

**CANBY CITY COUNCIL
REGULAR SESSION
February 18, 2004**

Mayor Melody Thompson presiding. Council members present: Walt Daniels, Georgia Newton, Wayne Oliver, Pat Johnson, Randy Carson, and Teresa Blackwell.

Also present: City Administrator Mark Adcock, City Attorney John Kelley, Finance & Court Services Director Chaunee Seifried, Library & Parks Director Beth Saul, Police Lieutenant Greg Kroeplin, Associate Planner Darren Nichols, Executive Assistant Kim Scheafer, Library Supervisor Marty Moretty, Officer Chris Mead, Office Specialist Suzan Duffy, Judge Jon Henricksen, Roger Reif, Irene Breshears, Geoff Carson, Murry Taylor, Ernie Graham, Daniel Webb, Peggy Gitts, Allen Manuel, Tim Stuart, Glennette Danforth, James Rennard, Tom Markgraf, Robert Eubanks, Elizabeth Eubanks, Kim MacFarlane, Joe Eubanks, Lee Eubanks, Georgi Cam, Lee Leighton, John Schmitz, Ed Netter, Jamie Netter, Ralph Netter, Wayne Vestal, Lila & Curtis Gottman, and Ken Schuh.

Mayor Thompson called the regular session to order at 7:30 p.m., followed by the opening ceremonies.

SWEARING IN CEREMONY: Canby Reserve Police Officer – Police Lieutenant Greg Kroeplin gave a background on the Canby Police Reserve Program. Lieutenant Kroeplin introduced Bob Eubanks. Mayor Thompson presented Mr. Eubanks with a police badge. Municipal Court Judge Jon Henricksen swore him in.

PRESENTATIONS: Plaque Presentation to Officer Chris Mead – Police Lieutenant Greg Kroeplin presented Officer Chris Mead with a memorial plaque in remembrance of his canine partner, Quinn, who had recently passed away. Officer Mead said they were accepting donations for another police dog. Quinn had served for eight years and had over 200 captures in his career.

Employee of the Month – City Administrator Mark Adcock presented Library Supervisor Marty Moretty with an Employee of the Month certificate.

Presentation by Willamette Broadband President – Wayne Vestal, Willamette Broadband president, introduced himself to the Council. Mr. Vestal said a number of changes had been made in customer care, engineering, and finance. Surveys had recently been sent out to customers, and they had a new office next to OCTS.

PROCLAMATION: Iwo Jima Remembrance Day – Mayor Thompson read the proclamation. Mr. Murry Taylor said that they wanted the proclamation to be presented to a Marine. Mayor Thompson presented Mr. Geoff Carson with a proclamation proclaiming February 28, 2004 as Iwo Jima Remembrance Day. Mr. Carson spoke regarding his time recently spent in Iraq.

Ms. Irene Breshears said this year was the ninth anniversary of the commemoration of World War II. Ms. Breshears presented the Council with Buddy Poppies.

CITIZEN INPUT ON NON-AGENDA ITEMS: None.

CONSENT AGENDA: **Councilor Carson moved to approve the Minutes of the Workshop of January 28, 2004; Minutes of the regular meeting of February 4, 2004; Accounts Payable of \$307,789.00; and appointments to the Canby Budget Committee, Canby Utility Board, and General Canby Day Committee. The members of the Canby Budget Committee for appointment were Paul Carlson & Rita Rush for terms to end on June 30, 2006, reappointments of Jim Hill and Scott Taylor to the Canby Utility Board terms to end on February 28, 2007, and appointment of Bob Watson to the General Canby Day Committee for a term to end on December 31, 2006 and appointment of Rhonda Hutchinson for a term to end on December 31, 2005. Motion was seconded by Councilor Blackwell and passed 6-0.

COMMUNICATIONS: Letter from Roger Reif Regarding Measure No 3-111 and Measure No. 3-113 – Attorney John Kelley read the letter from Mr. Reif in which he requested that the Mayor and City Council authorize the presentation of the two proposals to the voters in the May 2004 election without charge to his clients. Mr. Kelley said he had reviewed the statute and didn't feel that this fell into any of the seven grounds to contest.

Mr. Reif said an innocent error was made and a wrong map was presented to the voters. Also it didn't meet the strict definition of grounds to contest. It was a question of fundamental fairness. He presented the Council with the costs that were associated with the application process. Mr. Reif proposed the Council waive his client's application fees, accept his traffic study as was originally submitted, and waive the election fees. If the election fees were more than \$1,200 they would pay them.

Councilor Johnson asked where the additional money would come from? City Administrator Adcock recommended the money be taken out of the General Fund Contingency.

Councilor Carson asked if they could replicate the work already done? Mr. Williams said the costs would be the County fees. Mr. Reif said they wanted to go through the process again for both annexations.

Councilor Blackwell clarified that the maximum cost would be \$2,400 for election costs, \$1200 for each application, and would be for the November election.

****Councilor Carson moved to accept the proposal for ManDan LLC, to waive the Planning Department application fees, accept the traffic study as proposed, and waive election fees up to \$1,200 for each application. Motion was seconded by Councilor Johnson and passed 6-0.**

PUBLIC HEARINGS: ANN 03-07 G. Cam/Dodds -

Mayor Thompson read the public hearing format.

CONFLICT OF INTEREST:

Councilor Daniels - No conflict, plan to participate
Councilor Newton - No conflict, plan to participate.
Councilor Oliver - No conflict, plan to participate.
Councilor Johnson - No conflict, plan to participate.
Mayor Thompson - No conflict, plan to participate.
Councilor Carson - No conflict, plan to participate.
Councilor Blackwell - No conflict, plan to participate.

EX PARTE CONTACT:

Councilor Daniels – Walked around the site, drew no conclusions.
Councilor Newton – Driven by the site, drew no conclusions.
Councilor Oliver - Driven by the site, drew no conclusions.
Councilor Johnson – None.
Mayor Thompson - Driven by the site, drew no conclusions.
Councilor Carson – Driven by the site, drew no conclusions.
Councilor Blackwell - Driven by the site, drew no conclusions.

STAFF REPORT: Associate Planner Darren Nichols said it came to their attention that the numbers they were using for buildable lands was inaccurate, there was more than originally thought. Unplatted lands within the City limits allowed 444 dwelling units with an approximate 2.58 years supply. Those that were platted, but not yet developed, added 117 dwelling units or .7 years supply. Together they ended up with three years and three months supply. Mr. Nichols said the applicant was seeking to annex 19.91 acres into the City of Canby. It currently contained productive farmland, with three residences and a number of accessory buildings. If approved, it would be subdivided and provide 76 single family homes. The Planning Commission voted 4-3 to recommend denial to the City Council. The Commission based their denial on the issue of need, traffic conditions especially at the intersection of NE Territorial and Hwy 99E, and access to the site from N Locust Street. The property was designated Priority A.

Mayor Thompson opened the public hearing at 8:36 p.m.

PUBLIC TESTIMONY

APPLICANT: Mr. Georgi Cam, resident of 355 NW 2nd Avenue, said he was unable to find any available lots in Canby. Mr. Cam said there was nothing substantially different from previous applications they had submitted, but the approach would be different. They would improve Locust Street. It was a bigger piece of land because they could plan it better. They were going to sit with the neighborhood associations and get their input for the development.

Mr. Lee Leighton of Westlake Consultants, 15115 SW Sequoia Parkway, Suite 150, Tigard, said this would consist of two phases of development. There would be a two acre park dedicated to the City with a water well that would be of use to the Fire Department. Street improvements on Locust Street would be made down to Territorial Road. Mr. Leighton said in regard to need, most of the houses in Canby sold for over \$200,000. There was a need for affordable housing so

people could live and work in Canby. In regard to the intersection of 99E and Territorial, there were many suitable routes for people to use, and it would not be negatively impacted by the additional traffic. In regard to negatively affecting other agricultural activity in the area, they received letters from the nearby farms and they stated it would have no impact.

Mr. Tom Markgraf, outreach consultant and resident of 211 N Ainsworth, Portland, said he spent time with neighbors and neighborhood association chairs and asked if they would be interested in meeting with the developers. There was in North Portland a similar situation, and the community made decisions as to what kind of development would go in, and it worked well. This was a new opportunity to engage the community.

PROPONENTS: None.

OPPONENTS: None.

REBUTTAL: Mr. Leighton said there was a letter submitted from Ron and Barbara Raines and those complaints were about existing conditions of traffic on Territorial, which he thought this application would not significantly impact. He was asked by the Planning Commission what it meant when the voters denied the application before, but this was part of the process and they wanted to hear from the community what it wanted. They needed the opportunity to do that.

Mayor Thompson closed the public hearing at 8:58 p.m.

DISCUSSION: Councilor Johnson asked about the buildable lands numbers and what the difference was between platted and nonplatted. Mr. Nichols explained it.

Councilor Carson asked how long the process was for property to become platted. Mr. Nichols said it took about six months.

Mayor Thompson asked if the concerns of the Planning Commission for Locust Street were put to rest by the proposal from the applicant, and Mr. Nichols said it met City standards for access, but the Planning Commission said it was an off-site improvement and they could not require it. They would have to have a development agreement. Mayor Thompson said the traffic engineer made the assumption that the intersection of Territorial and 99E would be the most preferred route. Mr. Nichols said that was correct. The Planning Commission felt until the intersection was scheduled for signalization, they could not approve the annexation.

Councilor Johnson asked if there was some way to prevent people from turning onto Territorial so they would not use that intersection. Mr. Nichols said there were things they could do.

****Councilor Daniels moved to deny ANN 03-07, a request to annex 19.91 acres into the City limits, for the same reasons the Planning Commission denied the application. Motion was seconded by Councilor Johnson.**

Councilor Carson said he felt Mr. Cam had explained his problem with finding lots in Canby and it was a problem. They would build it in phases, and the need for land was not met. Locust

Street would be built out, it was R1, and it was Priority A. They needed new homes for new workers who would be coming in with the development of the Industrial Park. The fatality at the intersection was one of the deciding factors against the application, and Mr. Cam was not responsible for it. Not all the traffic would go to that intersection.

Councilor Blackwell said she supported Mr. Cam's approach to the neighborhoods and seeing what they wanted. She felt people had a true traffic concern and the issue of the traffic signal was what kept her from sending this to the voters.

Councilor Oliver said Mr. Cam's presentation was good, as well as going to the neighborhood associations and his perseverance to get this approved. He was torn on the issue.

Councilor Johnson said this was the closest annexation request he had ever decided on. He said the difference for him was the buildable lands study and traffic issue.

Motion tied with Councilors Daniels, Johnson, and Blackwell in favor and Councilors Carson, Oliver and Newton opposed. Motion passed 4-3 with Mayor Thompson breaking the tie.

Mayor Thompson recessed the meeting at 9:15 p.m. for a short break. Mayor Thompson reconvened the meeting at 9:30 p.m.

ANN 03-08 Wightman/Netter -

Mayor Thompson read the public hearing format.

CONFLICT OF INTEREST:

Councilor Daniels - No conflict, plan to participate.
Councilor Newton - No conflict, plan to participate.
Councilor Oliver - No conflict, plan to participate.
Councilor Johnson - No conflict, plan to participate.
Mayor Thompson - No conflict, plan to participate.
Councilor Carson - No conflict, plan to participate.
Councilor Blackwell - No conflict, plan to participate.

EX PARTE CONTACT:

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.
Councilor Johnson – Driven by the site, drew no conclusions.
Mayor Thompson - Driven by the site, drew no conclusions.
Councilor Carson – Driven by the site, drew no conclusions.
Councilor Blackwell - Driven by the site, drew no conclusions.

STAFF REPORT: Associate Planner Darren Nichols said this was an application to annex 1.65 acres, one tax lot, into the City. It currently contained one single family residence and several accessory buildings. If annexed, the property would be subdivided into 10 additional single family lots. The Planning Commission recommended denial 6-1 based on need, access to the site as current plans did not allow for a road to access S Ivy into this parcel, and sewer capacity. There was talk of installing a lift station in that area, and the type of lift station required to serve this parcel and all surrounding parcels would cost about \$100,000. If approved, it would be zoned medium density residential. No citizen testimony was received.

Mayor Thompson opened the public hearing at 9:40 p.m.

PUBLIC TESTIMONY

APPLICANT: Mr. Ralph Netter, resident of 22375 Airport Rd, Aurora, said the Planning Commission had voted down this application citing inconclusive reasons. There was sewer across Ivy from the property and could serve the parcel except capacity was a problem. A sewer lift station could be placed on the Scott property on the east corner and then sewer pumps would pump that into another line on Tofte Farms. The property surrounding it could also feed into that line. The total price would be under \$100,000. Mr. Netter said in regard to access, they could have access on SE 13th or 16th Avenue, which would access Ivy. It depended on which property was developed first. He was willing to sign a statement that he would not access the property to Ivy.

Mr. Netter said the buildable lands inventory appeared to be adequate, but it did not take into account the time of development of the property, economics of development and building, and some did not want to develop their land. He disagreed with the Memorandum that stated that the current buildable lands supply was four years. According to his calculations, they had 3.44 years supply for the next four years and that included Northwood and Apollo Home developments. Mr. Netter said the City was in need of R-1 and R-1.5 platted land. The land was designated Priority A and two sides of the property were inside the City limits. It was a small lot not suited for agriculture, and there was no public opposition. It would only be developed once the sewer lift was in place, access would be developed, and there was a need.

Councilor Newton said until other property was developed, they were land locked. Mr. Netter said that was true, but he would work them and they could put in access roads.

Mayor Thompson said if approved, they would be adding land which had constraints on it before it could be developed. It could be two or three years before it could be developed. Mr. Netter said they would need property in three years and he currently had one buildable lot to build on.

Councilor Blackwell asked about the sewer sub station, would the City bore the responsibility? Mr. Nichols said it should be City owned lift station, and they could arrange an Advanced Financing District to pay for it. There are a number of ways that it could be financed. Councilor Blackwell asked if they put it on the Scott's property, would the City purchase a right-of-way from the Scott property? Mr. Nichols said it was in their best interest, and they were willing to place it where it needed to go. Councilor Carson said developers were responsible to put in

sewer and water lines. Mr. Nichols said the developer would be responsible for all of the services.

Mayor Thompson asked Mr. Nichols about Mr. Netter's available lot estimate. Mr. Nichols said this was probably a fair estimate in the rate of development. Community Development and Planning Director John Williams said it was a policy interpretation for them to decide if there was a need or not.

Councilor Johnson asked if they could require the sewer lift station to be installed before development occurred. Mr. Nichols said that would be a condition before development.

PROPOSERS: Mr. Lee Leighton drew a graph for Council showing the available lot supply. This was a very real problem that affected the economy and real estate market and would run builders out of town because there was not enough land to build on. Canby was at risk. He hoped if they found this information persuasive, they would reconsider the decision on their application.

Ms. Jamie Netter said that the Planning Commission asked why they wanted to do this after the last vote. Ms. Netter said they needed lots. This would not affect the buildable lands supply that much, and the voters did not understand what they were voting on. As members and business owners in this community, they wanted reasonable growth especially if they developed their industrial area. They were pricing people out of town, as the houses were very expensive.

OPPOSERS: None.

REBUTTAL: None.

Mayor Thompson closed the public hearing at 10:23 p.m.

DISCUSSION:

Mayor Thompson said she would be talking with staff and the Planning Commission about the available lot estimates.

Councilor Blackwell said when on the Planning Commission, they did not get this kind of information, and she wanted a workshop on this.

****Councilor Blackwell moved to approve ANN 03-08, a request to annex 1.65 acres into the City Limits. Motion was seconded by Councilor Newton.**

Councilor Carson asked if they could add the condition that there would be no direct access to Ivy without build out of other adjacent properties and installation of a sewer lift station.

City Attorney Kelley said they needed to make findings for the approval. Councilor Blackwell said the concerns of the Planning Commission had been addressed based on evidence in the testimony that night. Councilor Carson said they didn't have enough R-1.5, and this would help

fill the need. Councilor Daniels said they should go with the assessment given by Mr. Netter. Councilor Newton said she was looking forward to a workshop with the Planning Commission to discuss buildable lands. Mr. Nichols said it would be in the City's interest to ensure prior to annexation an agreement that the parcel would not be accessed until it had access to a surrounding parcel.

Councilor Johnson said they had been using the buildable lands study by the staff, and in giving credence to the document they received that night, it was problematic. He wanted to hear from staff about buildable lands. Planning Director John Williams said this was a refinement of the general number that staff provided.

Councilor Carson said the buildable lands was a reference point, but they had a need for R-1.5 land, and this would be R-1.5. The access and sewer lift station issues had also been addressed.

City Attorney Kelley asked about the Standards and Approvals for Annexation Applications, did they look at the same class of zoning when doing the lands need analysis, so if they were looking at R-1, they only looked at that amount of available zoning? Mr. Williams said there had never been a decision made on that, but he didn't think it was broken down by category. Council gave consensus that the application met the need based on its R-1.5 zoning, access would be taken care of through a transportation agreement, and the development would occur after installation of a sewer lift station.

Councilor Newton said the code required that you have three years of buildable land and she was fine with having more.

Mayor Thompson said they don't have agreement on analysis of need. Council agreed there was a need for the property given the overall determination that there was not enough buildable lands within the City of Canby. Councilor Carson said the annexation would not affect the supply very much.

Motion passed 6-0.

NEW BUSINESS: None.

UNFINISHED BUSINESS: None.

RESOLUTIONS & ORDINANCES:

Ordinance 1133 - ****Councilor Daniels moved to adopt Ordinance 1133, AN ORDINANCE AMENDING CANBY MUNICIPAL CODE CHAPTER 2.56 CREATING A PARKS AND RECREATION ADVISORY BOARD, AND DECLARING AN EMERGENCY. Motion was seconded by Councilor Johnson and passed 6-0 by roll call vote.**

****Councilor Oliver moved to appoint Ken Schuh to the Parks and Recreation Advisory Board for a term to expire on June 30, 2006 and Bill Johnson for a term to expire on June 30, 2007. Motion was seconded by Councilor Carson and passed 6-0.**

MANAGER'S REPORT: 13th Avenue Park Phase I Update – Library and Parks Director Beth Saul said she was requesting to get started on Phase I of the park which would include getting the parking lot and tot lot done. They did have money set aside for this project.

****Councilor Blackwell moved to allow work to begin on Phase I of 13th Avenue Park using funds that had already been budgeted in the Park Development Fund. Motion was seconded by Councilor Blackwell and passed 6-0.**

CITIZEN INPUT: Mr. Ken Schuh of Canby Gators talked about the 2004-2005 projected swim meet schedule. Mr. Schuh thanked Mayor Thompson and Councilor Carson for helping out at the opening of the Animal Master's Meet and gave Councilor Carson a T-Shirt.

COUNCILOR'S ISSUES: Councilor Newton said the volunteer hours at the library were continuing to be up and circulations were up again this month.

Mayor Thompson said she would be attending the City of Wilsonville's Council meeting tomorrow night. They would be considering an amendment to the plan that considered industrial lands inventory for Metro. They wanted them not to consider property south of the river. Mayor Thompson said in the future they might want to create a similar resolution. She also attended the NE Neighborhood Association meeting where they discussed possible options for Priority A, B, C. There was a recommendation by the association regarding their position on annexation issues. Also the City might want to hold workshops with citizens to gain insight into why people were voting no on annexations.

****Councilor Johnson moved to reconsider ANN 03-07. Motion was seconded by Councilor Carson and passed 4-2 with Councilors Daniels and Blackwell opposed.**

Councilor Johnson said he thought in all fairness they should consider the land need and the documentary evidence into the record for this application. There were still other issues besides need, but they were taking this to the voters.

Councilor Carson said the last time they considered this application, they had two years of buildable lands available, and now it was more, but still not up to the full amount. He was still on the same issue as he was the last time.

Lee Leighton thanked the Council for the reconsideration of the issue. Mr. Leighton said in regard to Territorial and 99E, the record was clear that the facilities to provide transportation during peak hour travel were available, not at Territorial and 99E, but at other intersections. One of the best ways to exert leverage on ODOT was to have public and private sectors working together to get the intersection fixed.

Ralph Netter said the way his chart was developed was a timeline of when the lots would be buildable.

****Councilor Johnson moved to approve ANN 03-07 on the basis of it being priority A land, analysis of need for additional property within the City limits had been provided, there are letters in the record about not impacting farming in the area, there is proper access, adequate public facilities are available, it complies with City ordinances and policies, and 7, 8, 9, and 10 as indicated. Motion was seconded by Councilor Carson.**

Mayor Thompson asked about the access on north Locust. Councilor Carson said there was a letter commitment from Mr. Cam.

Motion passed 4-2 with Councilors Daniels and Blackwell opposed.

ACTION REVIEW:

1. Approving the consent agenda.
2. Approving ANN 03-07, and bringing back findings on March 3, 2004.
3. Approving ANN 03-08, and bringing back findings on March 3, 2004.
4. Approving Ordinance 1133 on second reading.
5. Approving appointments to the Park and Recreation Advisory Board.
6. Moving forward with Phase I of the 13th Avenue Park.
7. Looking at buildable lands analysis and scheduling a workshop.

There was no executive session.

Mayor Thompson adjourned the session at 11:17 p.m.

Chaunee F. Seifried

Chaunee F. Seifried
City Recorder pro tem

Melody Thompson

Melody Thompson
Mayor

Kim D. Scheafer

Prepared by Kim Scheafer
and Susan Wood Office Specialists