

**CANBY CITY COUNCIL
REGULAR SESSION
August 20, 2003**

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

Also present: Community Development and Planning Director John Williams, City Attorney John Kelley, Planning Technician Darren Nichols, Administrative Specialist Kim Scheafer, Office Specialist Joyce Peters, Valerie Kraxberger, Curtis & Lila Gottman, Bev Doolittle, Hanna Hofer, David Howell, Carl Larson, George Cam, Lee Leighton, Nicholas Gitts, Jesse Kylo, and Tom Dodds.

Mayor Thompson called the regular session to order at 7:43 p.m., followed by the opening ceremonies.

PRESENTATION: Employee of the Month - Community Development and Planning Director John Williams said this was a new program that would be presented at the second City Council meeting of each month. He presented Office Specialist II Hanna Hofer with an Employee of the Month certificate in appreciation of her exemplary work and dedication to the highest standards of excellence at the Library.

CITIZEN INPUT ON NON-AGENDA ITEMS: None.

CONSENT AGENDA: **Councilor Carson moved to approve the Minutes of the Regular Meeting of August 6, 2003 and Accounts Payable of \$522,495.56. Motion was seconded by Councilor Blackwell and passed 5-0.

COMMUNICATIONS: None.

PUBLIC HEARINGS:

ANN 03-04 Meredith – 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.
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 - no contact.

Councilor Newton - drove by the site, drew no conclusions.
Councilor Oliver - was at a function on August 5 and met Mr. Meredith. Drew no conclusions and very little detail was discussed.
Mayor Thompson - drove by the site, drew no conclusions.
Councilor Carson - no contact.
Councilor Blackwell - drove by the site, drew no conclusions.

STAFF REPORT: Planning Technician Darren Nichols said this was an application to annex 1.65 acres into the City in the Southeast corner of NE Territorial and N Oak. The parcel was currently an island of County land surrounded by land within the City and was Priority A. Currently there was one single family home on the property, and if annexed, nine more single family homes would be constructed. The Planning Commission recommended approval 3-0.

Mayor Thompson opened the public hearing at 7:53 p.m.

PUBLIC TESTIMONY

APPLICANT: Carl Larson said Mr. Meredith could not be there that night. This was A property, services were available, the Planning Commission approved, they would work on the design with the Planning Commission, and improvements on Territorial and Oak would be made.

Councilor Carson asked if Mr. Meredith had talked to other property owners in the area to make a bigger parcel and a better street layout. Mr. Larson did not know.

PROPONENTS: None.

OPPONENTS: None.

Mayor Thompson closed the public hearing at 7:55 p.m.

DISCUSSION:

Councilor Carson said the Planning Commission recommended approval, it was A property, and an island on the south side of Territorial. It was zoned R1.5. It met all the other criteria. The one issue was the flag lots, but they couldn't add property to make it larger.

Councilor Daniels said this was nice to finish the corner off and they would work on the design with the Planning Commission.

****Councilor Daniels moved to approve ANN 03-04, a request to annex one tax lot totaling 1.65 acres into the City Limits with the understandings mentioned by the Planning Commission 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 Councilor Carson and passed 5-0.**

ANN 03-06 G. Cam – 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.
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, drew no conclusions.
Councilor Newton - drove by the site, drew no conclusions.
Councilor Oliver - drove by the site, drew no conclusions.
Mayor Thompson - walked the site, drew no conclusions.
Councilor Carson - visited the site, drew no conclusions.
Councilor Blackwell - visited the site, drew no conclusions.

STAFF REPORT: Planning Technician Darren Nichols said this was an application for 4.63 acres to be annexed into the City located on the west frontage of N Locust Street and north of NE Territorial. This had been part of a larger annexation of 19 acres that did not previously pass voter approval. It was Priority A and was surrounded on three sides with land outside the City limits. The Planning Commission recommended denial due that it did not meet the need. In addition, they said the impacts would be greater than the size of development because it was surrounded by land currently being used for agriculture. Access to the site was limited by the current street construction. If annexed, it would be low density residential and the applicant planned to build approximately 20 single family homes. The applicant proposed to provide half street improvements.

Councilor Carson asked about the five year buildable lands number. Mr. Nichols said estimates varied between three and five years. Three years was considered sufficient.

Mayor Thompson asked if the prior larger application was approved by the Planning Commission. Applicant George Cam said it was approved 6-0. Mayor Thompson asked for clarification about the impacts.

Councilor Carson asked about access, would the street have curbs and sidewalks in later? Mr. Nichols said sidewalks were in on the east side for at least the first few hundred feet, but case law prevented them to require off site improvements that were not equal to the size of the development. The Planning Commission had questions as to what level the applicant would develop the street. They weren't sure if the parcel would justify the level of improvement needed. Mr. Williams said the applicant could apply for advanced financing district eligibility and could be reimbursed for the development. Mr. Nichols said they also questioned how soon other development would happen in the area and how soon they could get cost recovery.

Councilor Daniels said in the prior annexation there was concern about access to Locust.

Councilor Oliver said with the smaller developments they might lose open space. Mr. Nichols said since it was a small parcel it was difficult to justify a half acre for park space or to see into the future to know where a park should go.

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

PUBLIC TESTIMONY

APPLICANT: Lee Leighton of Westlake Consultants spoke on behalf of Mr. Cam. Mr. Leighton showed the Council detailed drawings of the extent of the improvements for the proposed annexation. They were willing to build the length of Locust to the south of the property to make an adequate connection to Territorial. They would put in 40 foot paved width, curb to curb, and planter islands that were 8 feet and didn't affect the travel lane. In conjunction with the subdivision approval following annexation the improvement including the curb and drainage would be installed. What would not be installed would be the sidewalk on the west side of the street because it was not necessary. The advanced construction was a benefit, as all someone would have to construct was the sidewalk on one side of the street and hook up to the utilities. They would also ask for a reimbursement system for this, and Council would approve the system.

Mr. Williams asked how the Council could be assured that this would happen as he was proposing it? Mr. Leighton said there would be a development agreement, which would be signed before the annexation went to the voters, but improvements would not be put in until they developed the land. Attorney Kelley said that should the voters deny the annexation, the agreement was null and void.

Mr. Leighton said with the 184 lots available and if all the annexations passed and the Northwoods property appeal was unsuccessful, there was three years and one month of buildable lands inventory. With the lots on this property, it would be three years and two and a half months. The maximum potential overshoot was about two and a half months or less than one quarter of a year. If the annexations passed, it probably wouldn't be until May that they could be ready. In May 2004, there would have two years and five months of inventory, and there was no practical case that they would overshoot the three year target.

The second issue of concern to the Planning Commission was the effect on agricultural production in the vicinity. Mr. Leighton said the agriculture surrounding the property was mainly for raising seedlings and bulbs. These methods used small machinery and harvesting was digging up the plants to be sold as nursery stock. It was not incompatible with residences.

In regard to the planning for parks, the previous proposal identified a two acre park where a well was also located. This was not within the boundaries in the established lot of record they were relying on for this annexation request. The concept that Mr. Cam had was that they wanted to follow through with additional annexations and complete the development of the whole property as it was proposed when they had tried to annex the whole 19 acres. This development could pay towards a park SDC which could be used in the future. They intended to be part of the solution.

Mayor Thompson asked for clarification about the park. Mr. Leighton said if they were to force each development to make an allocation of square footage, they would get postage stamp parks all over, which was not functional. The ordinance provided for paying fees in lieu of dedicating land for parks. Ideally they could defer that dedication of a park to a future phase, but it was too far in advance, so the SDC charge would get paid and then future phases could put it in.

Councilor Oliver asked if Mr. Dodds and Mr. Cam would work together on future annexations and the park could be revisited at that time. Mr. Leighton said they had basically shifted their implementation strategy to fit more closely with what voters wanted, slower development with smaller parcels.

George Cam, business owner located at 355 Grant Street, said he had been building in Canby for the last five to six years. The proposal for this annexation was a smaller chunk of the bigger one. He tried to build the best houses he could and would do what he said.

PROPOSERS: Jesse Kylo, resident of 22111 S Haines Rd, said he was a local excavating contractor and worked with Mr. Cam on several projects. Mr. Cam had impeccable character, and it was a privilege to this community to have him involved. He hired local contractors and brought more business to the community.

Lila Gottman, resident of 10381 S Mulino Rd, said the Transportation Plan called for 11 foot travel lanes on a street collector, which Locust was, and in some cases it was 10 feet.

OPPOSERS: Nicholas Gitts lives on S Haines and is one of the partners with Swan Island Dahlias. His main concern was the impact because once there were houses in the middle of farmland, it was difficult to farm because of fumigation. You could not fumigate within 300 feet of houses within four years, and they fumigated every other year. The northwest side of town had the prime type of soil, and once you put the houses in it was gone forever.

Mayor Thompson asked if he thought it would be better to consider the land in a larger scale. She said his argument was once you started developing it, it seemed to be committed to developing all.

Councilor Carson asked if it was EFU property, they had the right to farm it and the homeowners couldn't file any complaints against it. Mr. Gitts said there were state laws they had to follow.

REBUTTAL: Mr. Leighton said on the subject of street width, their position was they were not pushing for wider streets, that was what the Public Works Director told them. They were fine up to 40 feet. Regarding the impact on farming and fumigation, one of the applicants, Mr. Dodds, would be the one affected because he leased the property for agricultural use. The state law was intended to protect things like wells and ground water, but no one would be using wells, they would be on the public water systems. This was Priority A land, and was a smaller piece of property. They were low on the buildable lands inventory, and not much was in the pipeline.

Mayor Thompson closed the public hearing at 8:53 p.m.

DISCUSSION:

Councilor Oliver said the last time this came up it was one of the hardest things he had to decide. It was the age-old issue of the right to sell your property and keeping farmland.

Mayor Thompson said she agreed that the park issue was one that they were watching closely. It was nice when the larger application had a plan for where the park would be and master planning was always preferable, but the voters turned it down. The applicant addressed the issues of the road. The burden on the agricultural land wasn't proven. The land was Priority A. She was concerned because of the amount of annexations already on the ballot. There was also a big question as to land supply.

Councilor Daniels said he thought the voters were looking to the Council to see if it met the criteria. He would hope that at the next phase the park would be included. They needed a park in that area.

Councilor Blackwell said she found it unique that a few months ago the Northwoods property made more sense to develop than this piece that was surrounded by farmland. She believed that the Planning Commission had looked this over thoroughly. She did not question Mr. Cam or Mr. Dodds, but she would not send this at this time to the voters.

Councilor Newton said the whole development was voted down because it was not the right time, but putting this small one in the middle of farmland, she concurred with the Planning Commission's decision and findings. It seemed like now was not the time.

Councilor Carson said this was A property, but perhaps it should not be because it was good farmland and had no development near it. Once they put in houses, they would be committed to development of the whole area. He thought this was a large application, because in the near future they would get more applications to finish the area. The homeowners were not usually told when they bought a piece of property that they would be surrounded by farmland. It was a greater impact than warranted.

****Councilor Blackwell moved to deny ANN 03-06, a request to annex one tax lot totaling 4.63 acres into the City Limits. Motion was seconded by Councilor Newton.**

Mr. Williams asked if the findings were the same as the Planning Commission expressed. Council gave consensus that number 3, off site improvements, was not the issue. It was issue 2, impacts on the development, and number 1, need was not based on the amount of buildable lands. Mayor Thompson said to add to that, the size of the parcel did not allow for master planning, which would make it the most effective. That was hard because they did approve it earlier as such but it was declined by the voters.

Councilor Blackwell added to the motion that they direct staff to return with written findings recording the denial. Motion passed 4-1 with Councilor Oliver opposed.

Mayor Thompson recessed the regular session at 9:10 p.m. and reconvened at 9:15 p.m.

NEW BUSINESS: None.

UNFINISHED BUSINESS: Findings, Conclusion and Final Order Ann 03-02 -

****Councilor Carson moved to approve the Findings, Conclusion and Final Order for ANN 03-02 ManDan, LLC. Motion was seconded by Councilor Daniels and passed 5-0.**

Findings, Conclusion and Final Order Ann 03-05 -

****Councilor Carson moved to approve the Findings, Conclusion and Final Order for ANN 03-05 Manuel. Motion was seconded by Councilor Blackwell and passed 5-0.**

RESOLUTIONS & ORDINANCES:

Resolution 841 - ****Councilor Daniels moved to adopt Resolution 841, 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 4.6 ACRES DESCRIBED AS TAX LOTS 300, 301 AND 302 OF TAX MAP 3-1E-34B LOCATED IN THE NORTHEAST QUADRANT OF THE CITY, ON THE EAST SIDE OF N REDWOOD STREET ACROSS FROM NE 12TH AVENUE; 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 Newton and passed 5-0.**

Resolution 842 - ****Councilor Carson moved to adopt Resolution 842, 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 .92 ACRES DESCRIBED AS TAX LOT 1100 OF TAX MAP 3-1E-27C LOCATED IN THE NORTHEAST QUADRANT OF THE CITY, ON THE EAST SIDE OF N REDWOOD STREET, SOUTH OF NE 19TH LOOP; 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 5-0.**

MANAGER'S REPORT: Mr. Williams said they needed a motion from the Council authorizing a change order for Sequoia Parkway/Arneson Park.

****Councilor Blackwell moved to accept the recommendation from the Urban Renewal Advisory Board for the change order for Sequoia Parkway/Arneson Park. Motion was seconded by Councilor Daniels and passed 5-0.**

Mr. Williams said they needed to reschedule some workshops. Council gave consensus to have the Economic Development workshop on September 17 and a workshop with the Parks and Recreation Advisory Board on September 24.

Mr. Williams spoke regarding the street maintenance fee election. It would be on the ballot in November to all Clackamas County voters though they would not all be assessed the fee. The County was looking for support of their measure. Councilor Carson asked about raising their own fees for County roads in the City. Mr. Williams said there was a process in the ordinance for allowing a different rate, but everyone at this time had agreed to start at the same rate. Attorney Kelley said the way he understood it was that they could request it of the County. Mr. Williams said the money collected inside the City would stay inside the City. He said the citizens in Canby would be able to vote to decide whether their rural neighbors would have to pay a fee. Councilor Newton felt there were many problems with this. Mayor Thompson said she felt this was imposing their will to make them pay, and they weren't proposing anything for County roads in the City.

Mr. Williams said they would be in a much stronger position if the measure passed; if it failed County wide, it would be more difficult to pass something similar here. Also they all drove on County roads and it would help if they were paved better.

Councilor Newton said everyone in the City wouldn't be paying but those in the unincorporated area would. Councilor Oliver said a similar situation was the people inside the City paid for the parks, but many people outside the City used them.

Councilor Daniels said he thought if passed, it should apply to every City and the rural areas. If this was voted down, the voters would be confused to see another fee come through from the City. Councilor Newton thought they should do the work and their own job and not be related to what the County was doing. Mayor Thompson thought the County roads in the City should have equal play and the mechanics of this were vague.

Councilor Daniels asked what would happen if it passed? Mr. Williams said they were still planning to go ahead with their own process, and they could opt in the County system or adopt their own.

Mayor Thompson thought that if they gave County roads in the City a fair place in this, she would be willing to support the concept. Mr. Williams didn't think they could get any kind of commitment like that before the election.

Mr. Williams asked if they thought it was advisable to do some public information about what was going on to supplement what the County was doing?

Council gave consensus that they wait and discuss the issue later, without regard to the ballot, and come out with some other form of support or not.

Mr. Williams reminded Council about the workshop next Wednesday with several groups regarding urban renewal. Councilor Newton said it would be good to have someone from Canby Utility at the workshop. Mr. Williams said he would invite them.

CITIZEN INPUT: None.

COUNCILOR'S ISSUES: Councilor Blackwell asked staff to advertise for the General Canby Day Committee.

Mayor Thompson said there was a Clackamas Cities Dinner meeting on September 25 and Oregon City was the host and Senator Schrader was going to speak. She invited Council to attend.

ACTION REVIEW:

1. Approving the consent agenda.
2. Approving ANN 03-04 and bringing back a resolution to the next meeting.
3. Denying ANN 03-06 and bringing written findings to the next meeting.
4. Approving the Findings, Conclusion and Final Order for ANN 03-02.
5. Approving the Findings, Conclusion and Final Order for ANN 03-05.
6. Approving Resolution 841.
7. Approving Resolution 842.
8. Scheduling an Economic Development workshop on September 17.
9. Scheduling a workshop with Parks and Recreation Advisory Board on September 24.
10. Going forward with Arneson Park parking lot project.
11. Inviting someone from CUB to the workshop next week.
12. Advertising for the General Canby Day Committee vacancy.
13. Providing more information on the street maintenance fee.

There was no executive session.

Mayor Thompson adjourned the session at 9:45 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 Specialist