

**CANBY CITY COUNCIL
WORKSHOP
August 18, 2004**

Present: Mayor Melody Thompson, Councilors Walt Daniels, Georgia Newton, Wayne Oliver, Pat Johnson, Randy Carson, and Teresa Blackwell, Lila & Curtis Gottman, Charles Blackwell, Library and Parks Director Beth Saul, and City Recorder Pro Tem Kim Scheafer.

Mayor Thompson called the session to order at 6:34 p.m. A light dinner was served.

The Council and General Canby Day Committee met in the City Hall Conference Room to discuss General Canby Day. Discussions took place about potential changes next year that could further improve events.

Mayor Thompson adjourned the session at 7:27 p.m.

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

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

Also present: City Attorney John Kelley, Library & Parks Director Beth Saul, Finance & Court Services Director Chaunee Seifried, Police Chief Ken Pagano, Sergeant Brian Howarth, Associate Planner Darren Nichols, City Recorder Pro Tem Kim Scheafer, Patrick & Tamatha Phillips, Jon & Barbara Austin, Bob & Anne Jones, Daniel Webb, Rian Watson, and David Howell.

Mayor Thompson called the regular session to order at 7:34 p.m., followed by the opening ceremonies.

CITIZEN INPUT ON NON-AGENDA ITEMS: None.

CONSENT AGENDA: **Councilor Carson moved to adopt the Minutes of the Workshop of June 29, 2004; Minutes of the Workshop and Regular Meeting of August 4, 2004; Accounts Payable of \$661,651.58; a change of ownership liquor license application for Godfather's Pizza; and a change of license type liquor license application for Dalia's Ristorante Italiano. Motion was seconded by Councilor Blackwell and passed 6-0.

COMMUNICATIONS: None.

CONTINUATION OF PUBLIC HEARING:

Temporary Hardship Permit (Hall) – Associate Planner Darren Nichols said this was a temporary hardship permit application that would permit the applicants to reside in an RV dwelling for a period of time specified by the City Council. Mrs. Hall's daughter and son-in-law have requested an opportunity to dwell in a motor home on property at 591 N Ivy Street in order to care for Mrs. Hall.

Councilor Carson asked if there were a maximum number of people that can be living in a residence. City Attorney Kelley said there can be a maximum of five unrelated people and there was no limit on family. Mr. Nichols said he had talked with the Fire Marshall and he had no concerns about the number of people living in the residence.

Mayor Thompson opened the public hearing at 7:38 p.m.

PUBLIC TESTIMONY

APPLICANT: Patrick Phillips, 591 N Ivy, Canby said that they were not seeking a ten year permit. As the letter stated, they could be gone next week or be there for six months to a year. That is all depending upon a certain employer. Councilor Carson asked if the other people living in the home were his children. Mr. Phillips said they were his stepchildren, one was 16 and the other three are 13.

PROPONENTS: None.

OPPONENTS: Bob Jones, 139 NW 6th Avenue, Canby said that it was hard to comment on what they have been able to see. They did have examples of Mrs. Hall being able to drive alone several times. It seems that she does not need very drastic care or she is not getting the care she needs because she is driving illegally. On the basis of testimony they had just heard, it sounded like they were waiting on a job rather than a medical condition. If the Phillips had come and talked to neighbors, it would have been the neighborly thing. There had not been any communication to them at all. He asked that the Council not extend any time for the RV and tent city.

Jon Austin, 142 NW 5th Avenue, Canby said that this was not a personal attack on this family.

Mayor Thompson closed the public hearing at 7:45 p.m.

DISCUSSION: Councilor Daniels said the other applicants were required to hook up to City sewer and water. This application is now coming after they had been there a long time so that point is questionable. They had seen the medical records. Usually in a hardship case, people move in and take care of them until that person goes to a nursing home or other arrangements are made. In the letter they had received it was alluded to by the applicant that they may be there only two weeks or six to eight months. He felt it was not a hardship case, but a place of convenience for housing until they found another job.

Mayor Thompson asked if the City provided resource information such as mediation. Police Chief Ken Pagano said they talked about doing that after the hearing.

Councilor Carson said there were no rules about living in a tent and even if the motor home was moved, the Phillips could still stay in their tent. Mayor Thompson said a temporary hardship permit as expressed for living in an RV would not be required for living in a tent. Mr. Nichols said that was correct.

****Councilor Carson moved to grant a three month hardship permit for the motor home. Hopefully at that time they will have had time to either find another place or move into an RV park and come back and forth daily to be at the house. Motion was seconded by Councilor Oliver.**

Councilor Daniels said he would go along with the motion with the stipulation there would be no extension beyond that time. Councilor Blackwell said she agreed.

Motion passed 5-1 with Councilor Johnson opposed.

NEW BUSINESS: Sewer Billing Agreement with Canby Utility – Mayor Thompson said this item would be moved to a council meeting in the future.

UNFINISHED BUSINESS: Findings, Conclusion & Final Order Annexation 04-02 ManDan

****Councilor Carson moved to adopt the Findings, Conclusion & Final Order for ANN 04-02. Motion was seconded by Councilor Blackwell and passed 6-0.**

Findings, Conclusion & Final Order Annexation 04-05 Manuel

****Councilor Johnson moved to adopt the Findings, Conclusion & Final Order for ANN 04-05 to deny the annexation request. Motion was seconded by Councilor Daniels and passed 5-1 with Councilor Carson opposed.**

RESOLUTIONS & ORDINANCES:

Resolution 872 – Library and Parks Director Beth Saul said this resolution is being passed by a number of cities in the County after all the representatives of the Library Network Intergovernmental Board have been working on a plan for the future of library funding. This would encourage the Board of Commissioners to act on that plan which would establish stable funding for libraries for the next five years.

****Councilor Daniels moved to adopt Resolution 872, A RESOLUTION TO ENCOURAGE THE BOARD OF COUNTY COMMISSIONERS TO ADOPT AND IMPLEMENT THE RECOMMENDATIONS OF THE LIBRARIES FOR TOMORROW PROJECT (PARTS I AND II) AS ADOPTED BY THE LIBRARY NETWORK INTERGOVERNMENTAL BOARD (LNIB). Motion was seconded by Councilor Newton.**

Councilor Carson asked if it was a 29¢ levy. Ms. Saul said they would be proposing a 29¢ per \$1,000 levy for the November election.

Motion passed 6-0.

Resolution 873 - **Councilor Newton moved to adopt Resolution 873, 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 13TH 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 2, 2004 ELECTION. Motion was seconded by Councilor Carson and passed 6-0.

Resolution 874 - **Councilor Oliver moved to adopt Resolution 874, 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 .97 ACRES DESCRIBED AS TAX LOT 1500 OF TAX MAP 3-1E-28DD LOCATED AT 1063 NE TERRITORIAL ROAD; 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 2, 2004 ELECTION. Motion was seconded by Councilor Carson and passed 6-0.

Resolution 877 - **Councilor Johnson moved to adopt Resolution 877, 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 4.57 ACRES DESCRIBED AS TAX LOTS 300, 301 AND 302 OF TAX MAP 3-1E-34B LOCATED IN THE NORTHEAST QUADRANT OF THE CITY, ON THE EAST SIDE OF N REDWOOD STREET, ACROSS FROM NE 12TH AVENUE; 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 2, 2004 ELECTION. Motion was seconded by Councilor Carson and passed 6-0.

Resolution 878 - **Councilor Daniels moved to adopt Resolution 878, A RESOLUTION AMENDING THE CITY OF CANBY PERSONNEL POLICY MANUAL REGARDING EXEMPT CLASSIFICATION OF EMPLOYEES. Motion was seconded by Councilor Johnson and passed 6-0.

Resolution 879 – Ms. Saul said there was a competitive process to get the Transportation Enhancement funds. One of the key pieces of information to submit is a resolution from the

governing body supporting the application. There is money available in the park development fund to match the grant.

****Councilor Carson moved to adopt Resolution 879, A RESOLUTION AUTHORIZING THE CITY OF CANBY TO APPLY FOR TRANSPORTATION ENHANCEMENT FUNDS FROM THE OREGON DEPARTMENT OF TRANSPORTATION FOR REFURBISHMENT OF THE HISTORIC LOGGING ROAD BRIDGE PORTION OF THE LOGGING ROAD AND DELEGATING AUTHORITY TO THE CITY ADMINISTRATOR TO SIGN THE APPLICATION. Motion was seconded by Councilor Johnson and passed 6-0.**

Ordinance 1151 - ****Councilor Johnson moved to approve Ordinance 1151, AN ORDINANCE AMENDING SECTION 13.08.150 OF THE CANBY MUNICIPAL CODE BY ADDING A REQUIREMENT FOR BACKFLOW PREVENTION DEVICES FOR PROPERTIES WHOSE SEWER LINES RUN THE RISK OF BACKFLOWING. Motion was seconded by Councilor Carson and passed 6-0 by roll call vote.**

Councilor Johnson asked how property owners know if they are at risk. Mr. Kelley said the City would do an evaluation and tell people in the areas that they thought would potentially have a problem and then notify the property owners. Mr. Nichols said there were very few properties in town that run that risk.

Ordinance 1154 – Ms. Saul said this was a Change Order so that another property in the Urban Renewal District could be added to the Parker Paving bid. This was for the Community Park paving project.

****Councilor Carson moved to approve Ordinance 1154, AN ORDINANCE AUTHORIZING THE MAYOR AND CITY RECORDER TO EXECUTE CHANGE ORDER NUMBER 1 WITH PARKER NORTHWEST PAVING COMPANY FOR CONSTRUCTION OF SEQUOIA PARKWAY STAGE III; AND DECLARING AN EMERGENCY to come up for second reading on September 1, 2004. Motion was seconded by Councilor Blackwell and passed 6-0.**

MANAGER'S REPORT: Councilor Daniels said they had a Memorandum from John Williams regarding the Canby alternative to Arndt Road. The Council needed to let staff know by August 21 so they could let the County know. Mayor Thompson said when they had the last workshop they briefly discussed it as a group.

Mayor Thompson said this was the largest project that the City has ever funded and would put other transportation projects on hold for possibly up to ten years.

Councilor Daniels said the County was supposed to come back with a diagram to see how much of the park would be lost. According to the memo, they could not use any of that. He said there was not enough time to look for additional ground for ball fields if this is approved. Ms. Saul said it sounded like this would be years away. It would be more of a policy decision deciding what they wanted to do and then work out the details afterwards.

Councilor Newton said when you take the personnel contract expenses, Sequoia Parkway loan, Sequoia Parkway II loan, and Hazel Dell loan; it comes to \$407,000 for the tax year 2004-2005. This memo says that the required loan payment for the Berg Parkway project would be \$300,000 and at this point in time they are only getting in around a little over \$500,000. Is it indeed a policy decision that this road would not happen until they had industrial fueling the URD.

Councilor Carson said there was \$2,000,000 available from the County that they need to either give back to the State or give some other project. They could dedicate it to finishing off Berg Parkway and then they would allocate that money, plus the next ten years worth of SDC money. When the bridge is planned and built the money would be in the bank to pay for it.

Mr. Nichols said the price of the project is uncertain. They think it is a fairly high estimate. It will cost quite a bit to figure out what that project is going to cost and where the bridge is going to go.

Mayor Thompson asked what a preliminary commitment would get them. Mr. Nichols said it frees up the money to put into the south side of Berg Parkway and then recommit to extra research in which they would have engineers design a bridge and do a cost estimate.

Councilor Johnson asked if this was equal to an IGA saying they were definitely going to commit SDC funds to this project. Councilor Carson said they could not give them \$2,000,000 if they do not sign up for it.

Councilor Daniels said the County needs to know if Canby is willing to continue exploring this project because they are reserving funds that could be dedicated to it.

Mayor Thompson asked Mr. Nichols to meet with Mr. Williams and contact Council so they could firm up their response.

Councilor Carson asked if they were willing to sell the property for industrial commercial. Mr. Kelley said they had condemned the property. The City could use it but if they wanted to sell it they would need to offer it back to the party from whom it was condemned. If they hold it for ten years or more they may not be required to offer it back. The property was condemned for storm water treatment, a park, and a roadway.

Councilor Daniels asked if there was any correspondence from the County as far as the overlay and how it would affect the park. Ms. Saul said their way of handling this bridge would be to use fill, so there would be usable property.

Councilor Newton said this project would help get some of the traffic off Highway 99E at 4 p.m. It was not just for industrial but a lot of commuters, too. Ms. Saul said she thought Mr. Williams tried to respond to Council's initial request, which was what would they be forgoing.

Mayor Thompson said Canby was not big enough to spend a lot of money to engineer something and then find out it is not what they want to do or where they want it to be. Mr. Nichols said Mr. Williams' attempt was to see if the Council felt comfortable pursuing that as an option.

Councilor Johnson said he did not like the fact that this came up tonight and that the right people were not there to talk about it.

CITIZEN INPUT: None.

COUNCILOR'S ISSUES: Mayor Thompson said she had talked with Mayor Dodds of West Linn and his City and several other cities are trying to work through the League of Oregon Cities. They are very concerned with expedited land division. Their concern is the State process bypasses local Planning Commissions and Councils. She had received paperwork that Mayor Dodds would like for the Council to look at and respond to.

Mayor Thompson said there will be a League of Oregon Cities Elected Officials Workshop on September 21.

Mr. Kelley said the expedited land division had been around for a long time. The City had never had a problem with it.

Councilor Johnson said he had talked with Councilor Carson regarding little motorcycles and scooters that are driving around the streets. Mr. Kelley said the legalities are different based upon which one they were talking about. Councilor Johnson asked if they could ban these on the public right-of-way. Police Chief Pagano said there were two types of bikes. One is a motorized scooter and the other is a pocket bike which is a little motorcycle. The pocket bikes do not have VIN numbers on them and are unable to be registered. Mr. Kelley said they are citing them for illegal operation of an ATV. It is not to be used on the public right-of-way or in a public park, including the Logging Road. Councilor Carson said he thought they needed a public education piece in the newspaper.

Chief Pagano said the motorized assisted scooters are basically like a bicycle. They have to be pushed across a crosswalk. Mayor Thompson asked if they were restricted. Mr. Kelley said they were looking into the age and helmet use.

Councilor Daniels said there are now decals on street corners of the C-1 zone to keep the bikes, in-line skates, and skateboards off sidewalks.

ACTION REVIEW:

1. Approving the consent agenda.
2. Approving a three month Temporary Hardship Permit for Ella Hall.
3. Approving the Findings, Conclusion & Final Order for Annexation 04-02.
4. Approving the Findings, Conclusion & Final Order for Annexation 04-05.
5. Approving Resolution 872.
6. Approving Resolution 873.

7. Approving Resolution 874.
8. Approving Resolution 877.
9. Approving Resolution 878.
10. Approving Resolution 879.
11. Approving Ordinance 1151 on second reading.
12. Approving Ordinance 1154 to come up for second reading on September 1, 2004.
13. Police Chief Pagano will bring back information on pocket bikes and motorized scooters.

Mayor Thompson adjourned the regular session at 8:30 p.m.

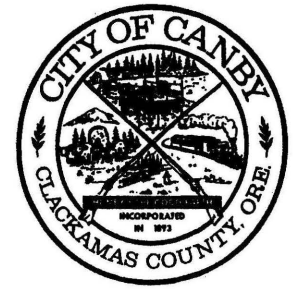


Kimberly Scheafer
City Recorder Pro Tem



Melody Thompson
Mayor

Assisted in Preparation of Minutes – Valerie Kraxberger



**BEFORE THE CITY COUNCIL
OF THE
CITY OF CANBY**

**A REQUEST TO ANNEX .93
ACRES OF LAND INTO THE
CITY OF CANBY**

) **FINDINGS, CONCLUSIONS & ORDER**
) **ANN 04-05**
) **(Allen Manuel)**

NATURE OF APPLICATION

The applicant is seeking to annex one .93 acre tax lot into the City of Canby. If annexed, the applicant intends to build approximately 4 single family homes in addition to one existing single family home. The site is located on the east side of N Redwood Street, south of NE 19th Loop. The property is designated by Canby's Comprehensive Plan as priority "B" for annexation.

HEARINGS

The Planning Commission held a public hearing and considered this application at its meeting June 28, 2004. The City Council held a second public hearing to consider the application at its meeting August 4, 2004.

CRITERIA AND STANDARDS

The Planning Commission forms a recommendation that the City Council may consider after conducting a public hearing. If the City Council approves the application, that approval is forwarded to Canby voters as a ballot measure where a final decision is reached during a general election.

CRITERIA AND STANDARDS - continued

Section 16.84.040 of the Canby Municipal Code states that when reviewing a proposed annexation, the Council shall give ample consideration to the following:

1. Annexation shall be in keeping with prioritization categories, as designated on the adopted maps showing growth phasing (Urban Growth Element of the Comprehensive Plan).
2. Analysis of the "need" for additional property within the city limits shall be provided.
3. Smaller non-farm land shall be considered a priority for annexation over larger farm land;
4. Access shall be adequate to the site;
5. Adequate public facilities and services shall be available to service the potential (or proposed) development;
6. Compliance with other applicable city ordinances or policies;
7. Compliance of the application with the applicable sections of Oregon Revised Statutes Chapter 222. (In other words, a triple majority type application must contain proof that a triple majority does, in fact, exist, etc.);
8. Risk of natural hazards which might be expected to occur on the subject property shall be identified;
9. Urbanization of the subject property shall not have a significant adverse effect on specially designated open space, scenic, historic or natural resource areas;
10. Economic impacts which are likely to result from the annexation shall be evaluated in light of the social and physical impacts. The overall impact which is likely to result from the annexation and development shall not have a significant adverse effect on the economic, social and physical environment of the community, as a whole.

FINDINGS AND REASONS

The City Council deliberated on all evidence and testimony presented at the August 4, 2004 meeting. The City Council incorporates the July 27, 2004 Staff Report and Council deliberations as support for its decision. The City Council accepted and adopted the findings in the July 27, 2004 Staff Report insofar as they do not conflict with the following supplemental findings:

1. The City Council considered the parcel's priority "B" designation in Canby's Comprehensive Plan. The Priority "B" designation denotes lands which are less desirable than lands that are designated priority "A". In order for "B" lands to be considered for annexation, those parcels must demonstrate an exceptional benefit or some other compelling reason for annexation. The City Council found that the subject parcel does not present a compelling reason to be considered for annexation. The Council also discussed the impact of a one acre annexation on the ability of surrounding parcels to develop efficiently and found that this parcel does not address or facilitate the efficient development of surrounding parcels.
2. The City Council considered a revised Buildable Lands Inventory and found that the current supply of buildable R-1 land is estimated at 2 years and 10 months. The supply is considered sufficient and the need for this property to be annexed is not established.

CONCLUSION

The City Council concludes that, based on the findings and conclusions contained in the July 27, 2004 staff report and the August 4, 2004 public hearing and based on Council deliberations on August 4, 2004:

1. The land is designated as Priority "B" for annexation. Lands designated priority "B" are considered lower priority for annexation than those lands designated priority "A".
2. The current supply of buildable residential land is estimated at approximately 4 years within the City of Canby. The overall supply of platted land available for immediate development is somewhat less than the 3 years considered sufficient, but the overall need for low density residential land is not clearly established.
3. The subject property is a smaller tract of non-productive farm land, surrounded by other potentially productive farm land. The parcel's designation as priority "B" for annexation does not necessarily take precedence over farm uses.

4. Access to the site is available from N Redwood Street. The Council finds that access to the subject parcel can be met. Access to potential development on adjacent properties to the east, however, is not ensured. In the absence of a Master Plan, the applicant has not demonstrated the ability to provide development access in a manner that facilitates efficient development on surrounding parcels.
5. With the exception of adequate access to surrounding parcels, public facilities and services are available or can be made available to serve the subject parcel. The City and other service-providers are able to provide the property with urban level services.
6. The annexation proposal complies with other applicable City ordinances or policies.
7. The annexation proposal complies with all applicable sections of Oregon Revised Statute.
8. No natural hazards have been identified on the site.
9. Urbanization of the subject property would have limited impact on designated open space, scenic, historic or natural resource areas.
10. Adverse economic impacts are not likely to result from annexation of the subject parcel.

ORDER

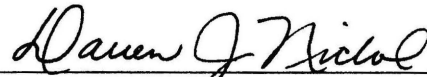
IT IS ORDERED BY THE CANBY CITY COUNCIL that annexation application ANN 04-05 is **DENIED**.

I CERTIFY THAT THIS ORDER denying ANN 04-05 was presented to and **APPROVED** by the Canby City Council.

DATED this 18th day of August, 2004.



Melody Thompson, Mayor
City of Canby



Darren J. Nichols
Associate Planner

ATTEST:

ORAL DECISION – August 4, 2004

AYES: Blackwell, Johnson, Newton, Thompson

NOES: Carson, Oliver, Daniels

ABSTAIN: None

ABSENT: None

WRITTEN FINDINGS – August 18, 2004

AYES: Daniels, Newton, Oliver, Johnson, Blackwell

NOES: Carson

ABSTAIN: None

ABSENT: None