

**CANBY CITY COUNCIL  
REGULAR SESSION  
April 7, 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, Community Development & Planning Director John Williams, Finance & Court Services Director Chaunee Seifried, Library & Parks Director Beth Saul, Executive Assistant Kim Scheafer, Office Specialist Joyce Peters, Court Supervisor Kathy Mashek, Judge Jon Henricksen, Lila & Curtis Gottman, Robin Adcock, David Howell, Roger Reif, Roger Skoe, Bob Zimmer, Christie Schwary, Kathy Jacoby, Paula Palmer, Kay Lewelling, Craig Lewelling, Matt Grady, and Charles Burden.

Mayor Thompson called the regular session to order at 7:30 p.m., followed by the opening ceremonies. Mayor Thompson recessed at 7:31 p.m. for an Urban Renewal Agency Meeting. Mayor Thompson reconvened the session at 7:58 p.m.

**CITIZEN INPUT ON NON-AGENDA ITEMS:** Robin Adcock, resident of 424 SE 9<sup>th</sup>, Canby, said that the Relay for Life would be held at the Canby High School on June 26-27. The City would have a team of staff participating. The relay was in support of cancer patients. Luminarias would be lit from 10-11 p.m. on June 26 in remembrance of those who had not survived and those who were currently fighting cancer.

Lila Gottman, resident of 10381 S Mulino Rd, said that the Canby Adult Center would be having Bingo on Saturday. There would be a volunteer appreciation luncheon at the Adult Center on Tuesday.

Ms. Gottman said that the band Misty Creek would be performing this year from 5 – 7 p.m. at the park during General Canby Day.

Kathy Jacoby, from the Canby Saturday Market, requested permission to use the railroad parking lots between Ivy and Elm Streets. Councilor Carson said that those requests were handled by staff. The market would be open May 8 to October 9. City Administrator Adcock said that the City had received another letter from the Canby Saturday Market requesting sponsorship for liability insurance from the City. Mr. Adcock said he would need to see what the implications were and would get back to the Council.

**CONSENT AGENDA: \*\*Councilor Carson moved to approve the Workshop on March 10, 2004, Minutes of the Executive Session and Regular Meeting of March 17, 2004; Accounts Payable of \$224,560.39; and a new liquor license application for Canby Pub & Grill. Motion was seconded by Councilor Blackwell and passed 6-0.**

**COMMUNICATIONS:** None.

**PUBLIC HEARING: Sequoia Parkway Right-of-Way Street Vacation –**

STAFF REPORT: Community Development and Planning Director John Williams said they created a subdivision when the Fred Meyer complex came in, and dedicated portions of Sequoia Parkway along the property that had not been built yet for the road. The road had been built, and there was a small section that should be vacated back to Gramor so they could develop it.

Mayor Thompson opened the public hearing at 8:13 p.m.

PUBLIC TESTIMONY: Matt Grady, of Gramor Development, 19767 SW 72<sup>nd</sup> Avenue, Tualatin, said he supported this street vacation. This would end the land exchange for the development, which had been a long process.

Mayor Thompson closed the public hearing at 8:15 p.m.

**\*\*Councilor Carson moved to approve Ordinance 1138, AN ORDINANCE VACATING A PORTION OF S. SEQUOIA PARKWAY CONVEYED FOR PUBLIC RIGHT-OF-WAY PURPOSES IN THE RECORDING OF CANBY MARKET CENTER PLAT to come up for second reading on April 21, 2004. Motion was seconded by Councilor Blackwell and passed 6-0 on first reading.**

NEW BUSINESS: Court Services Officer - Judge Jon Henrickson said they could fund this position. They had three incidents recently where safety was a concern. This would be a 30 hour per month position and did not have benefits. This would be someone who would keep the citizens in court safe and help take offenders into custody.

**\*\*Councilor Daniels moved to approve the request for the Court Services Officer as outlined in the memorandum. Motion was seconded by Councilor Blackwell.**

Mayor Thompson asked if this would be effective immediately. Staff said it would be.

**Motion passed 6-0.**

UNFINISHED BUSINESS: None.

**RESOLUTIONS & ORDINANCES:**

Resolution 854 - **\*\*Councilor Johnson moved to adopt Resolution 854, A RESOLUTION ADOPTING AN INTERGOVERNMENTAL AGREEMENT WITH THE URBAN RENEWAL AGENCY REGARDING THE CONSTRUCTION OF HAZEL DELL WAY. Motion was seconded by Councilor Daniels and passed 6-0.**

Ordinance 1136 - **\*\*Councilor Daniels moved to approve Ordinance 1136, AN ORDINANCE AMENDING THE CANBY MUNICIPAL CODE CHAPTER 2.64 REGARDING APPOINTMENTS TO THE BICYCLE AND PEDESTRIAN ADVISORY COMMITTEE FOR THE CITY OF CANBY to come up for second reading on April 21, 2004. Motion was seconded by Councilor Carson passed 6-0 on first reading.**

Ordinance 1137 - **\*\*Councilor Newton moved to approve Ordinance 1137, AN ORDINANCE AMENDING THE CANBY MUNICIPAL CODE CHAPTER 2.20 REGARDING APPOINTMENTS TO THE LIBRARY BOARD FOR THE CITY OF CANBY PUBLIC LIBRARY to come up for second reading on April 21, 2004. Motion was seconded by Councilor Johnson passed 6-0 on first reading.**

**MANAGER'S REPORT:** None.

**CITIZEN INPUT:** None.

**COUNCILOR'S ISSUES:** Councilor Blackwell said she had spoken with Senator Schrader regarding Clackamas County giving them \$50,000 to \$60,000 for a gateway project near Fred Meyer.

Community Development Director John Williams said he thought the Council might have skipped the Memorandum of Understanding.

**\*\*Councilor Johnson moved to approve the Memorandum of Understanding for Hazel Dell Way. Motion was seconded by Councilor Blackwell and passed 6-0.**

Councilor Oliver said on April 17, they would have a benefit dinner for Paula Smidt, a long time resident with health problems. He also wished his grandson a happy eighth birthday.

**ACTION REVIEW:**

1. Approving the Consent Agenda.
2. Approving the request for a Court Services Officer.
3. Approving the Memorandum of Understanding for Hazel Dell.
4. Approving Resolution 854.
5. Approving Ordinance 1136 to come up for second reading on April 21, 2004.
6. Approving Ordinance 1137 to come up for second reading on April 21, 2004.
7. Approving Ordinance 1138 to come up for second reading on April 21, 2004.
8. Putting together a project for the Fred Meyer gateway.

**\*\*Councilor Carson moved to go into executive session under ORS 192.660(2) labor negotiations.**

Mayor Thompson read the executive session format and recessed the regular session at 8:32 p.m.

Mayor Thompson reconvened the regular session and immediately adjourned at 9:31 p.m.

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**CANBY CITY COUNCIL  
EXECUTIVE SESSION  
April 7, 2004**

Present: Mayor Melody Thompson, Councilors Walt Daniels, Georgia Newton, Wayne Oliver, Patrick Johnson, Randy Carson, and Teresa Blackwell, City Administrator Mark Adcock, Community Development and Planning Director John Williams, and Finance & Court Services Director Chauncey Seifried.

John Williams, representative for the management team, requested an Executive Session to discuss labor negotiations. Council agreed to hold negotiations in Executive Session. Mayor Thompson called the session to order at 8:40 p.m.

ORS 192.660(2) – The Council discussed labor negotiations.

Mayor Thompson adjourned the session at 9:30 p.m.

*Chauncey F. Seifried*

Chauncey F. Seifried  
City Recorder pro tem

*Melody Thompson*

Melody Thompson  
Mayor

*Kim Scheafer*

Prepared by Kim Scheafer  
and Susan Wood Office Specialists



**AMENDMENT TO EMPLOYMENT AGREEMENT  
Municipal Judge**

**This Amendment**, dated April 21, 2004, to the Employment Agreement dated July 1, 2001 between the City of Canby, Oregon, a Municipal Corporation, and Jon S. Henricksen, Municipal Judge is intended to memorialize negotiations between the parties regarding the future salary of the Judge, Jon S. Henricksen.

It is the desire of the parties to change the salary provisions, section 4, paragraph 1) c) of the existing agreement as follows:

Section 4, paragraph 1), c) is amended to eliminate the City's contribution to PERS retirement program on behalf of the Judge and increase the monthly salary to the Judge by the sum of One Hundred Ninety Dollars (\$190.00) per month.

Section 4, paragraph 1), c) is therefore amended to read "Until the expiration of this contract or otherwise terminated as herein provided, the City shall pay a monthly contract fee of Three Thousand Three Hundred Fifteen Dollars (\$3,315.00)".

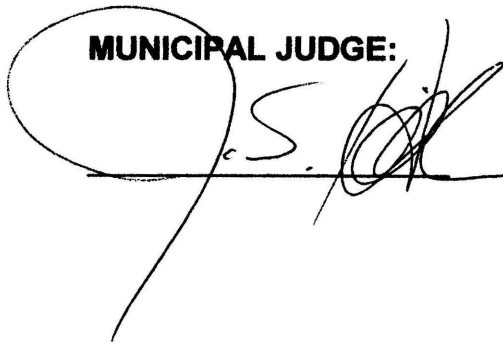
All other terms and conditions of the current employment agreement remain in full force and effect.

**IN WITNESS WHEREOF**, the undersigned have executed this Amendment to Employment Agreement the day and year first written above.

**CITY OF CANBY:**

  
\_\_\_\_\_  
Mayor

**MUNICIPAL JUDGE:**

  
\_\_\_\_\_  
Jon S. Henricksen

**ATTEST:**

  
\_\_\_\_\_  
Chaunee Seifried,  
City Recorder pro tem

### **MEMORANDUM OF UNDERSTANDING III**

**PARTIES:** CANBY URBAN RENEWAL AGENCY and CITY OF CANBY,  
an Oregon Municipal Corporation (collectively, the "City")

and

THOSE PROPERTY OWNERS signatory hereto listed in the  
attached Exhibit A and collectively referred to as "Owners".

**RECITALS:**

A. The City, through its City Council and Board of Directors of the Canby Urban Renewal Agency, believes that the continued and immediate development of properties within and adjacent to the Canby Pioneer Industrial Park, also known as Phases II and III of the City of Canby Logging Road Industrial Park (the "Industrial Park") is important and essential for the effective and balanced growth of the City.

B. Construction Stage 1 consisted of that portion of Sequoia Parkway immediately East of and adjacent to the Canby Shopping Center of which Fred Meyer was a part.

C. Construction Stage 2 consisted of the extension of Sequoia Parkway and a short portion of Hazel Dell Way which was the subject of Memorandum of Understanding I.

D. Construction Stage 3 consisted of the further extension of Sequoia Parkway, as well as an extension of Southeast 4<sup>th</sup> Avenue which was the subject matter of Memorandum of Understanding II.

E. The City believes it is vital to Canby residents, as well as important to the development of such properties that a further extension of Hazel

Dell Way should occur as soon as possible. This further extension shall be known as Construction Stage 4 and is the subject matter of this Memorandum of Understanding III.

F. In order to accomplish these objectives, it is necessary for the Owners identified in attached Exhibit A to support, financially and otherwise, the further extension of Hazel Dell Way. The City and Owners recognize that without such action, development of the Industrial Park and the extension of Hazel Dell Way will be delayed and will become more expensive. This will be detrimental to the City's welfare. The Owners believe that the timing is appropriate for all such actions to occur as soon as possible.

G. The City and the Owners agree that a concerted effort to attempt to accomplish the above objectives is presently warranted. Consequently, this Memorandum of Understanding III documents the various understandings previously reached among the parties on these subjects and implements the methods and strategies which they agree will be used to achieve the above objectives.

H. The City desires that the Owners' properties develop, consistent with the City's adopted Industrial Area Master Plan and zoning (collectively, "the Master Plan") for those properties and consistent with the City's objectives to create employment opportunities within the City, broadening the City's tax base and helping make the City a complete community.

I. The extension of Hazel Dell Way is an important element in assuring the development of the Industrial Park consistent with the City's Master

Plan and zoning. Construction Stages 1 and 2 have been constructed and Construction Stage 3 has been approved. Construction Stage 4 is also a key element in the City's transportation plan and is among the priority capital improvement projects for the City. Construction Stage 4 will generate significant public benefit to City residents and businesses in the form of improved safety, street capacity and connectivity.

J. Discussions between the City and the Owners have culminated in a consensus between those parties as to how the objectives of the Master Plan and Construction Stage 4 can be implemented.

K. The City is agreeing to provide forty percent (40%) of the engineering, construction and land acquisition costs through a loan with the Oregon Economic and Community Development Department (OECDD). The Owners will provide sixty percent (60%) of the engineering, construction and land acquisition costs through the creation of a Local Improvement District (LID) in accordance with local ordinance and state statute. The Owners will agree to support the creation of this LID. The affected property Owner will agree to the conveyance of real property for right-of-way, and all identified Owners agree to the payment for sidewalks and planter strips as a private expense upon the development of each property.

L. The financing plan for Construction Stage 4 is conditioned upon acquisition of right-of-way, construction of certain improvements at private expense, and the generation of system development charges ("SDCs") resulting from development of Owners' properties. Therefore, the estimated cost of Construction

Stage 4 is heavily dependent upon right-of-way contributions and the financial considerations arising from development of Owners' properties.

M. The Owners have indicated their willingness to proceed as described in this Memorandum of Understanding III (MOU III) and the City, likewise, is prepared to undertake actions consistent with these recitals, and this MOU III.

**NOW, THEREFORE, THE PARTIES HERE BY AGREE AS FOLLOWS:**

**1. Hazel Dell Way Extension**

1.1 The parties agree to support the Hazel Dell Way segment of Construction Stage 4 as shown on the map attached hereto as Exhibit B.

1.2 The Hazel Dell Way segment of Construction Stage 4 will consist of approximately 1,500 lineal feet between the current terminus of the common property line of the Zimmer parcel (Tax Lot 800) and the Burden parcel (Tax Lot 700), to its intersection with Southeast 1<sup>st</sup> Avenue. The Hazel Dell Way segment of Construction Stage 4 shall have a 74-foot right-of-way with a 50-foot curb-to-curb paved travel section, without any center median planter strip at this time.

**2. Financing of Hazel Dell Extension Construction Stage 4**

2.1 The estimated engineering, construction and land acquisition cost of Construction Stage 4 is \$1,163,020 (SEE Exhibit A).

2.2 The City shall be responsible for forty percent (40%) of the engineering, construction and land acquisition costs, estimated to be approximately \$465,208. It is anticipated this will be funded through a loan from OECDD.

2.3 The remaining sixty percent (60%) of the engineering, construction and land acquisition costs shall be funded through the Owners' formation of a Local Improvement District (LID). With the exception of the City's standard SDCs and costs of the Local Improvement District, none of the Owners shall have any other obligation nor shall they be required in any respect to contribute any other cost of any Construction Stage 4 segment improvements. None of the Owners shall be responsible for payment of the City's forty percent (40%) contribution, in whole or in part.

2.4 The owner of Tax Lots 400 and 700 (Burden parcels) agrees to convey the right-of-way necessary to permit construction of the Hazel Dell Way segment of Construction Stage 4, consistent with paragraphs 1.1 and 1.2 above. The right-of-way acquisition costs for the Hazel Dell Way segment of Construction Stage 4 shall be valued at not less than \$2.82 per square foot for an aggregate estimated value of \$334,000 based upon approximately 118,400 square feet. The City and remaining identified Owners (SEE Exhibit A) agree that Burden shall be compensated in cash of approximately \$334,000.

2.5 As additional consideration for the City's performance under this MOU III, the affected Owners will voluntarily assume financial and construction responsibility for sidewalks and adjoining planter strips along the Hazel Dell Way segment of Construction Stage 4 segment at such time as their

respective properties develop. At an Owner's election, the Owner may regard the construction of sidewalks and planter strips as a contribution to the City. The value ascribed to such improvements shall be not less than \$44.24 per lineal foot, or an aggregate estimated amount of \$66,360. Such amount shall be adjusted based upon actual square footage of improvements and actual cost for such improvements.

2.6 The City and the Owners recognize that their respective commitments and contributions as described in this Agreement are based upon the City seeking and obtaining OECDD loan approval for Construction Stage 4. If the City is unable to obtain OECDD approval, the Owners may, at each Owner's individual discretion, withdraw from this MOU III if loan approval is not granted within one (1) year from the date of this MOU III.

2.7 The Owners agree to support the City's OECDD loan application for Construction Stage 4. Such support is based upon the City's reciprocal commitments as stated in this MOU III.

### **3. Recognition of Parties**

This MOU III is executed by the City pursuant to affirmative vote of the City Council and the Board of Directors of the City's Urban Renewal District. For purposes of additional discussion and implementation of this MOU III, the Owners continue to designate the officers of the Industrial Area Association ("IAA") as their spokespeople and clearinghouse for information.

### **4. Reciprocal Commitments**

Both the City and the Owners recognize and agree that the commitments, promises and agreements stated in this MOU III are mutual and

reciprocal. Should a party not perform as specified in this MOU III, the other party shall be relieved of its obligations to perform. The parties shall undertake all reasonable and necessary steps to implement this MOU III, consistent with the objectives stated in the Recitals. Should the Owners identified in Exhibit A fail to convey right-of-way for Construction Stage 4 or fail to construct sidewalks and/or planter strips upon development of their properties, the City is relieved of its obligation not to impose other means of financing for those improvements, but such action shall be subject to all legal rights and processes available to any Owner.

CITY OF CANBY  
AGENCY

CANBY      URBAN      RENEWAL

By: Melody Thompson  
Melody Thompson, Mayor

By: Randy Carson  
Randy Carson, Chair

\_\_\_\_\_  
Charles Burden, Personal Representative  
of the estate of Ray L. Burden, deceased

\_\_\_\_\_  
Kay Lewelling, Member of the  
Lewelling Family, LLC

\_\_\_\_\_  
Margaret J. Madeira

\_\_\_\_\_  
Philip Parsons

\_\_\_\_\_  
Paula Palmer, Personal Representative  
for the Ron Palmer Estate, and Trustee  
of the Nancy E. Palmer Family Trust

\_\_\_\_\_  
Tammy M. Parsons



# COST DISTRIBUTION SUMMARY

Lot	Name	Acres	Zone	Method 3 (AREA WITHIN 100') + Method 4 (AREA of front 1/2 where 2 streets serve)			
				Rough share	% of assessment	Less ROW	Net Cost
1	ZIMMER	5.02	CM	-	0.00%		-
2	GUISINGER	1.03	CM	-	0.00%		-
3	MADEIRA	2.21	CM	271	0.04%		271
4	BURDEN	10.29	M1	224,482	32.17%	107,666	116,815
5	BURDEN	5.97	M1	180,468	25.86%	163,979	16,489
6	LEWELLING	20.21	M1	64,251	9.21%		64,251
7	ZIMMER	23.4	M1	-	0.00%		-
8	ZIMMER	8.03	CM & M2	-	0.00%		-
9	BURDEN	24.7	M1 & M2	192,563	27.60%	62,354	130,208
10	PARSONS	3.42	M1	11,153	1.60%		11,153
11	PALMER	9.82	M1	24,624	3.53%		24,624
12	BORG	19.35	M1	-	0.00%		-
13	BURDEN	1.23	M2	-	0.00%		-
14	BURDEN	1.23	M2	-	0.00%		-
15	BURDEN	12.56	M1 & M2	-	0.00%		-
16	BURDEN	1.2	M1	-	0.00%		-
17	BURDEN	3.71	M1	-	0.00%		-
18	BURDEN	1.84	M1	-	0.00%		-
19	WEYGANDT	10.51	M1	-	0.00%		-
20	WEYGANDT	48.7	EFU	-	0.00%		-
21	WEYGANDT	13.74	EFU	-	0.00%		-
	Prop Owners	228.17		697,812	60.00%	(334,000)	\$ 363,812
	URA			465,208	40.00%		\$ 465,208
	Totals	228.17		\$1,163,020	100.00%		\$1,163,020

**Notes:**

1	Areas are approximate, and reflect some parcel adjustments completed and contemplated.
2	Improvements completed on Sequoia and SE 4th are ignored. So are assessments made under the prior advance finance district.
3	Properties on SE 1st will be required to make further improvements on their frontage at some future time.
4	Properties on Hazel Dell Way South will have frontage improvements (primarily driveways and sidewalks), which are not part of these calculations.
5	Future dedication which may be required on SE 1st is ignored.
6	Methods which use the halfway point to another street include some lots not adjacent to Hazel Dell Way South.
7	Total costs for this phase are assumed to be \$829,020 for construction plus \$334,000 (\$2.82/SF) for right-of-way.
8	URA share assumed to be 40% of district total costs.

Revised per City of Canby letter 2/10/04

EXHIBIT A.

