 16, 2005 as Stepfamily Day.

POW/MIA Recognition Day Proclamation – Mayor Thompson read a proclamation proclaiming September 17, 2005 as POW/MIA Recognition Day and presented it to Geoff Carson.

Ms. Irene Breshears presented the Council with Buddy Poppies.

National Assisted Living Week Proclamation – Mayor Thompson read a proclamation proclaiming September 11-17 as National Assisted Living Week and presented it to Kim Lewis.

**COMMUNICATIONS:** None.

**CITIZEN INPUT & COMMUNITY ANNOUNCEMENTS:** Bev Doolittle, Chamber of Commerce Director, gave the Council a new copy of the Chamber Directory.

Ms. Doolittle said that the sixth annual Canby Community Fun Run would be happening on Saturday, September 24, 2005 at Trost Elementary School.

A workshop for Excellence in Business would be held on Thursday, September 15, at the Wilsonville Chamber/Visitor Center.

The Canby Kids Last Chance Summer Dance would be on September 10 at the Canby Fairgrounds.

Cycle Oregon would be coming September 14 and stopping at Wait Park for a water stop. Many other local groups would be volunteering at Champoege Park for the event as well.

Leadership Canby would be starting in October and running through May.

The Tourism Development Council would be giving each community \$30,000 to spend on tourism within their community. She asked for a letter from the City stating that the Chamber had the authority to oversee the funds and disburse them to the groups that were requesting funding. There was an application and process that had been worked out.

Congresswoman Darlene Hooley would be visiting Canby on September 9. They would be doing a walk around downtown and discussing economic development.

**\*\*Councilor Daniels moved to allow the Chamber to oversee the expenditure of the \$30,000.00 from the Tourism Development Council and to write a letter to that effect from the City. Motion was seconded by Councilor Harris and passed 6-0.**

**MAYOR'S BUSINESS:** Mayor Thompson thanked Councilor Harris for meeting and greeting Darlene Hooley on Friday. Metro was having a forum where Regional Mayors and County Commissioners would discuss the challenges of enhancing communities in the face of population growth and the trade offs in the decisions of where and how to grow. It was through Portland State University and would be held on September 16.

**COUNCILOR COMMENTS & LIAISON REPORTS:** Councilor Harris said that the Riverside Neighborhood Association would be meeting on September 8 at 7 p.m. at the Methodist Church. CBRD was very active in promoting and continuing prosperity in Canby and they made an excellent presentation during a workshop.

Councilor Newton said the library would be celebrating 68 years of library excellence and 15 years at their current location on Friday, September 16. They were one of the few libraries that had not had to cut staff.

Councilor Oliver encouraged everyone to attend the Canby Kids function that Saturday.

Councilor Blackwell presented Council with a Slice of Summer Certificate of Appreciation for their support.

Councilor Carson said that there had been about 400 cars in the Cutsforth's Cruise In.

**CONSENT AGENDA: \*\*Councilor Blackwell moved to approve Accounts Payable of \$456,868.94, Minutes of the August 17 City Council Regular Meeting and Executive Session, Minutes of the August 22 City Council Special Meeting and Executive Session, appointment of Robert Backstrom to the Traffic Safety Commission for a term to expire on**

**June 30, 2008, appointment of Marilyn Wood to the Traffic Safety Commission for a term to expire on June 30, 2006, and approval of a new liquor license/change of ownership for Jarboe's Steak and Grill. Motion was seconded by Councilor Carson and passed 6-0.**

**PUBLIC HEARING:** Sale of 13<sup>th</sup> Avenue Right-of-Way Property – City Attorney John Kelley said that the City had been approached by the LDS Church to purchase property that was given by them to the City for road right-of-way purposes on SW 13<sup>th</sup> Avenue. The property was a triangular piece approximately 5,000 square feet. In 1984 the property was dedicated by the LDS Church to the City for the purposes of possibly extending 13<sup>th</sup> Avenue. It was deeded to the City in return for street and sidewalk improvements. The City waived the assessments for the improvements for the church. It did not appear that the City had a need for the property. An appraisal of the property was done by PGP and listed the market value as \$8,750.00. The cost of the appraisal was \$2,000.00. They had indicated to the church that they would be willing to sell it back to them for \$10,750. The church had then indicated their interest in purchasing the piece back for that price.

The first step in the process was to make a determination that the property was not needed for public use or whenever the public interest may be furthered to sell the property. As a result, Mr. Kelley had prepared Resolution 909 which declared the property not needed for public use.

**\*\*Councilor Harris moved to adopt Resolution 909, A RESOLUTION DECLARING CERTAIN REAL PROPERTY NOT NEEDED FOR PUBLIC USE. Motion was seconded by Councilor Daniels and passed 6-0.**

Mr. Kelley said the City had received a sale and earnest money receipt from the LDS Church offering to purchase the property for a cash price of \$10,750.00.

Mr. Kelley said that Mr. Krishchenko owned tax lot 8600 which was immediately adjacent to the triangular piece to the west.

Mayor Thompson opened the public hearing at 8:08 p.m.

#### **PUBLIC TESTIMONY**

Alex Krishchenko drew a diagram for the Council showing the tax lot he owned that he wanted to divide and develop and the surrounding tax lots. He said he had done a lot line adjustment, but he did not have access to the property. The transportation plan said that you had to have access. He stated it was unconstitutional to completely take away one's rights. He had not communicated that he had waived his right for access. He had been to the Clackamas County Planning Department and an engineer had told him that he had a constitutional right for free access to the property. The engineer had said that if he wasn't given access it was not supposed to have been approved as a separate tax lot. For 25 years no one had wanted to buy the piece. Selling the parcel to the church would take away his last chance to have access. He had applied three times for exception to access onto 13<sup>th</sup>, but was denied.

Mayor Thompson asked if when he originally applied for the partition, it was given by the Planning Commission with the thought that access would come from the back of the piece of the property. Mr. Krishchenko said yes and that Darren Nichols had showed that to the Planning Commission because no one knew it was a public right-of-way. That was why they had approved a separate tax lot.

Mayor Thompson asked John Williams, Community Development & Planning Director, if when a partition was made was there an access requirement before the Planning Commission would approve the partition.

Mr. Williams said yes. He wanted to clarify Mr. Krishchenko's drawing; the lot had not been officially approved. His lot had not been recorded or divided yet. Planning staff would not sign the plat until Krishchenko could demonstrate that there was access. The Planning Commission had reviewed his proposal to get access directly from the proposed new lot onto 13<sup>th</sup> Avenue. Although staff had recommended approval, the Planning Commission had denied direct access onto 13<sup>th</sup> Avenue. They said he could partition the lot if he found alternative access either through the Church property or onto Cedar Loop.

Mayor Thompson asked if the property was just land or a street. Mr. Williams said it was part of the church's parking lot. He did not think that the Commission fully recognized the history of the ownership of the lot and what the process would be to dispose of it when they had the hearing. They were expecting that there would be a decision about the specific rectangular lot that Mr. Krishchenko had drawn.

Councilor Carson asked if the 4,838 foot dotted lot line was actually a dedicated lot. Mr. Krishchenko said it was attached to the main property. Mr. Williams said the lot had not been legally partitioned yet. There was no approval for it by the City.

Mr. Krishchenko said it was approved and recorded with the County. Before the letter, it had not been recorded, but now it was.

Mr. Williams said it could not have been recorded because he had not signed it. Mr. Krishchenko said he had a paper and it was recorded. Mr. Williams said it was not legal by the City's perspective as it had not been through his office. Mr. Krishchenko said that paper said it was approved, but he could not build a house before he found an access.

Councilor Carson asked if the church access was inside the City right-of-way. Mr. Kelley said yes. Councilor Carson asked if the City had given them access rights or had it just been paved and used as a drive.

Mr. Kelley said this had happened in 1984. He did not know how it occurred that they had continued to use the property, but the Church's access driveway was on the property the City was proposing to sell.



Dell Craven, representative of the LDS Church, said the sidewalks and curbs were in prior to the property being deeded to the City. Consequently, when that happened, it was a gravel parking lot, and they had since made improvements to it.

Councilor Daniels asked if he had a surveyor employed to come out and divide the property. Mr. Krishchenko said it was done and recorded with the County. He had brought a copy to the Planning Department after he had recorded it.

Councilor Harris asked Mr. Krishchenko if he was hoping to purchase the triangle of property. Mr. Krishchenko gave Mr. Harris a letter. Councilor Harris read that Mr. Krishchenko needed the property of .23 acres located just off SW 13<sup>th</sup> Avenue near the LDS Church for access. He was offering \$11,000 for the land which was more than the appraised value.

Councilor Harris said he was not comfortable making a final decision until they knew what was recorded at the County. He suggested that they postpone the decision until the next meeting.

Mr. Kelley said regardless of whether it was recorded at the County, the situation still came back to did they wish to sell the piece of property back to the LDS Church or did they wish to sell it to Mr. Krishchenko.

Mr. Kelley said there was another option in which Mr. Krishchenko could go back to the Planning Commission for an exception to the spacing standards to allow direct access on 13<sup>th</sup> Street. Now that Mr. Krishchenko was unable to get access through the Church and couldn't get out onto Cedar Loop, maybe the Commission would grant an exception for him.

Councilor Carson said if they sold the access to anyone other than the Church they could block the property off.

Councilor Daniels felt an obligation to the church because it was their property originally and if the City hadn't considered using it for 13<sup>th</sup> Avenue, they would be using it now.

Councilor Oliver said it appeared that the Planning Commission thought this was the only access. Mr. Williams said they had other options. He asked if there had been conversations with the church about gaining access. Mr. Krishchenko said the church said no.

Councilor Harris said if they changed the Church's access on 13<sup>th</sup> it could pose a safety issue and other problems. It didn't seem practical. The Planning Commission left it up to Mr. Krishchenko to come up with access, either on Cedar Loop or negotiating with the church.

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

DISCUSSION: Councilor Harris said this had been a traditional access for the church parking lot. The Church was the one that made the trade with the City in the first place. The practical and reasonable thing to do was to go ahead with the sale of the property to the church. It was unfortunate that it did not solve Mr. Krishchenko's issue of subdividing his lot, but he was inclined to return the traditional access to the church.

Councilor Carson said he went along with Councilor Harris.

**\*\*Councilor Daniels moved to direct the City Attorney and City Administrator to complete a sale of approximately 5000 square feet of property as described in a deed received from the LDS Church to the City in 1984 back to the LDS Church for the sum \$10,750.00. Motion was seconded by Councilor Harris and passed 6-0.**

#### **RESOLUTIONS & ORDINANCES:**

Resolution 907 - **\*\*Councilor Harris moved to adopt Resolution 907, A RESOLUTION AUTHORIZING AND DIRECTING THE CITY RECORDER TO CERTIFY TO THE CLACKAMAS COUNTY CLERK A MEASURE REFERRING TO THE ELECTORATE A PROPOSED ANNEXATION OF 9.74 ACRES DESCRIBED AS TAX LOT 4700 OF TAX MAP 4-1E-4DA LOCATED EAST OF S. IVY STREET, ON THE SOUTH SIDE OF SE 13<sup>TH</sup> AVENUE AND WEST OF TOFTE FARMS SUBDIVISION, AUTHORIZING THE CITY RECORDER TO SEND AN EXPLANATORY STATEMENT FOR THE VOTER'S PAMPHLET; AND DOING ALL OTHER NECESSARY ACTS TO PLACE THE MATTER BEFORE THE VOTERS OF THE CITY OF CANBY FOR THE NOVEMBER 8, 2005 ELECTION. Motion was seconded by Councilor Daniels.**

Councilor Harris said both of these annexations were Priority A properties, and it was a logical, reasonable extension of the City to include properties that were contiguous to the City limits.

**The motion passed 6-0.**

Resolution 908 - **\*\*Councilor Harris moved to adopt Resolution 908, A RESOLUTION AUTHORIZING AND DIRECTING THE CITY RECORDER TO CERTIFY TO THE CLACKAMAS COUNTY CLERK A MEASURE REFERRING TO THE ELECTORATE A PROPOSED ANNEXATION OF 1.7 ACRES DESCRIBED AS TAX LOT 1300 OF TAX MAP 3-1E-27CB LOCATED AT 1203 NE TERRITORIAL ROAD, EAST OF PINE STREET AND WEST OF THE LOGGING ROAD TRAIL, AUTHORIZING THE CITY RECORDER TO SEND AN EXPLANATORY STATEMENT FOR THE VOTER'S PAMPHLET; AND DOING ALL OTHER NECESSARY ACTS TO PLACE THE MATTER BEFORE THE VOTERS OF THE CITY OF CANBY FOR THE NOVEMBER 8, 2005 ELECTION. Motion was seconded by Councilor Daniels and passed 6-0.**

#### Findings, Conclusion & Final Order for ANN 05-01 and 05-02 –

**\*\*Councilor Harris moved to approve the Findings, Conclusion & Final Order for ANN 05-01. Motion was seconded by Councilor Blackwell and passed 6-0.**

**\*\*Councilor Carson moved to approve the Findings, Conclusion & Final Order for ANN 05-02. Motion was seconded by Councilor Blackwell and passed 6-0.**

**Ordinance 1185 - \*\*Councilor Daniels moved to approve Ordinance 1185, AN ORDINANCE AMENDING ARTICLE 10 OF THE TRANSIT CONTRACT DATED JUNE 19, 2002, BETWEEN CITY OF CANBY, HEREINAFTER REFERRED TO AS "CITY" AND OREGON HOUSING AND ASSOCIATED SERVICES, INC. (OHAS), dba WHEELS COMMUNITY TRANSPORTATION, HEREINAFTER REFERRED TO AS "CONTRACTOR" ESTABLISHING COMPENSATION UNDER THE CURRENT CONTRACT FOR A TWO (2) YEAR TERM. Motion was seconded by Councilor Harris and passed 6-0 by roll call vote.**

**Ordinance 1186 - \*\*Councilor Harris moved to approve Ordinance 1186, AN ORDINANCE AUTHORIZING THE MAYOR AND CITY ADMINISTRATOR TO EXECUTE A CONTRACT WITH CANBY FORD OF CANBY, OREGON FOR THE LEASE/PURCHASE OF TWO (2) 2006 FORD CROWN VICTORIA POLICE INTERCEPTORS WITH POLICE EQUIPMENT PACKAGES FOR THE CANBY POLICE DEPARTMENT; AND DECLARING AN EMERGENCY to come up for second reading on September 21, 2005. Motion was seconded by Councilor Carson and passed 6-0.**

**Ordinance 1187 - \*\*Councilor Carson moved to approve Ordinance 1187, AN ORDINANCE AUTHORIZING THE MAYOR AND CITY ADMINISTRATOR TO EXECUTE A CONTRACT WITH CANBY FORD OF CANBY, OREGON FOR THE LEASE/PURCHASE OF A 2006 FORD EXTENDED CAB ½ TON PICKUP TRUCK FOR THE CANBY WASTEWATER TREATMENT DEPARTMENT; AND DECLARING AN EMERGENCY to come up for second reading on September 21, 2005. Motion was seconded by Councilor Oliver and passed 6-0.**

**Ordinance 1188 - \*\*Councilor Harris moved to approve Ordinance 1188, AN ORDINANCE AUTHORIZING THE MAYOR AND CITY ADMINISTRATOR TO EXECUTE A CONTRACT WITH GRESHAM FORD OF GRESHAM, OREGON FOR THE PURCHASE OF A 2006 FORD F250 REGULAR CAB ¾ TON PICKUP TRUCK FOR THE CANBY STREET DEPARTMENT; AND DECLARING AN EMERGENCY to come up for second reading on September 21, 2005. Motion was seconded by Councilor Blackwell and passed 6-0.**

**Ordinance 1190 - \*\*Councilor Carson moved to approve Ordinance 1190, AN ORDINANCE AUTHORIZING THE MAYOR AND CITY ADMINISTRATOR TO EXECUTE CHANGE ORDER NUMBER 8 WITH PARKER NORTHWEST PAVING COMPANY FOR CONSTRUCTION OF SEQUOIA PARKWAY ROADWAY IMPROVEMENTS STAGE III; AND DECLARING AN EMERGENCY to come up for second reading on September 21, 2005. Motion was seconded by Councilor Daniels.**

Councilor Carson said this was not a part of Sequoia Parkway but they were trying to complete other areas with savings they were getting for the Sequoia Parkway project and were using one contract for them all.

**Motion passed 6-0.**

**CITY ADMINISTRATOR'S BUSINESS & STAFF REPORTS:** Report on Cost of Growth Analysis – Mr. Williams said there were three detailed studies done in Oregon. When they looked at those they felt they did not have any specific applicability to Canby. He estimated that it would take about 40 hours of staff time to prepare a report for the Council. It would be a fairly generalized assessment and would not include other governmental agencies. The other alternative would be to do an RFP and have a more detailed report done.

Councilor Harris said it was much more complicated than he thought. Whatever conclusions they drew, he did not want to set a precedent. He was inclined to say it was not essential.

Councilor Carson said they needed to get away from statements that Mr. Jordan had told them years ago.

Councilor Harris said things had changed over the years, and it was old information. They heard from knowledgeable people that some amount of growth was an advantage to the community.

Councilor Newton said she was looking forward to some updated numbers. She would like for them to work some information through as to the positives and negatives and what growth would do. They needed a certain amount of controlled growth.

There was Council consensus that staff not continue with the project.

**NEW BUSINESS: \*\*Councilor Blackwell moved that the Council extend a 2 1/2% base pay adjustment to the Finance Director. Motion was seconded by Councilor Carson.**

Mayor Thompson said the base pay adjustments were passed through their normal process for the labor and management staff. Because there was a contract with the Finance Director and they had not reviewed her performance and contract at the same time, it went through the cracks.

Councilor Harris said that no one intended to leave her out. He had assumed that she was part of the management group.

Mayor Thompson said she assumed it would come out of contingency, but it would be up to the City Administrator and Finance Director to work out as they had done that with the other ones.

**Motion passed 6-0.**

**CITIZEN INPUT:** None.

#### **ACTION REVIEW:**

1. Approving the consent agenda.
2. Approving the sale of property to the LDS Church.
3. Approving Resolution 909.

4. Approving Resolution 907.
5. Approving Resolution 908.
6. Approving Ordinance 1185 on second reading.
7. Approving Ordinance 1186 to come up for second reading on September 21, 2005.
8. Approving Ordinance 1187 to come up for second reading on September 21, 2005.
9. Approving Ordinance 1188 to come up for second reading on September 21, 2005.
10. Approving Ordinance 1190 to come up for second reading on September 21, 2005.
11. Approving the base pay adjustment to the Finance Director.

**\*\*Councilor Blackwell moved to go into Executive Session pursuant to ORS 192.660(2)(h) pending litigation. Motion was seconded by Councilor Carson and passed 6-0.**

Mayor Thompson read the Executive Session format and recessed the regular session at 9:10 p.m.

Mayor Thompson reconvened the Regular Meeting at 9:31 p.m. and immediately adjourned.

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**CANBY CITY COUNCIL  
EXECUTIVE SESSION  
September 7, 2005**

**Presiding:** Mayor Melody Thompson

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

**Staff Present:** Mark Adcock, City Administrator and John Kelley, City Attorney.

**Others Present:** None.

Mayor Thompson called the Executive Session to order at 9:15 p.m.

ORS 192.660(2)(h) – The Council discussed the legal process for nuisance abatement on property located at 1017 N Juniper Street in Canby.

Mayor Thompson adjourned the Executive Session at 9:30 p.m.



Kimberly Scheafer  
City Recorder Pro Tem



Teresa Blackwell  
Council President

Assisted with Preparation of Minutes – Susan Wood





OFFICE OF THE MAYOR

# Proclamation

## “Stepfamily Day”

**WHEREAS, Stepfamily Day is enhanced by our strong commitment to support the stepfamilies of our nation in their mission to raise their children, create strong family structures to support the individual members of the family, instill in them a sense of responsibility to all extended family members, and**

**WHEREAS, approximately half of all Americans are currently involved in some form of stepfamily relationship and it is the vision of Founder, Michigan’s Christy Borgerld and the Stepfamily Association of America that all stepfamilies in the United States be accepted, supported and successful.**

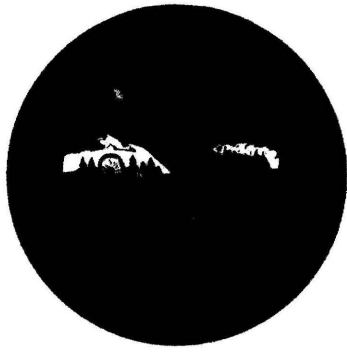
**WHEREAS, the City of Canby, and our nation have been blessed by thousands upon thousands of loving stepparents and stepchildren who are daily reminders of the joy, trials, and triumphs of the stepfamily experience and of the boundless love contained in the bond between all types of parents and children, and**

**WHEREAS, Stepfamily Day is a day to celebrate the many invaluable contributions stepfamilies have made to enriching the lives and life experience of the children and parents of America and to strengthen the fabric of American families and society.**

**NOW, THEREFORE, I, Melody Thompson, by virtue of the authority vested in me as the Mayor of the City of Canby, hereby proclaim September 16, 2005 as Stepfamily Day.**

**Given unto my hand 7th day of September 2005.**

**Melody Thompson  
Mayor**



OFFICE OF THE MAYOR

# Proclamation

## **“National Assisted Living Week September 11-17, 2005”**

**WHEREAS, the number of elderly and disabled Americans is dramatically increasing; and**

**WHEREAS, assisted living is a long term care service that fosters choice, dignity, independence and autonomy in our elderly nationwide; and**

**WHEREAS, the National Center For Assisted Living proudly created National Assisted Living Week; and**

**WHEREAS, the Rackleff House is a small community with a home - like environment and sits in the middle of a Residential Neighborhood. Rackleff House is one of the very first Assisted Living Facilities that was started in the State of Oregon 15 years ago; and**

**WHEREAS, The National Center For Assisted Living, the American Association of Homes and Services for the Aging, and the Assisted Living Federation of America are committed to advancing the assisted living profession and the compassionate, quality care of residents. Combined, the three national associations represent nearly 10,000 not-for-profit and for-profit assisted living residences through affiliates located in most states; and**

**WHEREAS, the theme of National Assisted Living Week 2005 is “A Fair To Remember” which provides us the opportunity.**

**NOW, THEREFORE, I, Melody Thompson, by virtue of the authority vested in me as the Mayor of the City of Canby, hereby proclaim the week of September 11-17, 2005 as National Assisted Living Week at Rackleff House in this City of Canby, Oregon. I urge all citizens to visit friends and loved ones who reside at these residences and to learn more about assisted living services and how they benefit our communities**

**Given unto my hand 7th day of September 2005.**

**Melody Thompson  
Mayor**



Office of the Mayor

# Proclamation

## **“POW/MIA RECOGNITION DAY”**

**WHEREAS, The United States of America has participated in many wars, calling upon its sons and daughters to fight for their country; and**

**WHEREAS, Over 125,000 American men and women have been held captive by hostile powers during their military service; and**

**WHEREAS, Many American prisoners of war were subjected to harsh and inhumane treatment by their captors which often resulted in death; and**

**WHEREAS, Over 88,000 Americans are still listed as missing and unaccounted for, and the families and friends of these missing Americans, as well as their fellow veterans, still endure uncertainty concerning their fate; and**

**WHEREAS, The sacrifices of Americans still missing are deserving of national recognition and support for continuing priority efforts to determine their fate; and**

**WHEREAS, the City of Canby is proud to join with other cities in the State of Oregon and nation in honoring those still missing.**

**NOW, THEREFORE, I, Melody Thompson, Mayor of the City of Canby, hereby proclaim September 17, 2005 as POW/MIA Recognition Day in Canby and encourage all citizens to join in this observance.**

**Given unto my hand this 7<sup>th</sup> day of September, 2005.**

**Melody Thompson  
Mayor**