

**CANBY CITY COUNCIL
REGULAR SESSION
June 4, 2003**

Mayor Melody Thompson presiding. Council members present: Walt Daniels, Georgia Newton, Wayne Oliver, Patrick Johnson, Randy Carson, 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 and Court Services Director Chaunee Seifried, Police Chief Ken Pagano, Transit & General Services Director Margaret Yochem, Administrative Specialist Kim Scheafer, Curtis & Lila Gottman, Jamie Johnk, Terry Tolls, Ed Netter, Doug Kelberg, Dan Stoller, Jae Lee, Roger Skoe, Virginia Daniels, David Howell, John Schmitz, Patrick Harmon, David Dodge, Jan Milne, Don, Rhonda, & Nathan Mircovich, and Matt Hastie.

Mayor Thompson called the regular session to order at 7:35 p.m., followed by the opening ceremonies.

CITIZEN INPUT ON NON-AGENDA ITEMS: Lila Gottman, resident of 10381 S Mulino Rd, invited the Council to Bingo that Saturday at 5:30 p.m. at the Canby Adult Center.

CONSENT AGENDA: ****Councilor Carson moved to approve the Minutes of the Executive Session and Regular Meeting of May 21, 2003 and Accounts Payable of \$102,048.61. Motion was seconded by Councilor Johnson and passed 6-0.**

COMMUNICATIONS: Letter from Larry Horne - City Administrator Adcock read a letter he had received from Larry Horne who lived on S Oak Place who was requesting a street closure on July 4, 2003. The letter was signed by 13 other residents on that street.

****Councilor Daniels moved to grant the request for the street closure and that they coordinate it with the Police and Public Works. Motion was seconded by Councilor Blackwell and passed 6-0.**

PUBLIC HEARING: Smoke 4 Less Liquor License Application -

STAFF REPORT: City Attorney Kelley went over the public hearing process and standards and criteria which would support the recommendation of denial. The ultimate decision was the OLCC's. The business in question was Smoke 4 Less, located at 1021 SW First Avenue, Suite A, Canby. The application would be for an off-premises sales license. Attorney Kelley said the only criteria that would apply to this case was Municipal Code section 5.16.060 I., that there was enough liquor outlets in that area and there was no need for another. He said that Chief Pagano initially recommended approval, and he asked him to describe the other locations that offered off-site sales in the area.

Police Chief Pagano said there were three other locations, Rite Aid which was 60 feet away, Safeway which was 216 feet away, and Space Age Fuel Company which was 600 feet away.

Attorney Kelly asked if there were other liquor locations in the immediate vicinity that provided an outlet for liquor? Police Chief Pagano said there were four that sold on-site liquor and those were Hoi Tin which was 300 feet away, Puerta Vallarta which was 100 feet away, Jarboes which was 800 feet away, and Taquiera Alonso's which was 500 feet away.

Councilor Carson asked Chief Pagano if he had been in the establishment recently? Chief Pagano said he had been there a week ago. Councilor Carson asked if there were any knives on the front counters. The Chief said the knives were covered, they were not easily accessible.

Councilor Newton asked if there were any other places in Canby that had this kind of grouping of alcohol dispensing? Chief Pagano could not think of any locations that were similar.

APPLICANT: Mr. Jae Lee presented the Council with 127 customer's signatures who were in support of this application. He said that he was the owner's husband.

Mayor Thompson asked Mr. Lee to describe his customers. Mr. Lee said his customers were over 18 and he had been in business one year, although the store had been around for four. The ownership changed about a year ago. He said that the smoking business was not so good, so he wanted to add sales of beer and wine. The business was not a franchise.

Councilor Carson asked if he knew of any other smoke shops that sold beer or wine? Mr. Lee said that many did, ones he knew of were in Tigard, Oregon City, and Beaverton. It was better for business to be a one-stop shop where people could buy both beer and cigarettes.

Councilor Johnson asked what other types of products were being sold. Mr. Lee said he also sold gift items like pocketknives, gum, candy bars, and soda pop.

Mayor Thompson asked if cigarettes were the main draw, and if he was well versed in making sure people were of age before they purchased anything. He said that he did not allow anyone to come in who did not look of age.

OPPONENTS: None.

PROPOSERS: None.

REBUTTAL: None.

DISCUSSION: Attorney Kelley said the Council needed to decide what to recommend to the OLCC. If they recommended denial, he would forward Findings of Fact that the OLCC would review when they made their decision.

Councilor Daniels asked Attorney Kelley why the Council heard this if the OLCC made the final decision especially since they had already granted a temporary license. Attorney Kelley said they often followed the recommendations they received.

Councilor Carson thought there were enough other places in the area without this application.

Councilor Newton said there didn't seem to be any ceiling stating they had to have a certain number of places. She wanted to see these people able to make a living, and she was inclined to grant it. Mr. Lee seemed very conscientious when it came to selling to people under age.

Councilor Blackwell said she was inclined also to change her vote. She said that she might have acted too abruptly, although she still thought there were quite a few places in that area.

Councilor Daniels said they couldn't deny it on the fact of having too many, yet he was concerned that it was near the school.

****Councilor Newton moved to recommend approval to the OLCC for the application of off-premises sales for Smoke 4 Less. Motion was second by Councilor Blackwell and passed 4-2 with Councilors Johnson and Carson opposed.**

CPA 03-03/ZC 03-03 Residential Rezoning -

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.

STAFF REPORT: Community Development and Planning Director John Williams introduced Matt Hastie from a consulting firm who would make the presentation. He also commended Clint Chiavarini who had been the staff person on the project. The Planning Commission recommended approval 6-0 with some minor changes.

APPLICANT: Mr. Hastie said this was a plan to rezone some land to allow for a number of types of housing to meet the needs of the folks who lived here. The project objectives were to update the comprehensive plan and map and areas of special concern for 20 year housing needs. They identified areas that could be rezoned to a higher density, had a series of public meetings, and were finally getting to the adoption process. Overall the City had enough land in the urban growth boundary to meet long-term housing needs, but there was a surplus of low density residential land, and a deficiency in medium and high density residential land. The criteria used for deciding what areas should be rezoned were: compatibility with surrounding neighborhoods, service capacity, access to public services, impact on services, proximity to commercial areas, opportunities to add vibrancy to an existing neighborhood such as the downtown, the difficulty in putting together parcels to develop an area for this type of housing, property owner interests, and did it satisfy the overall land needs. Options on how to do this were to put all this type of housing in one area, scatter it throughout, or pick a number of areas for it. They chose to do the latter. They had a lot of citizen input as to where the areas should be. People wanted buffers to

protect established neighborhoods such as open space or medium density. Area 1 off of NE Territorial and N Pine was currently designated for a high density residential, but they wanted to change it to medium. Area 2 near S Fir, SW 13th, and S Ivy was designated for additional high and medium density. There was support for additional neighborhood commercial development and there was an area of special concern, area K. There was a difference of opinion about which neighborhood commercial designation should be applied there. Area 3 off of the Molalla Forest Road and SE 13th was to be rezoned from low density to medium density. For Area 4 off of Hwy 99E and N Redwood, they would designate the southern portion to high density and medium density for the rest of it for a buffer. Area 5 off of Hwy 99E and SE 1st was an area that could have future master planning, the total area was 170 acres, but it was recommended to set 12 acres of high density and 15 acres of medium density and the rest low density or residential commercial. The Planning Commission recommended that this master planning was a high priority and occurred before annexation. There was not an Area 6 because it would redesignate three properties from low density to residential commercial, but public testimony was in opposition and the Planning Commission recommended not to do it at this time. Area 7 off of Baker Drive and 1st Avenue was to rezone from industrial to high density residential which would add vibrancy to nearby commercial areas. The other part of it would be zoned as public for a park. Area 8 off of S Ivy and SE Township was currently designated for high density and was adjacent to a church. The church requested to rezone it to residential commercial. Area 9 off of Hwy 99E was to rezone a few areas from industrial to low density residential because it was surrounded by existing neighborhoods and the railroad blocked access. They also wanted to remove a number of areas of special concern because the reasons they were areas of special concern had been addressed. They would also need period review approval.

QUESTIONS: Councilor Johnson asked how he felt the citizen response and involvement was? Mr. Hastie thought it was excellent, there had been a lot of effort to give people opportunity to participate. They made a lot of changes throughout the process in an effort to respond to citizen concerns.

Mayor Thompson asked if a law was passed a few years ago that changed the notification requirements, and did that happen? Mr. Hastie said as part of the notice, they had to say that this action might affect the value of their property.

Councilor Johnson asked about suggestions to get the real estate folks educated about these zone changes. Mr. Hastie said often times they worked with real estate in these processes, but as a follow up it would be a good idea to get this information to the real estate community with maps and notice that it happened. He also recommended some media release too. Councilor Johnson said that he had gone to a couple of these meetings and they were very well run. He commended Mr. Hastie and staff.

Councilor Carson said that he felt during the meetings everyone was listened to. He asked about A – K Areas of Special Concern, those would be addressed separately when changes would be made to them? Mr. Hastie said that was the intent.

Mayor Thompson opened the public hearing at 8:38 p.m.

PUBLIC TESTIMONY

PROPONENTS: Patrick Harmon, resident of 735 NE 30th Place, said he had a specialty property in Canby that was zoned commercial and loaded with apartments. He was in a hard spot with a property such as this and there should be some easy way to get his property rezoned. He said as far as his property being used commercially the odds were pretty low. They did a great job on this project, but there were still some properties that needed to be addressed.

Mayor Thompson clarified that Mr. Harmon's property was not one of the locations. Mr. Harmon confirmed that and also thought it would be good for the City to send out information to local real estate offices.

Rhonda Mircovich, resident on 14th & N Lupine, asked if the City asked this company to do a planned proposal for a certain amount of population growth for the next five years? Mr. Williams said there was a State law that told them how they had to provide land, which was based on looking ahead 20 years. Ms. Mircovich said the populations were pretty dense for the roads and schools and there was nothing talked about the addition of services. Mr. Williams said they did look at that issue, but they were required under State law to provide the land and infrastructure plans that matched the land use plans. The community was going to have to address how they provided the public services. Just because they were rezoning, it didn't mean it was going to develop tomorrow.

OPPONENTS: David Dodge, currently residing outside the City, but owned property within the City. He said that the portion he owned would remain high density, but he heard rumors that it was to be rezoned to low density. He thought they should retain the plans that were originally intended and not specifically change the zoning because of what neighbors said because back when they were zoned, the development was not there. Mr. Hastie said there had been discussion about rezoning that property, but it would remain as it was originally designated.

Mayor Thompson closed the public hearing at 8:50 p.m.

DISCUSSION: Councilor Johnson said the mandates from the State really put a pinch on what the City could do when they required them to have so much land, yet they had to fund the services. That is what made their jobs so difficult. He said this was a great plan and a lot of public input went into it.

Councilor Carson said that this did change the zoning so people did not have to get their property rezoned at another time. Mr. Williams said that most of these properties were outside the City limits, and when they were annexed they would be brought in with the rezoning. Most of the properties within the City limits were being converted to match what they were proposing. Councilor Carson commended the Planning Commission and staff for all their time.

****Councilor Daniels moved to adopt Ordinance 1120, AN ORDINANCE AMENDING THE CANBY COMPREHENSIVE PLAN AND REZONING SPECIFIC PROPERTIES WITHIN THE CANBY CITY LIMITS to come up for second reading on June 18, 2003. Motion was seconded by Councilor Blackwell and passed 6-0 on first reading.**

NEW BUSINESS: Presentation by General Canby Day Committee - Lila Gottman, Chair of the General Canby Day Committee, introduced the members of the committee. She said they raised all the money for this event; no tax money went to it. This year's theme was "The Best Is Yet To Be." The high school art department had a contest to come up with the button design, and this year's winner was Nathan Mircovich. Mayor Thompson presented Mr. Mircovich with a check for \$25 for winning the contest. Ms. Gottman introduced Councilor Walt Daniels and his wife, Virginia Daniels, as the King and Queen of General Canby Day. The coronation would be on Tuesday at the Adult Center at 11:30 a.m.

The events on the Fourth of July included a pancake breakfast, opening ceremony, Freedom Bell Ringing Ceremony and a fighter jet fly by, art show, food and craft booths, classic car show, entertainment, Kids Korner, scavenger hunt, parade, and a fireworks display. This year in the Gazebo there would be the Whiskey Hill Jazz Band, G1 and the Waz, Sweet Adelines, Clackamas Community College band, Salsa Dancers, Band B, and JT & the Tourists. There would be a pioneer encampment. New things were the scavenger hunt and an inflatable obstacle course. Brian Halsey from Hartwell Chiropractic Clinic would be the parade coordinator. This year there would be parade fees for profit groups that advertised. The parade route had been shortened by a couple of blocks. It would be going down 2nd Street, and would stay on Holly Street instead of going on Ivy. Ms. Gottman asked permission for the street closures necessary for the event, and asked if the Council would let her know who wanted to be in the parade.

Councilor Carson asked about the fireworks location. Ms. Gottman said it would be at Trost Elementary School again this year.

****Councilor Blackwell moved to approve the street closures as requested by the General Canby Day Committee. Motion was seconded by Councilor Carson and passed 6-0.**

Mayor Thompson recessed the regular session at 9:15 p.m. for a short break. She reconvened the session at 9:23 p.m.

Extended Application Deadline for Dodds Annexation - City Administrator Adcock said the Dodds were requesting a waiver of the regular new annexation application deadline. The application was a proposal for five acres as opposed to the 19 that was not approved by the voters. Mr. Williams said they requested that the deadline be waived, and they had to get Council approval. The main reason they required applications to be turned in nine months before the election day was to allow the time for the staff work, public hearings, and other requirements to get annexations on the ballot. They had to get the application to the County two months before the election. With this one, the staff work had already been done, and he recommended approval because they could handle the workload. All this would do was allow them to file an application that would go through the normal process.

Councilor Carson asked if they would get to the A, B, C prioritization discussion before that time? Mr. Williams said not before they filed their application.

****Councilor Daniels moved to approve the deadline waiver request for the Dodds property annexation. Motion was seconded by Councilor Oliver and passed 5-1 with Councilor Johnson opposed.**

UNFINISHED BUSINESS: None.

RESOLUTIONS & ORDINANCES:

Resolution 826 - **Councilor Johnson moved to adopt Resolution 826, A RESOLUTION AUTHORIZING AND DIRECTING THE CITY RECORDER TO CERTIFY TO THE CLACKAMAS COUNTY CLERK A MEASURE REFERRING TO THE ELECTORATE A PROPOSED ANNEXATION OF 9.7 ACRES DESCRIBED AS TAX LOT 4700 OF TAX MAP 4-1E-04DA LOCATED IN THE SOUTHEAST QUADRANT OF THE CITY, ON THE SOUTH SIDE OF SE 13TH AVENUE, EAST OF S IVY STREET AND WEST OF TOFTE FARMS III SUBDIVISION; AUTHORIZING THE CITY RECORDER TO SEND AN EXPLANATORY STATEMENT FOR THE VOTER'S PAMPHLET; AND DOING ALL OTHER NECESSARY ACTS TO PLACE THE MATTER BEFORE THE VOTERS OF THE CITY OF CANBY FOR THE NOVEMBER 4, 2003 ELECTION. Motion was seconded by Councilor Carson and passed 6-0.

Resolution 827 – Administrator Adcock said this was a change to the personnel policy to reflect the recently passed Health Insurance Affordability and Accountability Act.

****Councilor Johnson moved to adopt Resolution 827, A RESOLUTION OF THE CITY OF CANBY AMENDING RESOLUTION 775 AND ADOPTING UPDATES TO THE PERSONNEL POLICY MANUAL. Motion was seconded by Councilor Daniels and passed 6-0.**

Resolution 828 - **Councilor Carson moved to adopt Resolution 828, A RESOLUTION ADOPTING A CONTRACT BETWEEN THE CITY OF CANBY (CITY) AND THE CITY OF CANBY POLICE ASSOCIATION (UNION) FOR THE PERIOD FROM JULY 1, 2003 THROUGH JUNE 30, 2006. Motion was seconded by Councilor Blackwell and passed 6-0.

Resolution 829 - **Councilor Newton moved to adopt Resolution 829, A RESOLUTION ACCEPTING A \$25,000 LOAN AND A \$25,000 GRANT FROM THE STATE OF OREGON'S SMALL COMMUNITY INCENTIVE FUND. Motion was seconded by Councilor Blackwell and passed 6-0.

MANAGER'S REPORT: None.

CITIZEN INPUT: None.

COUNCILOR'S ISSUES: Councilor Johnson asked Mr. Williams about Sequoia Parkway and when groundbreaking would take place. Mr. Williams said he hoped to start by mid-July.

Councilor Johnson said they had extra funds and he wondered if they could put that money towards Sequoia Parkway and extend that road farther. Was that feasible? Mr. Williams said the same loan source would not be an option, but they could go out for a commercial loan. He would have to look into it. Councilor Johnson thought the advisory committee would not be able to get involved in this process, but wondered if the agency would be interested. Councilor Newton said she was interested, and they could discuss it at their meeting on June 18. Mr. Williams said they would have to get right of way and surveying and engineering work which might be road blocks. Councilor Daniels did not want to circumvent the process by leaving out the advisory committee. Councilor Newton thought they could all attend the meeting as a starting point. Councilor Carson said the IAA would also have comments about this. Councilor Newton thought they would need a few meetings to even find out if it was feasible. Mayor Thompson asked if the intent was to make the most of the opportunity and it was more efficient to do the development all at once. Councilor Johnson said by putting more into it now, they could get more businesses in there which would get more money into the system. Councilor Blackwell said part of the reason they stopped where they did was for financial reasons, so she thought they should definitely consider this and make sure all the players were involved. Councilor Johnson thought if there was strong opposition, then they would not continue with the idea.

Councilor Johnson also said the projects that Mr. Williams had done came in early, were done under budget, involved a wide cross-section of the community, and he thanked him for it all.

Councilor Carson asked Councilor Daniels if he would take over as Council liaison to CBR.

Councilor Daniels said he would also take over as liaison for the Bike & Pedestrian Committee.

Councilor Newton passed out information on what was going on at the Library, and reported there was a rise in circulation and volunteer hours at the Library. Mayor Thompson said the circs were what helped to secure the Library's funding and encouraged everyone to use the Library.

Councilor Daniels encouraged people to get involved in helping kids read, as Robin Adcock's program through the school was being discontinued. He also encouraged kids to keep reading during the summer.

Councilor Blackwell said they had a good time at the fashion show. She also thanked the Girl Scout troops for helping with the flower beds.

Councilor Johnson thanked Chief Pagano for helping him with some issues, they were handled quickly.

ACTION REVIEW:

1. Approving the street closure request on S Oak Place.
2. Upholding an appeal for the Smoke 4 Less liquor license application.
3. Approving Ordinal 1120 to come up for second reading on June 18, 2003.
4. Approving the extension of application deadlines for the revised annexation of the Dodds property.
5. Approving Resolution 826.
6. Approving Resolution 827.
7. Approving Resolution 828.
8. Approving Resolution 829.
9. Appointing a liaison to the Bike & Ped and CBR committees.

****Councilor Carson moved to go into executive session under ORS 192.660(1)(h) pending litigation and ORS 192.660(2) labor negotiations. Motion was seconded by Councilor Johnson and passed 6-0.**

Mayor Thompson read the executive session format and recessed the regular session at 9:50 p.m.

Mayor Thompson reconvened the regular Council session and immediately adjourned at 10:35 p.m.

CANBY CITY COUNCIL EXECUTIVE SESSION June 4, 2003

Present: Mayor Melody Thompson, Councilors Walt Daniels, Georgia Newton, Wayne Oliver, Pat Johnson, Randy Carson, and Teresa Blackwell, and City Attorney John Kelley.

Mayor Thompson called the session to order at 10 p.m.

ORS 192.660(1)(h) - The Council discussed litigation Cousins v. City of Canby.

ORS 192.660(2) - The Council discussed labor negotiations with the City Attorney.

Mayor Thompson adjourned the session at 10:30 p.m.



Chaunee F. Seifried
City Recorder pro tem



Melody Thompson
Mayor



Prepared by Kim Scheafer
and Susan Wood Office Specialists