

CANBY CITY COUNCIL

Regular Session

December 3, 2003

AGENDA – 7:30 PM – Council Chambers

1. OPENING CEREMONIES:
 - A. Call to Order, Flag Salute
2. PROCLAMATIONS:
 - A. Certification of November 4, 2003 Measure 3-110 Pg. 1
 - B. Certification of November 4, 2003 Measure 3-111 Pg. 2
 - C. Certification of November 4, 2003 Measure 3-112 Pg. 3
 - D. Certification of November 4, 2003 Measure 3-113 Pg. 4
 - E. Certification of November 4, 2003 Measure 3-116 Pg. 5
3. CITIZEN INPUT ON NON-AGENDA ITEMS:
4. CONSENT AGENDA:
Minutes – Workshop, November 17, 2003
Minutes – Regular Meeting, November 19, 2003
Minutes – Workshop, November 24, 2003
Accounts Payable - \$299,273.39
5. COMMUNICATIONS:
6. PUBLIC HEARING:
 - A. ZC 03-03 Zoar Lutheran Church Pg. 8
7. NEW BUSINESS:
 - A. New Liquor License Application for Wild Hare Saloon Pg. 35
8. UNFINISHED BUSINESS:
9. RESOLUTIONS & ORDINANCES:
 - A. Res. 846, Amending Resolution 567 and 741 Establishing Traffic Safety Commission Pg. 44
 - B. Ord. 1128, Authorizing the Purchase of a Solid Waste Spreader Box and Installation of the Spreader Box and P.T.O. Kit for the City of Canby WWTP (2nd Reading) Pg. 47
 - C. Ord. 1129, Change Order for Sequoia Parkway Pg. 51
 - D. Ord. 1130, Awarding Contract for Engineering Services Sequoia Parkway Pg. 55
 - E. Ord. 1131, Authorizing Contract with CPW for Development of Willamette Wayside Properties Master Plan Pg. 58
 - E. Ord. 1132, Amending Zoning Map Pg. 10
10. MANAGER’S REPORT:
11. CITIZEN INPUT:
12. COUNCILORS’ ISSUES:
13. ACTION REVIEW:
14. EXECUTIVE SESSION: ORS 192.660 (1)(h) pending litigation
15. ADJOURN:

**The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired or for other accommodations for persons with disabilities should be made at least 48 hours before the meeting to Kim Scheafer at 503.266.4021 ext. 233.*

**CANBY CITY COUNCIL
REGULAR SESSION
December 3, 2003**

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

Also present: City Administrator Mark Adcock, City Attorney John Kelley, Community Development & Planning Director John Williams, Library & Parks Director Beth Saul, Administrative Specialist Kim Scheafer, Tony Crawford, Mark Till, Erin Walsh, Lila & Curtis Gottman, Bev Doolittle, David Howell, Roger Skoe, Ron Berg, Myron Mohr and Buzz Weygandt.

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

PROCLAMATIONS: Certification of November 4, 2003 Measure 3-110, 9.7 Acre Annexation - Mayor Thompson read the certification of the November 4, 2003 Special Election regarding Measure 3-110. The measure failed with an official count of votes from Clackamas County: Yes – 1,209, No – 1,738, Blank – 53, Overvotes – 7.

Certification of November 4, 2003 Measure 3-111, .92 Acre Annexation - Mayor Thompson read the certification of the November 4, 2003 Special Election regarding Measure 3-111. The measure failed with an official count of votes from Clackamas County: Yes – 1,216, No – 1,736, Blank – 51, Overvotes – 4.

Certification of November 4, 2003 Measure 3-112, 40.54 Acre Annexation - Mayor Thompson read the certification of the November 4, 2003 Special Election regarding Measure 3-112. The measure failed with an official count of votes from Clackamas County: Yes – 1,026, No – 1,857, Blank – 120, Overvotes – 4.

Certification of November 4, 2003 Measure 3-113, 4.6 Acre Annexation - Mayor Thompson read the certification of the November 4, 2003 Special Election regarding Measure 3-113. The measure failed with an official count of votes from Clackamas County: Yes – 1,036, No – 1,776, Blank – 194, Overvotes – 1.

Certification of November 4, 2003 Measure 3-116, 1.65 Acre Annexation - Mayor Thompson read the certification of the November 4, 2003 Special Election regarding Measure 3-116. The measure failed with an official count of votes from Clackamas County: Yes – 1,128, No – 1,556, Blank – 323, Overvotes – 0.

CITIZEN INPUT ON NON-AGENDA ITEMS: Mr. Mark Till, counselor with the Canby School District, introduced Tony Crawford and Erin Walsh, and spoke about their proposed Community Festival. He showed some slides about the history of peace conferences and Canby students' participation. Mr. Tony Crawford invited the Council to attend the Community Festival that would be held on May 13, 2004 at the Canby High School Fine Arts Building.

Susan Castille from the State Department of Education would be the guest speaker. This would be a free event in which students would display multimedia projects that promote unity. Mr. Crawford asked for a sponsorship with the City in promoting this event. Students would be asked to draft a proclamation that would be read and signed by the Mayor.

****Councilor Carson moved to formally support the Community Festival and enter into a partnership with the Canby School District to serve as co-hosts, help publicize the event, and sign a proclamation to enhance the festival. Motion was seconded by Councilor Blackwell and passed 6-0.**

Bev Doolittle, Director of the Canby Chamber of Commerce, thanked the Mayor and Council for participating in the parade and lighting of Wait Park.

CONSENT AGENDA: **Councilor Carson moved to approve the Minutes of the Workshop of November 17, 2003, Minutes of the Regular Meeting of November 19, 2003, Minutes of the Workshop of November 24, 2003, and Accounts Payable of \$299,273.39. Motion was seconded by Councilor Johnson and passed 6-0.

COMMUNICATIONS: Mr. Adcock read a letter from the law firm representing Apollo Custom Homes requesting to be allowed to present to the City Council additional information at the appeal hearing currently scheduled for December 17, 2003. Community Development and Planning Director John Williams said this was a discretionary decision by the Council.

Councilor Carson asked if they had talked to the Planning Commission about the new evidence? Mr. Williams said the process was the appeal went to the City Council. They could remand it to the Planning Commission.

Councilor Blackwell asked how frequently new evidence was allowed in the appeal hearing? Mr. Williams said it had not been done in the last five years. It was a new procedure.

Mr. Jeff Bachrach, attorney for Apollo Custom Homes, said that they were caught off guard with issues that the Planning Commission raised. They wanted to address the concerns visually and have their designer show how the design functioned well. Mayor Thompson asked if using a different visual medium was new evidence. Attorney Kelley said they were showing additional evidence, not raising new issues. It would be a quasi-judicial hearing. Councilor Blackwell asked if during the rebuttal there was not enough information for the Planning Commission. Mr. Bachrach said they were not raising new issues, but wanted to do a better job as to what was physically in the record. Mr. Williams said the City was at the end of their 120 day period, and they had to make a decision soon. Councilor Johnson asked if Mr. Bachrach would rather go back to the Planning Commission or stay before the Council. Mr. Bachrach preferred the Council because of timing issues. Councilor Carson asked if they could waive the 120 day rule? Mr. Bachrach said they had already waived it until January.

Councilor Johnson said he would like to give the Planning Commission the opportunity to rehear the information. Mr. Kelley said if the Council decided they would like this to go back to the Planning Commission, they could meet with Mr. Bachrach and figure out logistically how they

were going to do that. If the Council felt that no new issues were being raised they could allow the new information and make a final decision.

****Councilor Johnson moved to accept Apollo Home's request to hear new information, but remand it back to the Planning Commission. Motion was seconded by Councilor Blackwell and passed 6-0.**

Mr. Bachrach said they would like to reserve the time on December 17. Mr. Williams said the Planning Commission could discuss the issue at their next meeting on December 8.

PUBLIC HEARING: ZC 03-03 Zoar Lutheran Church – 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 – drove by the site and drew no conclusions.
Councilor Newton – drove by the site and drew no conclusions.
Councilor Oliver – no contact.
Councilor Johnson – no contact.
Mayor Thompson – drove by the site and drew no conclusions.
Councilor Carson – no contact.
Councilor Blackwell – no contact.

STAFF REPORT: Mr. Williams said the church owned three parcels in between Second and Third Avenues and they were all designated for highway commercial zoning in the comprehensive plan. One was zoned high density residential right now. The church was planning future improvements on their property, and having one zoning throughout would make the project simpler. The Planning Commission voted 7-0 recommending approval. There were several statements of support for this as well.

Mayor Thompson opened the public hearing at 8:12 p.m.

PUBLIC TESTIMONY:

APPLICANT: Mr. Myron Mohr, resident of 23051 S Central Point Rd, said the congregation had voted to begin a building plan next year and they needed the zone change to do this effectively.

PROPOSERS: Mr. Ron Berg, resident of 203 SW 3rd, said he lived across the street from the property. It made sense to fill this in properly on the master plan.

OPPOSERS: None.

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

DISCUSSION: Councilor Carson asked why this wasn't addressed with the comprehensive plan amendment they did recently? Mr. Williams said they were mostly focusing on the larger pieces of property, and the smaller pieces were the responsibility of the applicants.

****Councilor Carson moved to adopt Ordinance 1132, AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF CANBY, CLACKAMAS COUNTY, OREGON FOR TAX LOT 6600 OF TAX MAP 3-1E-33CD to come up for second reading on December 17, 2003. Motion was seconded by Councilor Blackwell and passed 6-0 on first reading.**

NEW BUSINESS: New Liquor License for Wild Hare Saloon – Mr. Adcock said Police Chief Pagano was recommending approval for the license.

****Councilor Johnson moved to recommend approval to the OLCC for the liquor license application for the Wild Hare Saloon. Motion was second by Councilor Blackwell and passed 6-0.**

UNFINISHED BUSINESS: None.

RESOLUTIONS & ORDINANCES: Resolution 846 – Attorney Kelley said the Traffic Safety Committee had recommended these changes to simplify the process. The Committee had no issues with the resolution. Councilor Johnson asked why the language was taken out about removal of office for failing to attend three consecutive meetings? Mr. Kelley said they thought it was redundant since it said they served at the pleasure of the Council. Anyone could be removed if the Council chose. Councilor Johnson wanted that language back in the resolution. Councilor Carson asked how many other groups had language like that? Attorney Kelley said he didn't know, but thought most did not. Councilor Blackwell said the General Canby Day Committee did have that language.

Mayor Thompson said in talking with members of the committees, they thought it would be helpful for potential applicants to be reviewed by the committee and recommendations for appointment be made by the committee. Currently it said the chair and/or Council liaison would make the recommendation. Council thought they should leave it like it was.

Council agreed to put the language about removal of office for missing meetings back in.

****Councilor Johnson moved to table Resolution 846 until the City Attorney brought it back with changes. Motion was seconded by Councilor Daniels and passed 6-0.**

Ordinance 1128 - ****Councilor Johnson moved to adopt Ordinance 1128, AN ORDINANCE AUTHORIZING THE MAYOR AND CITY ADMINISTRATOR TO EXECUTE A CONTRACT WITH DAVAN ENTERPRISE OF CANBY, OREGON FOR THE PURCHASE OF A SOLID WASTE SPREADER BOX AND THE INSTALLATION OF THE SPREADER BOX AND P.T.O. KIT FOR THE CITY OF CANBY WASTEWATER TREATMENT DEPARTMENT; AND DECLARING AN EMERGENCY. Motion was seconded by Councilor Carson and passed 6-0 by roll call vote.**

Ordinance 1129 – Mr. Adcock said this was a change order for the Sequoia Parkway project in the amount of \$63,860.

****Councilor Daniels moved to adopt Ordinance 1129, AN ORDINANCE AUTHORIZING THE MAYOR AND CITY RECORDER TO EXECUTE CHANGE ORDER NUMBER 3 WITH PARKER NORTHWEST PAVING COMPANY FOR CONSTRUCTION OF SEQUOIA PARKWAY STREET IMPROVEMENTS; AND DECLARING AN EMERGENCY to come up for second reading on December 17, 2003. Motion was seconded by Councilor Carson.**

Councilor Johnson asked Mr. Williams to explain this further. Mr. Williams said when the bid documents were written for this project, there was no bid item included for rock excavation. They found rocks 12 feet deep that had to be removed. The price was less than they had paid before. Councilor Johnson asked why they had issues with bids being off. Mr. Williams said this might not have been needed and everything else was on track. Councilor Newton said she would like contracts to put the risk on the contractor instead of the City.

Motion passed 6-0 on first reading.

Ordinance 1130 – Mr. Adcock said this was awarding a contract for Stage 3 of the Sequoia Parkway project in the amount of \$41,650.

****Councilor Johnson moved to adopt Ordinance 1130, AN ORDINANCE AUTHORIZING THE MAYOR AND CITY RECORDER TO EXECUTE A CONTRACT WITH CURAN-MCLEOD, INC. CONSULTING ENGINEERS FOR ENGINEERING SERVICES ON AN APPROXIMATE 2,200 FOOT EXTENSION OF SEQUOIA PARKWAY AND SE 4TH AVENUE; AND DECLARING AN EMERGENCY to come up for second reading on December 17, 2003. Motion was seconded by Councilor Carson and passed 6-0 on first reading.**

Ordinance 1131 - ****Councilor Johnson moved to adopt Ordinance 1131, AN ORDINANCE AUTHORIZING THE MAYOR AND CITY ADMINISTRATOR TO EXECUTE A CONTRACT WITH COMMUNITY PLANNING WORKSHOP (CPW) FOR PROFESSIONAL SERVICES FOR THE DEVELOPMENT OF THE WILLAMETTE**

WAYSIDE PROPERTIES MASTER PLAN; AND DECLARING AN EMERGENCY to come up for second reading on December 17, 2003. Motion was seconded by Councilor Blackwell and passed 6-0 on first reading.

MANAGER'S REPORT: Library and Parks Director Beth Saul said that the City Engineer was working on designs for the 13th Avenue Park parking lot and they were only working with the City's property. Ms. Saul was working with John Williams and Park maintenance staff for timelines for their involvement. She was hoping to come back by January with a time line and cost estimates. Councilor Carson said this would be a great asset to that area.

CITIZEN INPUT: None.

COUNCILOR'S ISSUES: Councilor Daniels said the Bike & Pedestrian Committee recommended the appointment of Robert Archibald to the Committee.

****Councilor Daniels moved to appoint Robert Archibald to the Bike and Pedestrian Committee. Motion was seconded by Councilor Carson and passed 6-0.**

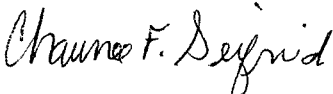
Councilor Johnson asked about the golf club issue. It was not an issue before the Council.

Councilor Newton clarified that the Council would be having a goal setting meeting in February.

ACTION REVIEW: None.

There was no executive session.

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



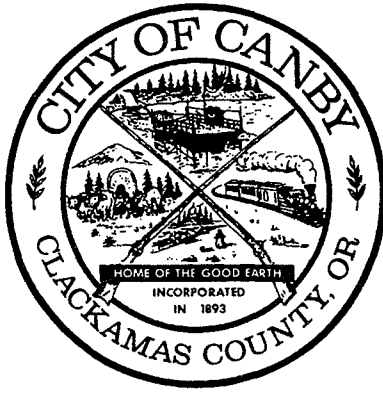
Chaunce F. Seifried
City Recorder pro tem



Melody Thompson
Mayor



Prepared by Kim Scheafer
and Susan Wood Office Specialists



City of Canby

General Administration Office

PROCLAMATION

WHEREAS, the City of Canby, County of Clackamas, Oregon, held a Special Election on November 4, 2003, to consider the following measure:

MEASURE NO. 3-113

Shall 4.6 acres located East of N. Redwood Street across from NE 12th Avenue be annexed into Canby?

WHEREAS, the Clackamas County Elections Department offers the following as an official count of votes for the Special Election on November 4, 2003.

YES – 1,036

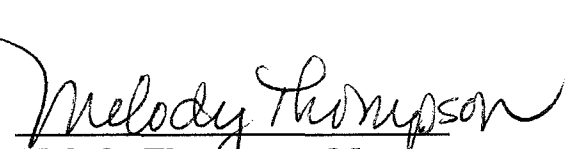
NO - 1,776

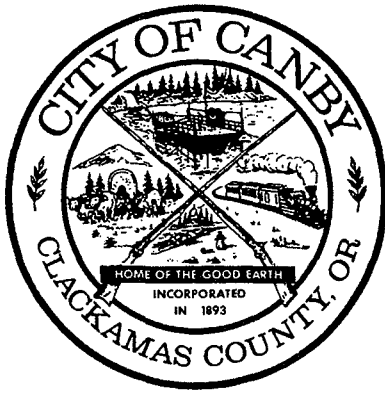
Blank - 194

Overvotes - 1

NOW, THEREFORE, I, Melody Thompson, Mayor of the City of Canby, Oregon, do hereby proclaim the foregoing to be a true and accurate accounting as presented by the Clackamas County Election Division dated November 18, 2003.

Dated this 3rd day of December, 2003.


Melody Thompson, Mayor



City of Canby

General Administration Office

PROCLAMATION

WHEREAS, the City of Canby, County of Clackamas, Oregon, held a Special Election on November 4, 2003, to consider the following measure:

MEASURE NO. 3-112

Shall 40.54 acres located South of SE 17th Avenue and East of S. Ivy be annexed into Canby?

WHEREAS, the Clackamas County Elections Department offers the following as an official count of votes for the Special Election on November 4, 2003.

YES - 1,026

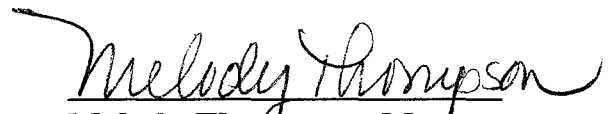
NO - 1,857

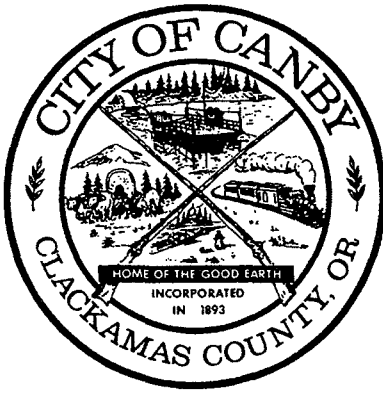
Blank - 120

Overvotes - 4

NOW, THEREFORE, I, Melody Thompson, Mayor of the City of Canby, Oregon, do hereby proclaim the foregoing to be a true and accurate accounting as presented by the Clackamas County Election Division dated November 18, 2003.

Dated this 3rd day of December, 2003.


Melody Thompson, Mayor



City of Canby

General Administration Office

PROCLAMATION

WHEREAS, the City of Canby, County of Clackamas, Oregon, held a Special Election on November 4, 2003, to consider the following measure:

MEASURE NO. 3-111

Shall .92 acres located East of North Redwood Street South of NE 19th Loop be annexed into Canby?

WHEREAS, the Clackamas County Elections Department offers the following as an official count of votes for the Special Election on November 4, 2003.

YES – 1,216

NO – 1,736

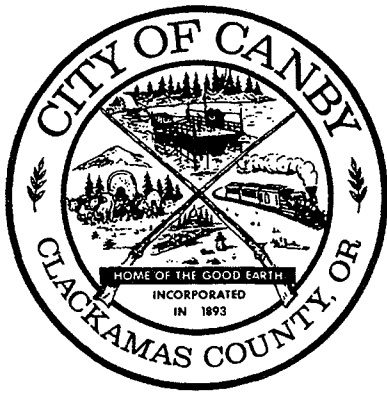
Blank - 51

Overvotes - 4

NOW, THEREFORE, I, Melody Thompson, Mayor of the City of Canby, Oregon, do hereby proclaim the foregoing to be a true and accurate accounting as presented by the Clackamas County Election Division dated November 18, 2003.

Dated this 3rd day of December, 2003.


Melody Thompson, Mayor



City of Canby

General Administration Office

PROCLAMATION

WHEREAS, the City of Canby, County of Clackamas, Oregon, held a Special Election on November 4, 2003, to consider the following measure:

MEASURE NO. 3-110

Shall 9.7 acres located South of SE 13th Avenue and East of S. Ivy be annexed into Canby?

WHEREAS, the Clackamas County Elections Department offers the following as an official count of votes for the Special Election on November 4, 2003.

YES - 1,209

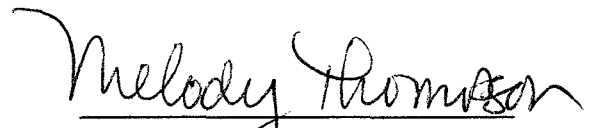
NO - 1,738

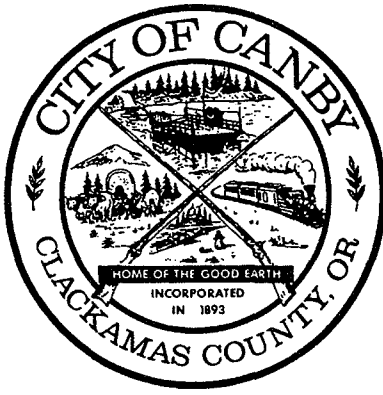
Blank - 53

Overvotes - 7

NOW, THEREFORE, I, Melody Thompson, Mayor of the City of Canby, Oregon, do hereby proclaim the foregoing to be a true and accurate accounting as presented by the Clackamas County Election Division dated November 18, 2003.

Dated this 3rd day of December, 2003.


Melody Thompson, Mayor



City of Canby

General Administration Office

PROCLAMATION

WHEREAS, the City of Canby, County of Clackamas, Oregon, held a Special Election on November 4, 2003, to consider the following measure:

MEASURE NO. 3-116

Shall 1.65 acres located South of NE Territorial Road and East of N. Oak Street be annexed into Canby?

WHEREAS, the Clackamas County Elections Department offers the following as an official count of votes for the Special Election on November 4, 2003.

YES – 1,128

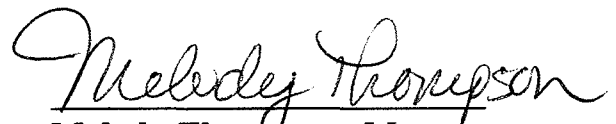
NO – 1,556

Blank - 323

Overvotes - 0

NOW, THEREFORE, I, Melody Thompson, Mayor of the City of Canby, Oregon, do hereby proclaim the foregoing to be a true and accurate accounting as presented by the Clackamas County Election Division dated November 18, 2003.

Dated this 3rd day of December, 2003.


Melody Thompson, Mayor

Statement of Vote - Clackamas County Special Election - November 4, 2003
 * * City of Canby - Meas. 3-110, 3-111 and 3-112 * *

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	REGISTERED VOTERS	T U R N O U T	T U R N O U T P E R C E N T A G E	M e a s 3-110/ C a n b y C i t y Y E S - N O	M e a s 3-110/ C a n b y C i t y Y E S - N O	B L A N K S	O V E R V O T E S	M e a s 3-111/ C a n b y C i t y Y E S - N O	M e a s 3-111/ C a n b y C i t y Y E S - N O	B L A N K S	O V E R V O T E S	M e a s 3-112/ C a n b y C i t y Y E S - N O	M e a s 3-112/ C a n b y C i t y Y E S - N O	B L A N K S	O V E R V O T E S
CONSOL PREC NO 122	1961	763	38.9%	364	385	13	1	364	385	14	0	343	381	39	0
CONSOL PREC NO 123	622	229	36.8%	80	147	1	1	88	140	1	0	66	157	6	0
CONSOL PREC NO 124	1787	815	45.6%	310	489	13	3	306	495	14	0	253	536	24	2
CONSOL PREC NO 125	1430	578	40.4%	248	311	17	2	255	304	16	3	198	342	36	2
CONSOL PREC NO 126	1343	622	46.3%	207	406	9	0	203	412	6	1	166	441	15	0
**** T O T A L S ****	7143	3007	42.0%	1209	1738	53	7	1216	1736	51	4	1026	1857	120	4

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NOV 21 2003

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 SHERRY HALL, COUNTY CLERK
 BY: *Sherry Hall*
 Deputy
 NOV 18 2003

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NOV 21 2003

CITY OF CANBY

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SHERRY HALL COUNTY CLERK
Sherry Hall
Deputy

By:

NOV 18 2003