

**CANBY CITY COUNCIL
REGULAR SESSION
July 16, 2003**

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

Also present: Community Development and Planning Director John Williams, City Attorney John Kelley, Associate Planner Clint Chiavarini, Library and Parks Director Beth Saul, Administrative Specialist Kim Scheafer, Todd Gary, Marlene Elmore, Jamie Johnk, Wain Vaughan, David Howell, Gretchen & Oliver Karseneas, Anita Walker, Allison Pyburn, Alex Despain, Frank Despain, Curtis & Lila Gottman, Will Newman, John Prescott, Brenda Gundersen, Mary Ann Celley, CK Celley, Chris Dunn, Richard & Anne Rowell, Joe & Rosemary Dyer, Scott Brawner, Jeff & Tina Peters, Carole Glenn, June & Barry Swooh, Judy Wilson, Bill Stevens, Karen Lots, and Cerea Isaacs.

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

PRESENTATION: Special Employee Recognition - Community Development and Planning Director John Williams presented plaques to Todd Gary and Clint Chiavarini as tokens of the City's appreciation for all their hard work over the years. Todd served the City for 18 years, and Clint for six years.

CITIZEN INPUT ON NON-AGENDA ITEMS: Wain Vaughan, resident of 10540 S Bremer Rd., Canby, said that he lived across the road from where the dumping was occurring. He was representing the O'Neil Corners neighborhood, and said the City recently had started dumping human waste on the property owned by Mr. Zenthoefer. Mr. Vaughan said there was disagreement on how and where it was being done. The permit issued by DEQ was done in haste. There should have been public notice issued prior to the application and issuance of the permit. The notification letter went out to three residents and unfortunately one went to the wrong address, but there were seven residents adjacent to the property. This letter was sent after the permit was issued. They tried to get in contact with Darvin Tramel, Wastewater Treatment Plant Supervisor, but he did not respond to their messages. They believed there was some land use laws violated in the issuance of the permit and the process. DEQ was under the impression that Mr. Zenthoefer was the resident of the property, which was not true as a portion of the property was rented. The property was zoned agricultural, but Mr. Zenthoefer only got one cutting of grass hay per year, and the rent was where the income came on his property. Information that was provided to DEQ by Mr. Zenthoefer and the wastewater treatment plan was in error. For example, DEQ was told there were two wells on the property and there were actually four. None of the wells in the neighborhood were considered either.

There were springs on the property that were not considered. In 1941 the property was tiled for drainage. The tiling goes through Mr. Zenthoefer's property into the bottom of the valley. The aquafir in that area was about 100 feet and all their wells were out of the same aquafir. There was a possibility it could contaminate their wells. There was also a fault line along that valley.

There had been violations of the site authorization since the dumping started. There was a nuisance violation due to the odor, the daily dump area was to be marked and dated which had not been done, and the decontamination of the truck was required and was not occurring. High school students and pedestrians often used the road that the truck used.

The odor was horrendous, although it came and went. Some of his neighbors experienced shortness of breath and one called for medical assistance, they got headaches, and it gagged them. Many were concerned about holding outside gatherings because of the smell. They were concerned about post disposal and its long term effects. They were also concerned about property values in the area. Other concerns were soil contamination, lack of fertilizer value, and a danger to the wetland in the area. They were asking them to stop this process.

They sent a request to DEQ for a public hearing. No one knew exactly what was in this waste, and once it was there, no one could do anything about it. Sometimes there were things that were permitted that were not the right things to do and this was one of them.

Will Newman, resident of 11124 S Bremer Rd., Canby, said the property was actually owned by Oregon Sustainable Agricultural Land Trust. He was the research and education director for the trust. This particular process had a number of problems. It was being applied in the worst way. The City dumped on his property for several years and they used it as a benefit to their soil. Sewage sludge was expensive to deal with, and was heavy and highly processed. It was a mixture of residential and industrial waste and contained a great array of toxins. Many of those toxins did not break down over time. It was very hard to separate the toxins from the non toxins. They were putting the wrong material on the wrong land and in the wrong way so that it would guarantee that some of it would go into the surface water, some into the ground water, and the rest would contaminate the soil which would result in a brown field. He asked them to stop the distribution of this material until they reviewed what was going on.

Attorney Kelley asked if Mr. Newman was aware of any brown fields in the area? Mr. Newman said it took time to develop. They recently got a piece of property in Portland that was a brown field, not from sewage sludge but from municipal waste, fifteen years later from the dumping. Attorney Kelly asked if he was aware of any location that DEQ approved for sludge disposal. Mr. Newman said that piece of land. DEQ had not been giving out permits for sludge disposal for very long. Attorney Kelley said he was forecasting the problem, as opposed to basing them upon results on a piece of property.

Mr. Newman said he was opposed to sewage sludge from mixed source treatment plants. It was the mixing from houses and industry that lead to mixing of long lasting toxins.

Councilor Johnson asked Mr. Williams if they were to stop applying material to this piece of property, what logistical problems would it cause? Attorney Kelley said they did not have an alternative site yet, they were working on it. They were only making two more applications on this site. Whatever the Council or DEQ mandated, they would do. Mr. Williams said it would be difficult and costly to stop this application and start a new kind of disposal. Attorney Kelley thought they had a few applications in to DEQ for other sites, but he was not sure about the time line.

Mayor Thompson asked how often did they apply for new locations? Mr. Williams said they stored the sludge for a while, and then got rid of it.

Councilor Daniels thought they needed more information. Mayor Thompson agreed, that without knowing how it hurt it was difficult to make a decision.

Councilor Oliver said that they did have a meeting scheduled for next week where they could discuss this after staff researched it.

Attorney Kelley said there were three people that could make a decision: the property owner, the Council, or DEQ. He read a letter that he received from DEQ stating that the City was not in violation. Mr. Williams said they could wait to make another application until after their next meeting.

****Councilor Johnson moved to request staff not to make a sewer sludge application to the subject property until after their Council meeting next Wednesday. Motion was seconded by Councilor Blackwell and passed 6-0.**

Mayor Thompson recessed the session at 8:35 p.m. for a short break. She reconvened the session at 8:45 p.m.

CONSENT AGENDA: **Councilor Carson moved to approve the Minutes of the Regular and Executive Session Meeting of July 2, 2003, Accounts Payable of \$796,035.54, appointments to the Bike & Pedestrian Committee, appointments to the Traffic Safety Commission, and appointment to the Library Board. Those appointments were: to the Bike & Pedestrian Committee, Todd Christner for a term ending June 30, 2006, to the Library Board, Mary Jean Pedersen for a term ending June 30, 2007, and to the Traffic Safety Commission, Laurie Sandsness for a term ending June 30, 2006 and Curtis Gottman for a term ending June 30, 2006. Motion was seconded by Councilor Blackwell and passed 6-0.

COMMUNICATIONS: Mr. Williams said they received a letter from Mike Boonstra of Canby Kiwanis who was requesting a street closure on August 12 for the Kiddie Capers Parade.

****Councilor Blackwell moved to approve the street closure request. Motion was seconded by Councilor Carson and passed 6-0.**

Mr. Williams said they also received a letter from Mark Vissers who was resigning from the Planning Commission.

NEW BUSINESS: Liquor License Application for Dalia's Restaurant –

****Councilor Johnson moved to forward a recommendation of approval to the Oregon Liquor Control Commission for a new liquor license application for Dalia's Restaurant. Motion was seconded by Councilor Newton and passed 6-0.**

City Attorney Contract – Mayor Thompson said the Council had met in Executive Session to discuss the contract and it had been reviewed by outside legal council Jack Hammond.

****Councilor Johnson moved to approve the City Attorney contract. Motion was seconded by Councilor Carson and passed 6-0.**

UNFINISHED BUSINESS: Findings, Conclusion and Final Order Ann 03-03 -

****Councilor Blackwell moved to approve the Findings, Conclusion and Final Order for ANN 03-03 Renaissance Development. Motion was seconded by Councilor Newton and passed 4-0. Councilors Johnson and Carson abstained.**

RESOLUTIONS & ORDINANCES: Resolution 838 - Mr. Williams said this approved the paperwork for the permanent and interim loan for the Sequoia Parkway project. The interim financing plan would allow them to start spending money, and the bond sale was predicted to be in September.

****Councilor Daniels moved to adopt Resolution 838, A RESOLUTION AUTHORIZING A LOAN FROM THE SPECIAL PUBLIC WORKS FUND BY ENTERING INTO AN INTERIM LOAN CONTRACT AND A PERMANENT LOAN CONTRACT WITH THE OREGON ECONOMIC AND COMMUNITY DEVELOPMENT DEPARTMENT. Motion was seconded by Councilor Blackwell and passed 6-0.**

Resolution 839 - ****Councilor Daniels moved to adopt Resolution 839, 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 40.54 ACRES DESCRIBED AS TAX LOTS 2300 OF TAX MAP 4-1E-03 AND TAX LOT 1200 OF TAX MAP 4-1E-04D LOCATED IN THE SOUTHEAST QUADRANT OF THE CITY, ON THE SOUTH SIDE OF SE 17TH AVENUE, EAST OF S IVY STREET AND NORTH OF THE MOLALLA RIVER; 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 Blackwell and passed 6-0.**

Ordinance 1122 – Mr. Williams said they had a bid opening on July 10, and Parker Northwest was the lowest at \$804,000. The reason it was so much lower was because there was many other things that happened in the project that was not in the construction contract, prices were coming down, and bids were very competitive. They would probably spend 1.1 million dollars total on the project, and they had anticipated spending 1.9 million that they signed a loan for. OECD said this was common, and they could request a reduced amount in the final loan amount or apply for an amendment of the project description in order to extend the project.

****Councilor Carson moved to adopt Ordinance 1122, AN ORDINANCE AUTHORIZING THE MAYOR AND CITY RECORDER TO EXECUTE A CONTRACT WITH PARKER**

NORTHWEST PAVING COMPANY FOR CONSTRUCTION OF SEQUOIA PARKWAY STREET IMPROVEMENTS; AND DECLARING AN EMERGENCY to come up for second reading on July 23, 2003. Motion was seconded by Councilor Blackwell and passed 6-0 on first reading.

Ordinance 1123 - **Councilor Daniels moved to adopt Ordinance 1123, AN ORDINANCE AUTHORIZING THE CITY OF CANBY TO JOIN INTO THE FORMATION OF THE CLACKAMAS 800 RADIO GROUP AND DIRECTING THE MAYOR TO EXECUTE AN INTERGOVERNMENTAL AGREEMENT FOR THAT PURPOSE; AND DECLARING AN EMERGENCY. Motion was seconded by Councilor Newton and passed 4-0 by roll call vote. Councilors Johnson and Carson abstained.

Councilor Johnson asked that staff get the information out to the public on how they were able to purchase the radios.

MANAGER'S REPORT: Mr. Williams reminded them about the special meeting next Wednesday, July 23. He also referred to Mr. Adcock's memo about a workshop with CBRD and the Economic Development folks from Clackamas County on August 20th to discuss how industrial/commercial improvements worked and the process.

CITIZEN INPUT: None.

COUNCILOR'S ISSUES: Councilor Newton reported that the URD Advisory Committee met last Tuesday and elected officers. The Fire Department gave a presentation on their request for using URD money for expansion of the department. The Advisory Committee would be meeting the second Tuesday of each month. They asked the Agency to give them direction on spending the money. Council gave consensus to have an Agency meeting next Wednesday.

Councilor Daniels said in May 2000 there was a series of committee meetings of the industrial park task force to discuss what they wanted the park to look like. It had come to the time that it was starting to be developed and businesses were contacting them. He wanted to hold a workshop to get Council concurrence about what they wanted in the park. A workshop was scheduled with the Planning Commission, CBRD, and Urban Renewal Advisory Committee on August 27th.

Mayor Thompson said there was a request to add one week's vacation to the City Administrator's benefit package, which they had forgotten. Councilor Newton said this would bring him in line with the rest of the staff vacation structure.

****Councilor Newton moved to approve the addition of one week's vacation to the City Administrator's contract. Motion was seconded by Councilor Carson.**

Councilor Johnson asked how many weeks vacation the City Administrator received? Mr. Williams said he believed it was two weeks vacation. Councilor Johnson asked Mr. Williams how many he received. Mr. Williams said that he received three weeks vacation. Councilor Johnson said that Council had received a letter from the City Attorney stating that this contract

was not within the City Charter. They gave Mr. Adcock a large raise, which put his salary over \$90,000 per year. If they are going to uphold the City Charter, then they needed to look at bringing the rest of his contract into line before changing language in it to give him another week of vacation.

Councilor Daniels said that he felt things were being discussed that were normally handled in executive session. Councilor Johnson said they had voted on it in regular session, but the TV cameras had not been there.

Councilor Johnson felt the community had the right to know what they were paying their City Administrator and the fact that his contract was not in line with the City Charter.

Mayor Thompson said it was important for the community to know that part of the charter referred to the administrator serving at the pleasure of the Council. Attorney Kelley said the charter said that the administrator might be replaced with or without cause. Mayor Thompson said the contract language had some protection built into it with regard to how that occurred. Councilor Daniels said basically it was a 2/3 or majority vote. Councilor Newton said bottom line it was an enforceable contract and signed in good faith. The vacation would be added as an amendment. Mayor Thompson said Mr. Adcock did not want to renegotiate the contract and they didn't do that unless all parties agreed to do that. It sounded like there would be some amendments with vacation and salary. Councilor Carson said that the contract also said if other employees were given certain things that Mr. Adcock would be in line to get the same thing.

Motion passed 5-1 with Councilor Johnson opposed.

ACTION REVIEW:

1. Delaying the application of the bio solids on the property on Bremer Road until after the next Council meeting and bringing a staff report back to the meeting on July 23, 2003.
2. Approving the consent agenda.
3. Approving the street closure requested by Canby Kiwanis.
4. Forwarding a recommendation of approval to the OLCC for Dalia's Restaurant.
5. Approving the City Attorney Employment Agreement.
6. Approving Resolution 838, authorizing an interim loan and a permanent loan with OECDD.
7. Approving the findings, conclusion and final order for Ann 03-03.
8. Approving Resolution 839, referring ANN 03-03 Renaissance Development to voters.
9. Passing Ordinance 1122 on first reading to come up for second reading on July 23, 2003.
10. Passing Ordinance 1123 on second reading.
11. Writing an article for the *Canby Herald* regarding the Police Department radios.
12. Setting up a groundbreaking ceremony for Sequoia Parkway.
13. Scheduling a workshop regarding economic development on August 20th.
14. Scheduling an Urban Renewal Agency meeting next Wednesday.
15. Scheduling a workshop on August 27th.
16. Approving an additional week of vacation for the City Administrator.

There was no executive session.

Mayor Thompson adjourned the regular session at 9:25 p.m.

Chaunce F. Seifried

Chaunce F. Seifried
City Recorder pro tem

Melody Thompson

Melody Thompson
Mayor

Kim Scheafer

Prepared by Kim Scheafer
and Susan Wood Office Specialist