

**CANBY CITY COUNCIL  
WORKSHOP MINUTES  
November 17, 2004**

**Presiding:** Mayor Melody Thompson

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

**Staff Present:** City Administrator Mark Adcock, City Attorney John Kelley, Community Development and Planning Director John Williams, Library and Parks Director Beth Saul, Finance & Court Services Director Chaunee Seifried, Associate Planner Darren Nichols and City Recorder Pro Tem Kim Scheafer.

**Others Present:** Roger Harris, Steve Mayes, Ken Schuh and David Howell.

Mayor Thompson called the session to order at 6:05 p.m. A light dinner was served.

The Council met in a workshop session to discuss procedures for implementing Measure 37. City Administrator Mark Adcock said that as a result of the election Measure 37 would be in effect on December 2.

City Attorney John Kelley reviewed a summary of Measure 37 that the League of Oregon Cities had prepared. An owner or interest in property is authorized to file a claim with a government that enacts or enforces certain types of land use regulations if the regulations restrict the use of private property and if the restriction reduces the value of the property. The statutes say that if someone makes a claim the claim has to be decided within 180 days from the date that the claim is filed. If you fail to make a determination, deal with the claim, or deny the claim, they can then bring an action in Circuit Court to enforce the claim. If the claim ends up in Court they are also allowed to recover their attorney fees. There are certain exemptions in Measure 37 such as restrictions used for commonly and historically recognized public nuisances under the common law, restrictions to protect public health and safety, fire and building codes, health and sanitation regulations, solid or hazardous waste regulations and pollution control regulations, restrictions required to comply with federal law, restrictions on use of property to sell pornography or perform nude dancing, and regulations enacted prior to the date of the acquisition of the property by the owner or a family member. Measure 37 does not define most of the terms contained in these exemptions. It unclear how broadly or narrowly the courts will construe them.

Mr. Kelley said if you decide to pay a claim you have to budget for that claim compensation. If it's the Council's decision to pay, then they need to budget a specific fund for payment of these claims.

Community Development and Planning Director John Williams said there was still a lot to be figured out. Most of the jurisdictions are creating ordinances dealing with the processes. The big questions will be answered by the courts or legislature. Mayor Thompson said this would be

an on-going process and that staff would monitor what is going on in the litigation field and readjusting an ordinance if necessary.

A discussion took place regarding charging fees for processing claims and the type of costs that could be incurred.

Mr. Williams reviewed Ordinance 1165 with the Council. The ordinance sets forth the processes and procedures for dealing with demands for compensation. Before an application is filed the claimant has to have a pre-filing conference with staff. Mr. Kelley said that in that conference there can be no decision made by staff to waive an application because Measure 37 specifically says that any wavered decision is made by the governing body. Mr. Williams said a pre-filing conference is valid from 6 months from the date it is held. Staff will provide an estimate of the cost of processing the owner's demand following the conference.

The demand filing procedures were reviewed by Mr. Williams. Once the demand has been investigated a recommendation will be forwarded to the City Council as to whether a public hearing should be held. Mr. Kelley said that Measure 37 does not require you to have a public hearing. Mr. Williams said upon conclusion of the public hearing the Council has to decide if the claimant will get their money, or to remove, modify, or direct that the challenge land use regulation not be applied to the property. A decision by the Council to remove or modify a land use regulation shall be personal to the claimant and shall automatically become invalid and void upon the transfer of any ownership interest in the subject property by the claimant to anyone. Staff will track time in processing the demand and upon final action by the City, the property owner will be billed for the costs. A lien can be put on the property if the costs are not paid in 90 days. If the Council's approval of a claim causes a reduction in value of other property located in the vicinity of the claimant, the neighbors shall have a cause of action in circuit court to get from the claimant the reduction in value.

Mayor Thompson adjourned the session at 7:18 p.m.

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**CANBY CITY COUNCIL  
REGULAR SESSION MINUTES  
November 17, 2004**

**Presiding:** Mayor Melody Thompson

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

**Staff Present:** City Administrator Mark Adcock, City Attorney John Kelley, Community Development & Planning Director John Williams, Library & Parks Director Beth Saul, Finance & Court Services Director Chaunee Seifried, and City Recorder Pro Tem Kim Scheafer.

**Others Present:** Roger Harris, Lee Weigand, Ken Schuh, Gretchen McCallum, and David Howell.

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

Employee of the Month - City Administrator Mark Adcock said that Executive Assistant Kim Scheafer was chosen as the Employee of the Month for October.

**COMMUNICATIONS:** None.

**CITIZEN INPUT & COMMUNITY ANNOUNCEMENTS:** Lee Weigand, resident of 613 N Holly, said that he was with the First Baptist Church. He said that he appreciated what they did and they prayed for their local and state leaders. He presented a card to Council and invited them to it fill out so they could pray for them.

Ken Schuh, PO Box 985, Canby said the Canby Ford Mile Open would be held on Saturday at the Canby Swim Center. This would be the first major meet held since the new equipment from SR Smith had been installed.

**MAYOR'S BUSINESS:** Mayor Thompson said that the General Canby Day Workshop had been moved to December 1 at 6 p.m. She, along with Beth Saul, would be meeting with the Riverside Neighborhood Association on November 30 regarding the emerald necklace plan.

**COUNCILOR COMMENTS & LIAISON REPORTS:** Councilor Oliver said that the Park & Recreation Advisory Board was researching names for the 13<sup>th</sup> Avenue Park.

Mayor Thompson said that she and Administrator Adcock would be attending a meeting on the library levy and the results of the election.

Councilor Carson said that they had received a letter from the OECDD stating that the Canby Pioneer Park was a certified project and they would work with staff to get businesses to come to the City.

**CONSENT AGENDA:** **\*\*Councilor Carson moved to approve Accounts Payable of \$969,518.56; Minutes of the November 3, 2004 City Council Workshop and Regular Session, and approval of the Amended Attachment "A" Interagency Agreement with Canby Swim Club. Motion was seconded by Councilor Blackwell and passed 5-0.**

**PUBLIC HEARING:** Vacation of Right-of-Way at 1315 N Oak Street –

**STAFF REPORT:** Community Development and Planning Director John Williams said this street vacation was different from ones they normally did. The property owner requested that they vacate some surplus right-of-way that they had on their frontage. The property was located on 1315 N Oak Street and the street had 60 feet of right of way which was not needed, as the street was not built out. The request was to vacate 10 feet of extra right-of-way behind the curb and sidewalk. They wanted to expand their home and needed the extra land. Staff recommended approval of it. The applicant did all the usual procedures for a vacation.

Councilor Carson asked if the curb was out of the proposed property line. Mr. Williams said yes, the sidewalk would be in the easement, as was common.

Councilor Carson asked if other properties in town had this situation, and Mr. Williams said they did, but they did not know why it was done. They were not going to vacate it for others unless it was requested.

Councilor Daniels asked if there was any compensation for acquiring the land. Mr. Williams said they had not proposed any, but the applicant was paying all the costs of the process.

Mayor Thompson opened the public hearing at 7:50 p.m.

PUBLIC TESTIMONY: Gretchum McCallum, resident of 1315 N Oak, said that they wanted to add on to their living room. Safety was their issue, and there would be no problem with traffic.

Mayor Thompson closed the public hearing at 7:52 p.m.

**Ordinance 1155 - \*\*Councilor Daniels moved to approve Ordinance 1155, AN ORDINANCE VACATING TEN FEET OF THE PUBLIC RIGHT-OF-WAY ON THE WEST SIDE OF NORTH OAK STREET BETWEEN TAX LOTS 00211 AND 00208 OF MAP 3-1E-33AA to come up for second reading on December 1, 2004. Motion was seconded by Councilor Blackwell and passed 5-0 on first reading.**

**RESOLUTIONS & ORDINANCES:** Ordinance 1165 - Mr. Williams said that this ordinance would provide for a process dealing with claims regarding Measure 37. He summarized the process for the Council. The City Council would have the final decision on the claims. They decided to bill people at the end of the proceedings for the time and expense the application caused. Mayor Thompson said she thought the fees were fair. Councilor Carson said they would look at all aspects of each application, especially as how they related to the neighboring properties.

**\*\*Councilor Carson moved to approve Ordinance 1165, AN ORDINANCE CONCERNING REAL PROPERTY COMPENSATION; ADOPTING PROCEDURES FOR PROCESSING DEMANDS AND DECLARING AN EMERGENCY to come up for second reading on December 1, 2004. Motion was seconded by Councilor Blackwell and passed 5-0 on first reading.**

**NEW BUSINESS:** None.

**CITY ADMINISTRATOR'S BUSINESS & STAFF REPORTS:** Mr. Adcock said that he wanted to follow up on the site-ready designation the State conveyed on the Industrial Park. Mr. Williams said that Governor Kulongowski created a designation process where cities submitted their properties to all the state agencies involved with permitting and, after meeting criteria in different studies, they would agree that the properties were developable. It was a large project because it was 163 acres. The land was ready to go, and Canby was the only site in Clackamas County and the biggest in the area.

Councilor Carson asked for an update on Sequoia Parkway. Mr. Williams said it was possible they would soon get the first lift on, the utilities were mostly in and curbs were in. The weather had delayed the project.

Mayor Thompson said that economic development, getting infrastructure in, and getting this site ready was a priority for the Council and it had not been easy. This certification was a great success.

Councilor Daniels thanked Mr. Williams for all of his work on this project. Mr. Williams said they had five companies that were hot leads that might come to Canby. The Planning Commission had approved site and design review for two buildings to be constructed in the area.

Councilor Daniels asked if Mr. Adcock would become City Recorder pro tem while Ms. Scheafer was away on medical leave. Mayor Thompson would be able to appoint someone in Ms. Scheafer's absence.

**CITIZEN INPUT:** None.

**ACTION REVIEW:**

1. Approving the consent agenda.
2. Approving Ordinance 1155 to come up for second reading on December 1, 2004.
3. Approving Ordinance 1165 to come up for second reading on December 1, 2004.

**Councilor Carson moved to go into executive session pursuant to ORS 192.660(2)(f) exempt public records.**

Mayor Thompson read the executive session format and recessed the regular session at 8:14 p.m.

Mayor Thompson reconvened the regular session and immediately adjourned at 8:46 p.m.

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**CANBY CITY COUNCIL  
EXECUTIVE SESSION MINUTES  
November 17, 2004**

**Presiding:** Mayor Melody Thompson

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

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

Mayor Thompson called the session to order at 8:25 p.m.

ORS 192.660(2)(f) – The Council discussed a legal memorandum from Attorney Pamela Berry.

Mayor Thompson adjourned the session at 8:45 p.m.



Kimberly Scheafer  
City Recorder Pro Tem



Melody Thompson  
Mayor

Assisted in Preparation of Minutes – Susan Wood