

**CANBY CITY COUNCIL
REGULAR SESSION
September 1, 2004**

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

Also present: City Administrator Mark Adcock, City Attorney John Kelley, Library & Parks Director Beth Saul, Transit & General Services Director Margaret Yochem, Police Chief Ken Pagano, City Recorder Pro Tem Kim Scheafer, Dan Mickelsen, Don Hemstreet, Jorge Tro, Shawn Carroll, Harvey Rogers, Jeff Wadsworth, Roger Harris, Lila & Curtis Gottman, David Howell, and Craig Finden.

Council President Carson called the regular session to order at 7:34 p.m., followed by the opening ceremonies.

PRESENTATION: Employee of the Month - City Administrator Mark Adcock presented Dan Mickelsen from the Public Works department with an Employee of the Month certificate for July.

Code Enforcement Officer - Police Chief Ken Pagano introduced the new Code Enforcement Officer Don Hemstreet. Mr. Hemstreet was a reserve policeman for the City for five years prior to being hired.

CITIZEN INPUT ON NON-AGENDA ITEMS: Roger Harris wanted to comment on the Arndt Road project. Councilor Carson thought he could discuss it when it came up on the agenda under Manager's Report.

CONSENT AGENDA: **Councilor Blackwell moved to adopt the Minutes of the Workshop and Regular Meeting of August 18, 2004 and Accounts Payable of \$441,657.40. Motion was seconded by Councilor Daniels and passed 4-0.

Resolution 876 – Canby Utility Board Member Shawn Carroll said Resolution 868 adopted by the City on June 16, 2004 authorized the issuance of a 2.9 million dollar water revenue bond and by statute notice was published. More than 60 days had passed and since no petitions were filed, the City was now authorized to sell bonds. This resolution authorized the sale of the bonds. The bonds would be used to finance improvements in the City's water system including storage, water treatment, and security. The bonds would solely be pledged by Canby Utility water revenue. Water rates were adjusted on June 1 of this year to provide for the revenue required to make future debt payments.

Canby Utility Finance Manager Jeff Wadsworth said the bonds would pay for storage and treatment and increase the distribution system. One plan was to increase the storage and treatment capacity. Councilor Daniels asked if another reservoir would be built at the water treatment plant. Mr. Wadsworth said they were still working out the details.

****Councilor Daniels moved to adopt Resolution 876, A RESOLUTION AUTHORIZING THE SALE OF WATER REVENUE BONDS AND EXECUTION OF A MASTER WATER REVENUE BOND DECLARATION. Motion was seconded by Councilor Blackwell and passed 4-0.**

COMMUNICATIONS: City Attorney John Kelley said the Oregon Court of Appeals had issued an opinion regarding the Northwood application. The matter had been remanded back to the Land Use Board of Appeals for further review.

NEW BUSINESS: Renewal of SP 02-01 Hardship Permit (Raper) –

****Councilor Blackwell moved to approve the renewal of SP 02-01, a one year extension for the Raper's Hardship Permit. Motion was seconded by Councilor Daniels and passed 4-0.**

UNFINISHED BUSINESS: Findings, Conclusion & Final Order SP 04-01 (Hall) -

Councilor Blackwell asked who checked out the hook-up to the sewer and electric systems. Community Development and Planning Director John Williams said the Public Works Director would for the sewer and Canby Utility for the electric. In the case of this unit they gave them a 90 day permit and they would probably not hook up.

****Councilor Blackwell moved to adopt the Findings, Conclusion & Final Order for temporary Hardship Permit SP 04-01 (Hall). Motion was seconded by Councilor Daniels and passed 4-0.**

RESOLUTIONS & ORDINANCES:

Ordinance 1154 – ****Councilor Daniels 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. Motion was seconded by Councilor Blackwell and passed 4-0 by roll call vote.**

MANAGER'S REPORT: Arndt Road Project Canby Alternative – Mr. Williams reviewed the Arndt Road alignment alternatives. Their idea was to bring the road directly into Canby across the Molalla River and do the City's proposed project from Berg Parkway to Third Avenue. The total project cost would be 17 million dollars. With funding from the State, Federal Government, and County and using the City's SDC and Urban Renewal money, it could theoretically work. Any discussion of the funding for this project was long range and committed a number of years of revenue to the project. There would be a number of projects that would not be able to be done if they used the funds for the project. The question before the Council was if staff should continue to work on the project. The County had 2.4 million dollars that would go away if the project did not happen.

Roger Harris, resident of 900 NE 14th, Canby said this project was a good one but he had some concerns. This was the largest project in Canby's history, the largest commitment and one that should involve the community. It was outside of the master plan. A variety of people were going to have a lot of interest in this. He was concerned about making a commitment without consulting those groups. The Regional Park had been planned and would be seriously affected. One of the URD Advisory Board's recommended projects was the Fire Department remodel project. The City has a verbal commitment with the Fire District regarding reasonable distribution of URD funds. If the Fire District is expecting URD money he suspected they would have a very active interest in the decision the Council made. The intersections at 99E and Ivy and Elm would be off the table. He read a list of SDC projects that would be affected. To make a commitment on this project weakened the previous commitment to getting other projects done and there were many citizens who would be interested in that decision.

Councilor Blackwell said they had great need to gather citizen input.

Craig Finden, resident of 11628 Makin Lane, Canby said that it was nice to talk about real projects and funding. He spoke as a board member of CBRD. The prioritization of projects throughout the industrial area and commercial districts was a major undertaking of CBRD. He asked the Council if he would have an opportunity to ask his board how the project would affect their mission statement and how it would affect the activities they were doing. They needed time to discuss this. This might be the route to take and the time to take it, but if they were postponing projects, more discussions had to be made.

Councilor Daniels said he agreed with the two speakers, but they might be able to find other funding for the postponed projects. They never had a project in the south end of the County and the County was willing to work with them. He was concerned if the Council turned this down and lost the 2.4 million dollars, would the County be willing to do it later? This would make it a lot easier getting from Canby to I-5 and would help businesses expand, especially in the industrial area and be a benefit for commuters.

Councilor Oliver said the projects had been aligned and priorities done, but he thought they would be negligent if they did not look at this option.

Councilor Blackwell asked if the funding was all in place. Mr. Williams said everything that was not under their control was still in question and it would take time before it was in place. The main thing they were looking at was staff time and the advisory bodies. She was concerned about sinking all the SDC and URD funds into the project, and the list of projects that would be postponed. She wanted to stress that they needed input immediately from the advisory groups and the public process. There were a lot of pieces that were not in place and she would only consent to do this if it fell into place. She said now was the time to start the conversation to set this project in motion down the road. Mr. Williams said it would take several months to get to the point where they would make the decision to do the project.

Councilor Carson said they definitely needed community involvement. A large part of this project was in the master plan, the only thing that was not was the bridge over the river. The biggest piece would be for the County and State to figure out where they were going to put the

bridge over the river. They would have to look around for other park land and they were not forgetting the Fire District. This had been on the table for a number of years. This would give staff time to work with the County and State to look at the actual cost of the bridge. He saw this as an interim part so they could get started. They were willing to work with the State and County, interested in improving access to Canby and improving industrial access. He thought the public meetings should start soon if it was approved.

****Councilor Daniels moved to direct staff to continue assembling a funding package for the Arndt Road project, including a fund exchange agreement with the County on the S. Berg Parkway connection, with the understanding that numerous SDC and URD projects could be foregone. Motion was seconded by Councilor Oliver and passed 4-0.**

Overview of Measure 37 - Mr. Adcock said this could be scheduled for the next meeting so all members of the governing body could be present. Council agreed to reschedule it.

Councilor Blackwell said on September 9 the Clackamas County Coordinating Committee would be discussing this measure.

1st Avenue Paving Project – Mr. Williams said the paving on NW 1st Avenue was in terrible shape. They wanted to put an overlay on the street. The project would cost \$17,000 and was scheduled for the middle of September. The sidewalks and railroad parking lot would be open at all times. This should save the street for another four to five years until they were able to do a master plan project for that section. They would be adding a few parking spaces and improve drainage. This would only be a band-aid as the pavement was in bad shape.

Status Report on Facility Needs Study – Transit & General Services Director Margaret Yochem gave an update on the Facility Needs Study. They had 13 citizens who would be participating in the project. They hoped to finish the project by January 25 with a full presentation at a Council meeting. She asked for anyone that was interested in participating to call her. The studies would include future facilities and what the immediate needs were.

CITIZEN INPUT: None.

COUNCILOR'S ISSUES: Councilor Daniels said the Canby Community Concert Association would be having its first concert on September 20. It would be a series of four concerts. Over the years they could not get people in Canby to come out for the concerts. He encouraged citizens to come and be entertained.

Councilor Blackwell said in thinking about the Canby Alternative, this was an opportunity to look at what they could do about the traffic and she was interested to know what the citizens thought about it.

Councilor Carson said last weekend there were 400 cars at the Custforth Cruise-In.

ACTION REVIEW:

1. Approving the consent agenda.
2. Approving renewal of SP 02-01 Hardship Permit (Raper).
3. Approving the Findings, Conclusion & Final Order for SP 04-01 (Hall).
4. Approving Resolution 876.
5. Approving Ordinance 1154 on second reading.
6. Authorizing City Staff to move forward on the Canby Alternative funding proposals and working with County Staff. Staff would bring back a proposed public input process for the public in general and advisory committees.
7. Presenting information on Measure 37 at the next Council meeting.

Councilor Carson adjourned the regular session at 8:44 p.m.



Kimberly Scheafer
City Recorder Pro Tem



Randy Carson
Council President

Assisted in Preparation of Minutes – Susan Wood



BEFORE THE CITY COUNCIL OF THE CITY OF CANBY

**A REQUEST FOR A TEMPORARY) FINDINGS, CONCLUSIONS & ORDER
HARDSHIP PERMIT TO DWELL) SP 04-01
IN AN RV AT 591 N IVY STREET) (Ella Hall)**

NATURE OF APPLICATION

The applicants seek approval to temporarily reside in an RV dwelling on property at 591 N Ivy Street. The applicants request a Special Permit in order to care for an ailing parent residing at the subject property.

HEARINGS

The City Council held a public hearing to consider this application at its meeting August 4, 2004. The Council recommended forwarding a decision to a second hearing on August 18, 2004. At the second hearing, the Council voted 5-1 to approve the request subject to the conditions listed below.

CRITERIA AND STANDARDS

The City Council may approve a Hardship Permit after conducting a public hearing and after considering the following Criteria and Standards. If the City Council approves the application, applicants may reside in an RV dwelling on the subject property for a time specified by the Council. Applicants must comply with the Municipal Code and any conditions placed on the approval.

- 1) No significant adverse impacts on the value or appropriate development of nearby properties will result.
- 2) The subject property contains sufficient vacant area to allow for the placement of the temporary unit without overcrowding the lot or the vicinity overall and will result in a reasonable amount of open space in the area.
- 3) The temporary unit will be connected to all required utilities in a manner which meets Code requirements.
- 4) The placement of the unit will meet the setback requirements of the zone.

- 5) The hardship situation is legitimate and clearly necessitates the issuance of a temporary permit as an alternative to having all of the affected persons share a single dwelling unit on the property.

FINDINGS AND REASONS

The City Council deliberated on all evidence and testimony presented at the August 2, 2004 public hearing. The City Council incorporates the July 13, 2004 Staff Report and Council deliberations as support for its decision. The City Council accepted and adopted the findings in the July 13, 2004 Staff Report insofar as they do not conflict with the following supplemental findings:

1. The Council discussed the appropriate duration of a Temporary Permit and the fact the applicants have lived in the RV for a period of approximately 8 months prior to submitting application for the permit. The Council also considered a letter from Dr. Daniel Hughson indicating that the length of Mrs. Hall's illness could be ten (10) years or longer. Councilors found that a "temporary" permit should not exceed a reasonably temporary time frame. In light of the fact that the applicants have been in the RV for several months previously and in light of the potential duration of the condition, the Council found that a temporary permit should be issued for no longer than 3 months. The Council also found that a permit should not be considered for renewal at the end of the 3 month period.

CONCLUSION

The Council concludes that, based on the findings and conclusions in the July 13, 2004 staff report and testimony presented at the August 4, 2004 and August 18, 2004 public hearings and based on Council deliberations on August 4, 2004 and on August 18, 2004:

- 1) No significant adverse impacts on the value or appropriate development of nearby properties will result.

Analysis: Since this will be a temporary dwelling permit, no significant adverse impacts are expected. The RV is currently stored on the property and is permitted to remain indefinitely for storage purposes only. City Council approval of this application allows the applicants to use the RV as a temporary dwelling for a period of no more than three months, as deemed appropriate by the Council.

- 2) The subject property contains sufficient vacant area to allow for the placement of the temporary unit without overcrowding the lot or the vicinity overall and will result in a reasonable amount of open space in the area.

Analysis: The proposed RV dwelling will fit on the lot with sufficient space on every side of the unit.

- 3) The temporary unit will be connected to all required utilities in a manner which meets Code requirements.

Analysis: Service provision to this lot should not be a problem. The RV is required to comply with all local ordinances and with state and local codes.

- 4) The placement of the unit will meet the setback requirements of the zone.

Analysis: A site map shows the RV in its current location. In order to comply with required setbacks for the Low Density Residential Zone, the RV shall be moved perpendicular to its existing location and parallel to N Ivy Street. A site map indicates that the RV can be moved to meet the 20' street yard setback, the 10' rear yard setback and a 10' setback to the side alley. The site map also indicates that the RV can be moved in compliance with Canby's paving ordinance which requires asphalt or concrete surfaces for all parking, standing and maneuvering of vehicles.

- 5) The hardship situation is legitimate and clearly necessitates the issuance of a temporary permit as an alternative to having all of the affected persons share a single dwelling unit on the property.

Analysis: The applicant provided a doctor's letter and medical records which meets the requirements of this section. The applicant stated that the existing dwelling is too small to accommodate the additional family as residents. Doctor Daniel Hughson requests that the City allow Ms. Hall's daughter and son-in-law to dwell in an RV on the property at 591 N Ivy Street.

ORDER

IT IS ORDERED BY THE CANBY CITY COUNCIL that Special Permit application for Temporary Hardship Permit SP 04 -01 (Ella Hall) is **APPROVED** subject to the following conditions:

1. Applicants shall comply with all regulations of the Uniform Building Code, Fire Code and all other regulations of the Canby Municipal Code while using an RV as a temporary dwelling (including but not limited to setbacks, fire separation, utility connections, etc).
2. Applicants shall move the RV to meet applicable setbacks of the R-1 Low Density Residential zone as outlined in Chapter 16.16 of the Canby Municipal Code.
3. The Temporary Permit shall be valid for three months and shall expire on November 30, 2004. Applicants shall not reside in any RV or any other non-conforming structure on the site after November 30, 2004.
4. The applicants may not apply for a renewal of the Temporary Hardship Permit.

I CERTIFY THAT THIS ORDER approving **SP 04-01** was presented to and **APPROVED** by the Canby City Council.

DATED this 1st day of September, 2004.



Council President

~~Melody Thompson, Mayor~~

City of Canby



Darren J. Nichols

Associate Planner

ATTEST:

ORAL DECISION – August 18, 2004

AYES: Blackwell, Carson, Daniels, Newton, Oliver

NOES: Johnson

ABSTAIN: None

ABSENT: None

WRITTEN FINDINGS – September 1, 2004

AYES: Daniels, Oliver, Carson, Blackwell

NOES: None

ABSTAIN: None

ABSENT: Johnson, Newton