

**CANBY CITY COUNCIL
REGULAR SESSION
February 5, 2003**

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

Also present: City Administrator Mark Adcock, City Attorney John Kelley, Community Development and Planning Director John Williams, Library and Parks Director Beth Saul, Finance Operations Manager Laura Dornbusch, Associate Planner Clint Chiavarini, Kim Scheafer, Jamie Johnk, Marlene Elmore, Lila & Curtis Gottman, Steve Amick, David Howell, Jamie & Nick Netter, Mark Vissers, Margaret Gitts, Larry McBride, Ada Stout, Virgil Scher, Tam MacArthur, Joyce & Paul Satter, Lloyd Mendenhall, Rex Eide, Ken & Sue Burkert, Paul Hansen, Jim Newton, Sheila Tice, Pete Kelley, Jack Pendleton, George Cam, Jan Milne, Craig Finden, and Ray Burden.

Mayor Thompson called the regular session to order at 7:33 p.m., followed by the opening ceremonies.

CITIZEN INPUT ON NON-AGENDA ITEMS: Lila Gottman spoke on behalf of the fundraising committee at the Canby Adult Center and announced the Chicken and Dumpling dinner on March 1. Ms. Gottman presented the Council with books of tickets to sell.

CONSENT AGENDA:

****Councilor Carson moved to approve Minutes of the Regular Session of January 8, 2003; Minutes of the Special Meeting of January 8, 2003; Minutes of the Regular Session of January 15; Accounts Payable of \$401,292.30; and appointment of Jay Kennedy to the General Canby Day Committee. Motion was seconded by Councilor Blackwell and passed 5-0 with Councilor Newton abstaining due to financial gain in the accounts payable.**

COMMUNICATIONS: None.

Councilor Carson asked to move to the appointments to the Canby Utility Board and Planning Commission under Unfinished Business. The Council approved.

Appointments to Canby Utility Board - Mayor Thompson recommended the reappointment of Shawn Carroll and Jim Newton to the Canby Utility Board.

****Councilor Blackwell moved to reappoint Shawn Carroll and Jim Newton to the Canby Utility Board. Motion was seconded by Councilor Johnson and passed 6-0.**

Appointment to Planning Commission - Councilor Blackwell stated that the interview committee

recommended appointing Mark Vissers.

****Councilor Blackwell moved to appoint Mark Vissers to the Planning Commission. Motion was seconded by Councilor Carson and passed 6-0.**

Mr. Vissers introduced himself as a business owner in the community with four children. He thanked the Council for the appointment and said he had a deep seated concern and passion for helping Canby to be all it could be.

Councilor Blackwell stated there was one more vacancy on the Planning Commission. Councilor Carson thought they should re-advertise.

Councilor Johnson thought instead of a four person selection committee there should be a three person committee to prevent the case of a tie.

Councilor Newton thought they should go out for more applicants and interview the applicant who was confused about the location of the interview. She thought a three member interview committee made sense.

Councilor Blackwell said past selection committees consisted of three members, the Mayor, Council liaison to the Planning Commission, and the Planning Commission Chair.

Councilor Johnson said those applications that had been reviewed should be taken off the table and they should go to a three member selection committee. Councilor Dawson did not have a strong feeling either way for how many members to have on the committee. Mayor Thompson said the Council still voted on the recommendation, Councilor Johnson thought it would be more successful to have a three person committee. Councilor Johnson was concerned that if there was a tie, they might discuss the merits of the candidates on television, and that was not the place to do so. Councilor Oliver thought the four person committee was fine. If a name was brought out it could be discussed in an open forum. Councilor Carson thought a four person committee was better. Councilor Blackwell thought the three member committee was better and they should have trust in each other for picking good candidates.

****Mayor Thompson asked for those in favor of going to a three person interview board and there was a tie: Councilors Johnson, Newton and Blackwell voted yes and Councilors Dawson, Oliver and Carson voted no. Mayor Thompson broke the tie by voting yes and it passed 4-3.**

****Mayor Thompson asked for those in favor of going out for more applications for the remaining vacancy, and it passed 6-0.**

****Mayor Thompson asked for those in favor of taking the applicants off the table that had already been interviewed, and it passed 5-1 with Councilor Oliver opposed.**

Councilor Blackwell clarified that those who were taken off the table were to be removed from consideration, and they could not re-apply.

The Council wanted to re-advertise until March 5, 2003.

PUBLIC HEARINGS: Industrial Area Annexation 02-03 -

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

CONFLICT OF INTEREST:

Councilor Newton - No conflict, plan to participate.
Councilor Dawson - 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 Newton - No contact.
Councilor Dawson - No contact.
Councilor Oliver - No contact.
Councilor Johnson - No contact.
Mayor Thompson - No contact.
Councilor Carson - Visited the site, drew no conclusions.
Councilor Blackwell - Drove by the site, drew no conclusions. She had a telephone call from a citizen asking if this would be heard that night.

STAFF REPORT: Associate Planner Clint Chiavarini said this was a request to annex 19.91 acres into the City limits located on the north side of Territorial and east of Holly. The Planning Commission voted 4-2 to recommend approval to the City Council. The property was Priority A. This property came up for annexation several years ago and was denied at that time. The applicant said they were willing to limit the number of building permits issued in a calendar year to 30 dwelling units which would take the farmland out of development slowly. The applicant also agreed to commit to doing off site improvements on S. Locust Street from NE Territorial to the property's frontage to meet minimum City standards for street construction and width. The Planning Commission felt if this was a phased in development, the street would need to be widened as soon as any street from the development accessed Locust Street. In regard to adequate public services, the Public Works department had concern about additional right-of-way being constructed and the maintenance of that. This was in compliance with City and State standards and had no risks of natural hazards or adverse affects and no economic impacts.

Should they approve it that night, the City Council would need to decide what the zoning was. The recommendation of the Planning Commission was that this be zoned R-1. There was discussion during public testimony regarding soil quality of this property. There was a traffic study on Territorial and 99E preformed on behalf of this application which showed that the intersection was failing during peak hours. However drivers could use the intersection at Redwood and 99E.

Mr. Chiavarini summarized a letter from Mr. Nicholas Gitts who was unable to attend the Council meeting. Mr. Gitts understood that Canby was a growing community and additional lands were needed to accommodate growth, but he thought this application was not a good candidate for development at this time. This property had a very special type of farm soil. He thought it was a mistake to designate this as Priority A and they would be creating small islands of farmland if they were to allow development. The tractors, noise, chemicals, and early work hours of surrounding farms would be a negative impact for the future residents.

QUESTIONS: Councilor Carson asked about the street improvements on Locust Street, what specifically were they planning to do, particularly about the right-of-way? Mr. Chiavarini said the applicant could answer as to the specifics. The right-of-way would be a minimum of 14 feet wide and there would be bump outs for some large trees.

Mayor Thompson asked about the sandy loam soil and how much development had occurred on sandy loam soil. Mr. Chiavarini said the entire City was classified as prime farmland, but the northeast section of the City had been built on this type of soil.

Councilor Newton asked if the property was being farmed currently. Mr. Chiavarini said it was.

Councilor Johnson asked if it was surrounded on all four sides by the City limits? Mr. Chiavarini said the property to the east of it was outside of the City limits.

PUBLIC TESTIMONY:

APPLICANT: Mr. Lee Layton, Director of Planning with Westlake Consultants, 15115 SW Sequoia Parkway, Ste. 150, Tigard, OR 97224, spoke on behalf of the prospective developer of the property, Mr. George Cam, and the property owners, Martha and Tom Dodds. He had some new information since the hearing with the Planning Commission. The City's buildable land supply in October 2002 was a 14 months supply. The City's policy was to maintain a three year supply. In May of this year they would have only 8 months supply, 10 if a current annexation was approved by the voters. If they added in this annexation, it would add 6 more months of supply. There was a reasonable urgency to approve the annexation as far as need.

Regarding the street right-of-way, the developer was committed to improve it. There was a difference between the right-of-way and paved width of the street. There was adequate right-of-way on Redwood to do the improvements without acquiring additional right-of-way. They had

not had a detailed discussion about the design, they would do it as part of the subdivision approval, but the requirement was to provide a minimum 20 foot wide travel surface for two way circulation and parking would be outside of that, typically 7-8 feet.

There was a well on the property that was of potential interest to Canby Utility. They submitted a different street layout that was in the application packet which showed a better long term alignment of the property and a park would be put within the development in a safer and more secure location. They were willing to be part of the solution in organizing the park or any other convenience.

Mr. Layton went on to discuss whether approving this annexation and development would challenge farmers, and he directed them to the agricultural use protection chapter of the municipal code. The protections were very strong for land in agricultural use within the Urban Growth Boundary as well as outside. This should not damage or hinder the agricultural use of neighboring parcels.

Regarding the Redwood and 99E intersection, the City's own traffic analyst did the study, and they found that if Territorial and 99E was congested the logical choice was to redirect to Redwood. That intersection would function adequately even with the extra traffic. Also they would limit the development to 30 units per year and all would be done by the same developer.

Councilor Johnson asked about drivers being aware of the alternate route on Redwood. Would his client be willing to help pay for extra signage? Mr. Layton said he thought they would be open to that.

PROPOSERS: Larry McBride, resident of 136 NE Territorial Rd., Canby, stated when this application came before the Council several years ago it was bundled with another property which had extensive farm use and was outside the Urban Growth Boundary. They would keep farming the land until it was all developed should it be annexed. Every person had the right to get the highest rate of return he could on the minimum investment made. Their position on this was not to contest it in any way. Their one concern was farming once it was developed as they were outside the City limits and Urban Growth Boundary and the agricultural use protection chapter of the municipal code did not apply to them. As long as they could continue to farm on their property they did not have problems with this annexation.

OPPOSERS: Paul Satter, resident of 407 NW Territorial Rd., Canby, stated that the Riverside Neighborhood Association voted against the annexation. He said a troubling thing for citizens in Canby was to maintain livability. They heard that they could not stop growth, but they wanted to maintain the prime agricultural land. The property should not be Priority A and he did not think there would be any benefit to the City. There were problems with increased traffic and it would have an adverse affect on the maintenance of streets. He saw Canby as trying to forge their identity, would they be an agricultural community or try to become a typical city.

Mr. Chiavarini said they needed to show special benefit to land outside of the growth priority, for Priority B and C land. This was Priority A land.

Janet Milne, resident of 668 NW 12th Ave., Canby, stated that this annexation would negatively impact neighbors and permanently eliminate valuable farmland from production. She took exception to criteria A-3, smaller non-farmland should be considered a priority for annexation over larger farmland. This was considered larger farmland. She addressed the issue of traffic diversion onto Redwood Street, that street was a narrow two lane street and in poor condition. The Public Works department was six and a half million dollars behind in road maintenance so there was a question as to how well that road would serve as an alternative. She read a quote regarding the quality of the soil. Every year 2.3 acres of farmland was lost every minute of every day. If steps were not taken to protect farmland, Americans would be increasingly going to foreign countries for food. She also quoted Mr. John Dodds, the late owner of the property they were discussing that night, who said he had been forced out of farms several times due to expansion. There was very little left of the special Canby soil, going one mile in any direction took them out of it.

Margaret Gitts from Swan Island Dahlias stated that she had the same concerns as when she testified several years ago, such as school capacity, park maintenance, and utility services. Her main concern was the soil. This soil was something to be treasured and there was not any soil like it except in a few small places that compared to the fertile sand soil that they could farm no matter what the conditions. She also asked how they were going to improve Redwood Street so they could use it as an alternative because it was so narrow. She felt the soil should be considered a historic treasure as well as the Holly trees on the property. She thought the other annexation application that was already in the City limits made more sense than this annexation which would take the good soil away.

Lloyd Mendenhall, 709 NW 10th, Canby, read a letter regarding the soil which stated it was prime farmland. The crops that came off this land had not been addressed. He lived next to this lot and had seen many crops grown, watched the workers on the land, and loved the trees. His interest was in keeping this ground and felt it would be wrong to cover it with blacktop.

Jack Pendleton, resident of 668 NW 13th, Canby, spoke regarding to the access to this property and how many of the residents would use Knights Bridge Road. According to the Clackamas County Road Improvement Project, that road was already failing. They also had a problem on Territorial between Birch and Holly and problems on Redwood. He also spoke in regard to economic impact, the City streets were not being maintained now, and City Hall, the Police Department, and Library were open shorter hours all because of lack of money. It seemed like they must be losing money through these residential units because they were in better shape 10 years ago with less of them than they were now. He thought they should slow down a little on residential property and let some of the business annexation and development catch up and get a tax base. The key difference between Canby and Tualatin was the business tax base was much higher. They needed a balance between business and residential.

Rex Eide, resident of 216 NW 9th Street, stated that Canby used to be the garden spot of the state and still should be. Mr. Eide had farmed in Canby starting back in the 1960s. In researching an area to build a nursery to meet the seedling demand, they needed to get a proper soil type and found it in Canby. The soil used to be called loamy sand because it had more sand. It did take a special type of soil and it was rare and easy to harvest with machinery.

Tam MacArthur, resident of 1265 N Grant, Canby, stated that he moved to Canby because it was a farmland town. He thought the property was important because of the seedling trees and the soil was special. He said economics were tight and City services had a hard time keeping up with what they had. Regarding Redwood Street, its design was poor and they would have to improve the road and citizens would have to pay for it. People would rather take Territorial than Redwood. He said they were here for quality not quantity.

REBUTTAL: Mr. Layton said the testimony made it appear that all the farmland was rapidly being corrupted, but that was mostly inferred from national statistics. He asked how it was possible for land to be inside the City limits and outside the Urban Growth Boundary, and it went back to a time when Canby had a large City limit and they were pressed by the Land Conservation and Development Commission to remove substantial amounts of land in its City limits from the Urban Growth Boundary as an effort to conserve the land for agricultural use. This was a community that protected farmland. The information about the soil was not new and if they tried to find where they could grow without consuming prime agricultural soil they could not grow at all. They had been through the process and priorities set for annexation and they were there to follow through with implementing those planning decisions that had been made. This was a reasonable growth pattern for the community. They also had a three year buildable lands policy and that policy competed with the question as to whether they were growing too fast. This growth was not out of control, it had been planned and was appropriate.

In regard to access and traffic, there would be a total of 800 trips over the course of a day and they projected that while there was a problem at Territorial and 99E this would only be a problem during peak hours and there were four other intersections people could use other than Redwood as an alternative.

QUESTIONS: Councilor Dawson asked how long the property had been in the Dodds family. The applicants stated 42 years.

Councilor Newton asked what was being done with the property at this time. Mr. Layton said only part of the property was in agricultural use for nursery stock, on the remainder of the property there was a utility building, holly trees, and a residence.

Councilor Newton asked if there was anyone in the farming community who would buy the land at fair market value to keep it as farmland. The farming community thought that the price they wanted for it was too high.

Councilor Carson asked Mr. Chiavarini if the 20 foot wide width they were proposing was enough? Mr. Chiavarini said it would be enough for two travel lanes without parking, for parking on one side they would need 28 feet and he wasn't sure how much land was there between the bump outs. There would be no parking on the west side.

George Cam stated he had worked with City staff and the issue of the road. They would look at what made the most practical sense at the time they were doing the job and they would keep the future in mind. It was a lot cheaper to do a little bit more while they were at it than to do bare minimum and do more later. There were a lot of details to work out, but he was willing to talk about it and resolve them in the most practical way so it benefitted everyone.

Mayor Thompson asked Mr. Chiavarini if in recent history any other Priority A farmland had been annexed into the City. Mr. Chiavarini stated that quite a bit of it had already been developed and only little of it left outside the City limits and Urban Growth Boundary.

Mayor Thompson asked about the creation of the neighborhood associations. Mr. Chiavarini said they required a neighborhood meeting and the applicants did hold such a meeting. The neighborhood association would get notice just like all those within 500 feet of the property would.

Mayor Thompson closed the public hearing at 9:25 p.m.

Mayor Thompson recessed the regular session for a short break at 9:25 p.m. and reconvened at 9:30 p.m.

DISCUSSION:

****Councilor Johnson moved to approve ANN 02-03, A REQUEST TO ANNEX TWO TAX LOTS TOTALING 19.91 ACRES INTO THE CITY LIMITS, AND DIRECT STAFF TO RETURN WITH WRITTEN FINDINGS AND BALLOT LANGUAGE AT THE NEXT AVAILABLE REGULAR MEETING OF THE CITY COUNCIL. Motion was seconded by Council Carson.**

Councilor Johnson stated that he voted to put this on the ballot because they had a neighborhood association who was against it and a Planning Commission for it, and he could understand both views. He thought this would be an opportunity for the opposition to campaign.

Councilor Dawson said he lived near this area and he had concerns regarding the soil issue which sounded more like the endangered species act and telling the owner that their choices were limited. This would be an opportunity for the opponents to get organized should they wish.

Councilor Blackwell said although the soil was an issue, the more pertinent issue was the streets and how they could not maintain what they had now. She thought there would be time between

going to the vote and the buildout, but she didn't know if those problems would be resolved by then. This was a call to the Council to get on task as it was an ongoing issue.

Councilor Carson said this was Priority A land. They turned it down years ago for several reasons and he didn't think they could keep holding that area hostage because they didn't have the intersection of Territorial and 99E updated. The applicant would build out 30 lots per year, which would take 3 to 4 years. He thought they needed to make sure the road on Locust was at least 20 feet or more to make it good for this development and future development. They were trying to maintain livability by building out slowly and in the right ways.

Councilor Oliver said he was torn on this issue. He thought the Dodds had every right to sell the property for the best price they could get and he thought the voters had the right to decide. The traffic signal issue was important and Territorial and Redwood did not have good access. Farmland had been good to his family, and the priority system was not quite right.

Councilor Newton said that they had a lopsided growth situation, and the industrial contribution to the City was way behind. However, they were still under the three year inventory. The Dodds had a right to do with their property what they wanted. She respected the judgement of the Planning Commission and concurred with them. She thought the community should decide.

Mayor Thompson said the neighborhood association brought forth their concerns very articulately and she agreed with the maintenance issues, but these people had a right to develop their property. This should be put before the people.

Motion passed 6-0.

Industrial Area Annexation 02-05 -

Mayor Thompson opened the public hearing at 9:50 p.m. and read the public hearing format.

CONFLICT OF INTEREST:

Councilor Blackwell - No conflict, plan to participate.

Councilor Carson - No conflict, plan to participate.

Mayor Thompson - No conflict, plan to participate.

Councilor Johnson - No conflict, plan to participate.

Councilor Oliver - No conflict, plan to participate.

Councilor Dawson - No conflict, plan to participate.

Councilor Newton - No conflict, plan to participate.

EX'PARTE CONTACT:

Councilor Blackwell - Drove past the property, drew no conclusions.

Councilor Carson - No contact.
Mayor Thompson - No contact.
Councilor Johnson - No contact.
Councilor Oliver - No contact.
Councilor Dawson - No contact.
Councilor Newton - No contact.

STAFF REPORT: Associate Planner Clint Chiavarini said this was an application to annex 2.98 acres of property in the City. It consisted of two parcels located directly to the east of Vine Meadows. Both parcels had frontage on NE Territorial and currently contained single family homes and smaller buildings. The Planning Commission voted 2-1 to recommend approval to the City Council. This was designated as Priority B. The other properties near this one, specifically Vine Meadows and Willow Creek Estates, were also Priority B and had been annexed. This property was smaller and would not add the same effects as larger parcels. The Planning Commission found it to be appropriate for timing of City growth and development and would not result in any adverse effects on City services. They were deficient in their land supply, and this would add 12 new single family lots at build out. This was small, non-farmland. There were no access deficiencies except for the issue of Territorial and 99E. However this would not add a large amount of trips during peak hours. There was discussion about storm water issues, but there were solutions to the problem although they may not be cost effective for the applicant. The Planning Commission put a caveat to their recommendation that no future subdivision should be approved without an effective storm water management plan and facilities. It met all City and State requirements, there were no natural hazards or adverse economic impacts.

PUBLIC TESTIMONY:

APPLICANT: Jamie Netter, resident of 2147 NE Territorial Rd., Canby, thanked the Planning Department staff for their work on this. Her husband Nick grew up in Canby and was a builder here for the past 15 years along with members of his family. Mrs. Netter also lived here for 15 years and was active in the schools. Their business spanned three generations, and they hoped that it would continue to the next generation. The City needed more buildable lands. Their property was small non-farmland and had always been used as residential property. It was less than three acres. Since they were local, they hired local businesses for their work. They purchased this property with the sole purpose of developing it. Since other non local developers purchased large parcels of property for development this left their local construction business in a bind and the development of this property would provide her family with work and they would be able to build quality homes in a community they lived in and loved. As far as the drainage problem, they visited Vine Meadows last week during the rain for three days straight and never saw any overflow except on the last day. If there was a drainage problem they would fix it before a subdivision went in, but she wanted to make sure it was a drainage problem and not a capacity problem. She said they would do their best to promote beautification in Canby and would help draw business to the community. It would be a beautiful subdivision and it was only 12 lots. A lot of land was being bought up by developers that were not from Canby. She felt this annexation

met all the criteria and should be forwarded on to the voters.

PROPOSERS: None.

OPPOSERS: None.

REBUTTAL: None.

Mayor Thompson closed the public hearing at 10:07 p.m.

QUESTIONS: Councilor Carson said in item 6 from the Planning Commission it stated that any future subdivision would take into consideration a planned extension of N. Pine Street and there was a note from Mr. Frank Cutsforth who wanted to be involved on any routing of the road that might affect the corner of his property. Mr. Chiavarini said that Mrs. Netter had been working with Mr. Cutsforth regarding this. Mrs. Netter said that Mr. Cutsforth did not oppose the annexation, but he was not in favor of it as he had wanted no development to happen around his property. She said his major concern was adjoining Vine Meadows and they were willing to work with him. They didn't want to spend any money on engineering until it was annexed into the City.

DISCUSSION:

Councilor Newton commended them for using local businesses. This looked like a clean application, however they wanted to make sure the drainage situation was taken care of. She knew the Netters and thought they would work with Mr. Cutsforth. She supported sending this to the voters.

Mayor Thompson said she thought the concerns with this would be fairly similar in regard to traffic as the other application.

****Councilor Carson moved to approve ANN 02-05, A REQUEST TO ANNEX TWO TAX LOTS TOTALING 2.98 ACRES INTO THE CITY LIMITS, AND DIRECT STAFF TO RETURN WITH WRITTEN FINDINGS AND BALLOT LANGUAGE AT THE NEXT AVAILABLE REGULAR MEETING OF THE CITY COUNCIL. Motion was seconded by Council Blackwell.**

Councilor Johnson said he continued to worry about 99E and Territorial, but it was only 12 houses and it was the Netters. He had doubts because it was Priority B and the conditions on Territorial.

Councilor Blackwell said she also had a concern about street maintenance and traffic on 99E and Territorial.

Motion passed 6-0.

RESOLUTIONS & ORDINANCES:

Ordinance 1110 - **Councilor Johnson moved to adopt Ordinance 1110, AN ORDINANCE AMENDING CANBY MUNICIPAL CODE SECTION 12.24 REGARDING CITY PARKS BY ADDING SECTION 12.24.060 ENTITLED "TRESPASS AND EXCLUSION FROM PARKS" AND SECTION 12.24.065 ENTITLED "APPEAL"; AND DECLARING AN EMERGENCY. Motion was seconded by Councilor Dawson and passed 6-0 by roll call vote.

Ordinance 1113 - **Councilor Blackwell moved to adopt Ordinance 1113, AN ORDINANCE CREATING AN ECONOMIC IMPROVEMENT DISTRICT IN ACCORDANCE WITH ORS 223.112 - 223.132, MAKING ASSESSMENTS, AUTHORIZING THE COLLECTION OF SAID ASSESSMENTS, ASSESSING THE COST THEREOF AGAINST THE IDENTIFIED AND BENEFITTED REAL PROPERTY, DIRECTING AN ENTRY OF SUCH ASSESSMENTS IN THE DOCKET OF THE CITY LIENS, CLASSIFYING ASSESSMENTS AS NOT SUBJECT TO CONSTITUTIONAL LIMITS AND PROVIDING FOR NOTICE OF CLASSIFICATION to come up for second reading on February 19, 2003. Motion was seconded by Councilor Newton and passed 6-0 on first reading.

Resolution 818 - **Councilor Johnson moved to adopt Resolution 818, 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 ACRES DESCRIBED AS TAX LOT 1400 OF TAX MAP 3-1E-28CD LOCATED IN THE NORTHEAST QUADRANT OF THE CITY, ON THE SOUTH SIDE OF NE TERRITORIAL AND WEST SIDE OF N. JUNIPER STREET; 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 MAY 20, 2003 ELECTION. Motion was seconded by Councilor Blackwell and passed 6-0.

Resolution 815 - City Attorney Kelley said last year they had an issue come up during General Canby Day when the American Legion wanted to use Fishers Meats facility for food vending during the celebration. In the past the General Canby Day Committee charged vendors a fee and when researched it was found that there was nothing that allowed the Committee to charge a fee. He met with Lila Gottman, the current chair of the Committee, and put together this resolution. There were other issues to be amended in the resolution, such as establishing a geographic boundary in and around Wait Park for a designated area for activities to be held and the Committee could establish fees for applicants who wished to operate booths or participate in the annual parade. It also allowed for fundraising throughout the year and to prohibit unpermitted vendors from operating in the designated area during the celebration. They also made changes in the number of committee members to be a maximum of 10 members and to coordinate the

celebration with the Canby Art Association and Canby Chamber of Commerce.

Councilor Johnson asked what would happen if a downtown business wanted to stay open on the 4th of July. Attorney Kelley said they had not considered businesses within the boundary and they could add language to say this did not apply to businesses located within the zone.

Mayor Thompson wondered if that would apply to businesses who decided to operate outside in the parking lot during General Canby Day. She thought they would be more of a vendor in that instance. Lila Gottman said the Committee had no problem with a business wanting to do business on their own property. The problem was people taking advantage of their advertising when they had not paid the fee as the other vendors did.

Pete Kelly, First Vice-Commander of the Sons of the American Legion Squad 122, said the problem they had last year was not their problem and was the General Canby Day's problem. Mr. Stone who owned Fishers Meats was a member of their organization. They donated 10% of the fireworks collection every year and their post lead the parade and did the opening ceremonies. They also donated money to the City, such as the bathrooms at Wait Park. One of the basic freedoms people had was property ownership and they should be allowed to do what they wanted on their property as long as it was legal.

Councilor Dawson asked if they were outside Fishers at the time of the incident. Mr. Kelly said they were on the sidewalk and did not do any advertising.

Councilor Blackwell said that they should send the resolution back and get the amended wording.

Mayor Thompson asked about permitting for sidewalk vending. City Attorney Kelley said they had sidewalk vending permits. She asked if they waived that fee for this event, and Attorney Kelley said there was an exemption for General Canby Day in that.

Mayor Thompson clarified that the enforcement would be if someone was inside the zone operating without a permit they could be cited by the Police for violation of the resolution. If they were outside the zone they could do anything they wanted.

Councilor Newton thought both sides were doing good work, and she thought maybe if a group was making a contribution their fees could be waived.

Councilor Oliver wanted to see what the zone would be and he thought General Canby Day was a time to bring a lot of people to Canby to celebrate the City and to spend some money. He thought the wording should include as long as they were working for some group, that would be allowed also.

Attorney Kelley clarified that they wanted him to come back with a revised resolution. Did the Council want to establish a zone? He was planning to let the Committee establish the zone.

Councilor Dawson felt the Committee should put together the zone and bring it back to the Council.

Attorney Kelley clarified that they would allow those businesses normally located within the zone an exemption. Those businesses that contributed to General Canby Day would also have an exemption.

Councilor Dawson asked what the fee was. Ms. Gottman said food space was \$125 and the craft booth was \$45. She said there were many non-profit groups that donated to General Canby Day and also bought a booth for that day. All of the fees went to the entertainment and fireworks.

Mayor Thompson asked where she thought the zone would be. Ms. Gottman said the zone would extend to 1st Street to take in the art show and wherever the pancake breakfast would be.

Administrator Adcock suggested taking this off the table and returning it back to the Council.

MANAGER'S REPORT: Administrator Adcock thanked Clint Chiavarini and John Williams for their work on the annexations.

Administrator Adcock also discussed a memo from Beth Saul regarding a life saving rescue at the Swim Center. He wanted to formally recognize Mr. Biskar at the meeting on the 19th.

Discussion re: Sequoia Parkway Engineering - Planning Director John Williams said that the Council requested information on Sequoia Parkway construction costs and time frame. He said the construction could occur in 2003, the key thing being the annexation vote. They would try to get a loan and the amount for the design engineering was \$70,000. The Council would need to ask staff to return with a completed loan application and direct them to start on the engineering and surveying work and they needed to solicit a contract to do that work. They could have that in place by the 19th. The third thing they needed was an intergovernmental agreement with the Urban Renewal Agency as the Council was the only eligible recipient of the loan and the Agency would be responsible for making payments. This needed to happen before they applied for the loan. Next Wednesday the Urban Renewal Agency was going to meet and at that meeting they would review and approve the intergovernmental agreement and discuss the project scope. The critical path was to get the engineering done and awarding the bid, and that could happen on a different time line than the loan application.

****Councilor Johnson moved to direct staff to return with the OECDD loan application for S. Sequoia Parkway, to direct them to proceed with the engineering and surveying work needed to prepare bid documents for construction, and to direct them to prepare an intergovernmental agreement with the Urban Renewal Agency and to establish payment responsibility for the Sequoia Parkway construction loan. Motion was seconded by Councilor Blackwell.**

Councilor Johnson said this was critical and they needed to set a balance between residential and businesses. What they were doing was the best path for everyone involved and it was critical to get the road built this year.

Councilor Carson said without Sequoia Parkway they would have a hard time getting business in their industrial park.

Councilor Newton stated that in years earlier they had the prime piece of potential industrial land in the state, but other counties were rezoning and there would be more competition. They needed to move on this project to get their share of it.

Councilor Johnson said this project was one of the things he was most proud of because it was a partnership.

Motion passed 6-0.

Discussion re: Educating City Council on Various City Master Plans - Administrator Adcock said the Council indicated they wanted various workshops that needed to be scheduled. The Council prioritized which workshops to have first slated on the alternate Wednesdays of the month starting in March.

Planning Director John Williams said staff was seeking Council's agreement to go ahead and incur debt on the Small Community Incentive Fund. The State of Oregon offered a \$25,000 grant packaged with a \$25,000 five year low interest loan. They had applied for \$10,000 to go to the Wait Park restroom project and \$40,000 to the 2nd Avenue street construction project. Council gave consensus to accept the grant and loan.

CITIZEN INPUT: None.

COUNCILOR'S ISSUES: Councilor Blackwell said she had a letter from the Clackamas County Community Committee asking for support for the South Metro Light Rail project. They chose a combined light rail option. There was also a letter from the mayor of Happy Valley that asked them to endorse it. This project would not affect Canby but it was pertinent because they did not have a lot of support to gain Metro funding and it would bring some dollars into Clackamas County. Their endorsement would mean they would be on the letterhead with those in support. Council gave consensus to endorse the project.

Councilor Dawson thanked Clint Chiavarini and John Williams for their hard work. Councilor Blackwell agreed.

ACTION REVIEW:

1. Approving the consent agenda.

2. Approving Annexation 02-03, and directing staff to return with written findings and ballot language at the February 19, 2003 Council Meeting.
3. Approving Annexation 02-05, and directing staff to return with written findings and ballot language at the February 19, 2003 Council Meeting.
4. Reappointing Shawn Carroll and Jim Newton to the Canby Utility Board.
5. Appointing Mark Vissers to the Planning Commission.
6. Approving Ordinance 1110 on second reading.
7. Approving Ordinance 1113 on first reading, to come up for second reading on February 19, 2003.
8. Approving Resolution 818.
9. Referring Resolution 815 back to the General Canby Day Committee.
10. Scheduling workshops for the 12th and 26th of March with the Planning Commission and to discuss various master plans.

Mayor Thompson adjourned the regular session at 11:16 p.m.

Chaunee F. Seifried

Chaunee F. Seifried
City Recorder pro tem

Melody Thompson

Melody Thompson
Mayor

Kim Scheafer

Prepared by Kim Scheafer
and Susan Wood Office Specialists