

CANBY CITY COUNCIL  
REGULAR SESSION  
AUGUST 21, 2002

Mayor Terry Prince presiding. Council members present: Jean Tallman, Walt Daniels, Patrick Johnson, Shirley Strong, Randy Carson, and Teresa Blackwell.

Also present: Community Development and Planning Director John Williams, City Attorney John Kelley, Transit Director Margaret Yochem, Police Chief Ken Pagano, Finance Director Chaunee Seifried, Marty Moretty, Le Roy Raper, Craig Finden, Melody Thompson, Karl Hansen, Georgia Newton, Jim Newton, Terry Tolls, Steven Amick, Linda and Steve Workman, Curtis and Lila Gottman, Lisa Weygandt, Craig Lewelling, Lt. Greg Kroeplin, Wayne Oliver, Jamie Johnk, David Howell, Bev Doolittle and R.C. Hands.

Mayor Prince called the regular session to order at 8:01 p.m., followed by the opening ceremonies and a moment of silence for our troops.

**CITIZEN INPUT ON NON-AGENDA ITEMS:** None.

**CONSENT AGENDA: \*\*Councilor Strong moved to approve the Minutes of the Regular Session of August 7, 2002; Accounts Payable of \$588,386.86; and a Request for Use of City Parking Lot by Canby High School Dance Team. Motion was seconded by Councilor Carson and passed 6-0.**

**COMMUNICATIONS:** City Administrator Mark Adcock stated that a letter was received from Anne Martin after the packet went out, requesting a cul-de-sac street closure of NE 12<sup>th</sup> Way, for a block party on Sunday, August 25, 2002 from noon to 5 p.m.

**\*\*Councilor Daniels moved to approve the street closure on Sunday, August 25, 2002 from noon to 5 p.m. on NE 12<sup>th</sup> Way and to coordinate barricades with the City. Motion was seconded by Councilor Strong and passed 6-0.**

**NEW BUSINESS:** New Liquor License Application for Safeway, Inc. - Police Chief Pagano's memorandum was reviewed which recommended approval of the application.

**\*\*Councilor Carson moved to forward a recommendation of approval to the Oregon Liquor Control Commission for a new liquor license application for Safeway, Inc. Motion was seconded by Councilor Tallman.**

Councilor Daniels asked if a license was necessary for wine, because he noticed they were already selling it. Attorney Kelley said they most likely had a temporary license while they waited for this one to be approved.

**\*\*Motion passed 6-0.**

Street Closure/Parking Request for Wait Park Police-Fire Remembrance Event - Police Chief Ken Pagano said as a result of Ackerman Middle School students working with Congresswoman Darlene Hooley and Tony Crawford, a teacher at Ackerman Middle School, the school would be receiving a relic of the World Trade Center, an 125 pound piece of one of the main beams. There would be two scheduled events, one on September 3 at Wait Park and the other on September 11 at Ackerman Middle School. The relic would be transported on September 3 to Wait Park by Canby fire and police personnel and several law enforcement and fire agencies would surround the park. The event would be from noon to 1 p.m. They wanted to close the parking surrounding the park next to the curb area only, not completely closing off the streets. On September 11, at 7 a.m. there would be a public procession of the relic from the Canby High School softball field to Ackerman Middle School. At 8:15 a.m. there would be a ceremony to enter the relic in their peace garden.

**\*\*Councilor Tallman moved to limit the parking around Wait Park on September 3, 2002 between noon and 1 p.m. The motion was seconded by Councilor Blackwell and passed 6-0.**

Mayor Prince thanked Mr. Crawford for all his work on this.

Request for Hardship Permit (Raper) - Community Development Director John Williams introduced Jodie Buchanan, the new Planning Department Technician, who prepared the staff report and had just been with the City for one month. Mr. Williams stated that the Council was allowed in the code to approve temporary dwellings in case of hardship. Applicants submitted a letter from a doctor certifying there was a need for the dwelling and they had to meet five criteria. The property was a lot of about a half acre located at the corner of South Fourth and Elm and was in the Highway Commercial Zone. Staff recommended approval of the temporary hardship permit. They also recommended a few conditions: that it would be approved on a yearly basis, the dwelling would be removed when it was no longer needed, and they would get utility connections and foundations as required. They sent public notice to those living 100 feet from the property, and they got two letters of response, one from Allen Manuel who had a few concerns and the other from a neighbor in support. Staff recommended not to adopt any conditions suggested by Mr. Manuel as the concerns were already addressed by the code.

Councilor Blackwell said that she did have a question after reading Mr. Manuel's concerns, but felt that Mr. Williams addressed it already. Mr. Williams said Mr. Manuel wanted the applicant to be restricted to residential setbacks which were not standard in this zone, he wanted an automatic expiration of the permit, and he thought the applicant should forgo the right to remonstrate against any proposal Mr. Manuel had on his adjacent property, which was not appropriate.

Councilor Carson asked what the size of the dwelling would be and Mr. Raper said that it would be a 28 foot wide manufactured home and was anticipating that it would be somewhere around 36 feet long.

**\*\*Councilor Daniels moved to approve SP 02-01 and authorize staff to issue a temporary hardship permit for the proposed dwelling for one year following conditions as proposed by staff. Motion was seconded by Councilor Johnson and passed 6-0.**

Request for City Water Service Connection from Dutch Vista Road Homeowners - Community Development Director John Williams said that the Council created policy for these kind of applications— to consider these on a case-by-case basis. In general new water and sewer connections

outside the City limits were discouraged, but if a few conditions existed they would view the application more favorably. They had an existing street there, and a connection going down that road would not interfere with future infrastructure.

Councilor Tallman asked if they had ever gone out of the Urban Growth Boundary before? Mr. Williams said they had not, and Canby Utility's lawyer looked at that issue. They believed they could go beyond the UGB. They had approved a sewer extension outside the UGB, but never water.

Steve Workman, resident of 2424 Dutch Vista Road, said the neighborhood had been in existence for 40 years and they wanted City water because they had one community well which had hard water and high levels of iron, bacteria, and other minerals. The water damaged their faucets, sinks, toilets, etc., and on a regular basis they replaced components of the well including the lines. They needed better water pressure as well. They thought it was a hardship, and they wanted to be a part of the City water system.

Councilor Tallman asked for their specific location. Mr. Workman said they were north of the Seventh Day Adventist Church on NE Territorial off of Highway 99E and west of the railroad tracks.

Councilor Blackwell said there was not a lot of urban development at that location since it was out of the Urban Growth Boundary.

Councilor Carson asked if their water system changed in the last few years, or had it always been this way? Mr. Workman said it had been this way for a long time, but they had more difficulty in recent years especially in regard to pressure.

Mayor Prince said Canby Utility claimed in their letter that since this was not a loop system that this would require extra maintenance and flushing to be in compliance. Mr. Workman said they also suggested setting up meters at E. Territorial to run lines out to their homes and that would eliminate the problem.

Karl Hansen, Assistant General Manager of Canby Utility, said that this was the first request for service outside the Urban Growth Boundary, and the legal opinion was that it was possible through the Council's discretion. They put in the water for the Foursquare Church, which was within the Urban Growth Boundary and identified in their water master plan. This proposal was not addressed in their master plan since there was no growth anticipated in that direction. They had a large 16 inch pipe that went from Territorial to the Foursquare Church without a lot of flow in it that did cause operational problems. Running a line to the Dutch Vista neighborhood would compound the problem and would burden the utility to flush it and maintain it. Also part of the property would be on railroad right of way. However an alternative would be metering off of the main line at Territorial Road, and maintenance issues would be left to each property owner. This was the best solution in his opinion.

Councilor Carson asked if more people were to connect, would it help with the flow? Mr. Hansen said it would definitely help.

Councilor Johnson asked if they put in the water meter and in the future there were more homes built out there, how difficult would it be to switch back to the main line? Mr. Hansen said it wouldn't be a

huge undertaking depending on where the line were to end up, if it paralleled with the existing services. Councilor Johnson said in the motion, should they outline which option or should they leave it up to Canby Utility? Mr. Hansen thought it would be better if it were specific.

Councilor Blackwell asked if Canby Utility needed a memo of understanding with these folks concerning the maintenance? Mr. Hansen said they did not, the utility was only responsible to the point of delivery which was at the meter.

Councilor Carson said the alternate was to run four individual water service lines out, would it be advantageous to run from the first property a larger line and tap off of that for the other houses but the City would only be responsible up to the meter? Mr. Hansen said that would take a memorandum of understanding or contract agreement as it would be master metering. That option had problems as well.

Councilor Blackwell said the most simple resolution would be to put in the meter at Territorial and let the homeowners do the maintenance.

Councilor Carson asked if they would consider annexation. This would be a long term solution. Linda Workman, a homeowner in Dutch Vista, said she called several years ago about getting on City water because the water quality was so bad. This was a long standing problem for them. As far as annexation, that was a separate issue.

Councilor Johnson said that in the recent past, the City denied an application that was outside the City limits. He thought it was important to be consistent. The City owned parkland up against this property and if there was a chance that other houses could be developed, would this be a conflict of interest?

Mayor Prince said it was not a conflict of interest but that something in the future may make this property a benefit that wasn't there before. Councilor Johnson thought if they sold the property to the developer and City water was just next door, it increased the value.

Councilor Carson said the one they denied previously was the Job property across from the Foursquare Church and lack of master planning had been the issue.

Councilor Daniels said that this situation was different and that the line ran along Territorial right by their homes.

Councilor Strong said her concern was that they were going outside the UGB and would be opening the door for others to do the same.

Councilor Johnson asked if this area was master planned as far as water was concerned? Mr. Hansen said this area had not been since it was outside the UGB.

Councilor Tallman said the issue was if it were considered a health issue, because they were deciding each application on its own merits. When the water was this bad, it was a hardship and she was sympathetic to the problem. It was legal to do, and Canby Utility said it could be done.



**\*\*Councilor Daniels moved to grant the request from the Dutch Vista Road Homeowners to connect to City water service with the placement of a water meter at Territorial Road and Dutch Vista Road. Motion was seconded by Councilor Tallman.**

Councilor Johnson said he thought they should stay consistent in their decisions and did not support the request.

Councilor Daniels said in defense of the motion, they were two different applications. For this application, the line was going by the location and it would serve four homes.

**\*\*The motion passed 4-2 with Councilors Johnson and Strong voting nay.**

**UNFINISHED BUSINESS:** Findings, Conclusion, and Final Order for Tofte ANN 02-01 - Planning Director John Williams said the Council found that the annexation failed on four of the ten criteria. This would be the final vote on the issue, and it was for denial. Once the findings were approved, the applicant had three weeks to appeal to the Land Use Board of Appeals.

**\*\*Councilor Tallman moved to approve the findings, conclusion, and final order denying the Tofte annexation, ANN 02-01. Motion was seconded by Councilor Strong and passed 4-3 with Councilors Johnson, Carson, and Blackwell voting nay and Mayor Prince breaking the tie.**

Discussion re: Proposed Modification of Public Safety Levy - City Administrator Adcock said in early 2002, the Budget Committee discussed the need for a levy to improve Police Department funding. The City Council approved the recommendation and put the matter before the voters in May. This levy failed by approximately 360 votes. On June 11, the Budget Committee met again and discussed the levy and the Committee developed a recommendation that the City again go out to the electorate for a levy in the amount of \$1.40 per 1,000 assessed valuation. The Council accepted the recommendation and staff worked to put it before the voters in November. Chief Pagano expressed concerns he heard from the community as to the amount of the police levy, and based on that they put together an alternative. The revised levy would be \$.79 per 1,000 assessed valuation.

Chief Pagano thanked the Council and staff for their work on the levy. He recommended they lower the levy to the \$.79 per 1,000. Other departments were going out for levies, and the previous \$1.40 was just too much according to citizens. He thought at \$.79 he could still get some growth in the Police Department in all the areas he needed, which were administration, patrol, records, detectives, and code enforcement. They lost five positions from the budget cuts and in this levy they would add eight positions. This would expand the hours of public access to the Police Department and add the 800 MHZ radio system. All of Clackamas County was going to the 800 MHZ system in January and communication was extremely important.

Councilor Carson said this did not take care of the total long term needs of the department, but was a short term fix.

Councilor Strong asked what the cost per thousand would be if they just did the 800 MHZ radio?

Chief Pagano said it would be \$.15 per 1,000.

Councilor Tallman felt that it would be more realistic to go with the \$.79.

Councilor Strong said several elderly people approached her who were concerned that this would force them to sell their homes because they couldn't afford the levy. She could not support any levy that would do that.

Councilor Johnson didn't like the idea of putting critical services on five year funding plans. He was in support of the \$1.40, but felt that the \$.79 would be the best short term solution until they could do some long range financial planning. He also heard from elderly citizens who were concerned about the \$1.40, and that was why he supported reducing it. He had concerns about identity theft and gang tagging which had increased in the City, and he applauded staff who reduced it to \$.79.

Councilor Daniels said as Chairman of the Budget Committee, they felt that there was a need and that was why they recommended \$1.40. He understood the hardship on those who were retired. They kept voting in annexations, yet there was not enough police personnel to handle the growth. He did not want people to think that there was excess in the first proposal of \$1.40, the \$.79 was an interim band-aid and would not address all the need. He thought staff and the Chief had done an excellent job in reducing the amount.

**\*\*Councilor Carson moved to approve Resolution 808, A RESOLUTION OF THE CITY OF CANBY, OREGON, CALLING AN ELECTION TO SUBMIT TO THE VOTERS OF CANBY A FIVE YEAR, LOCAL OPTION LEVY FOR POLICE SERVICES AT THE RATE OF \$.79 PER \$1,000.00 ASSESSED VALUE BEGINNING IN FISCAL YEAR 2003/2004. Motion was seconded by Councilor Tallman.**

Councilor Blackwell also thanked the Chief for listening to the citizens as she thought the \$1.40 was a bit high and now it would go to the voters.

Councilor Tallman emphasized the fact that Canby's population increased while the number in the Police Department decreased, which did not make sense. They had to keep up with growth.

**\*\*Motion passed 5-0 with Councilor Strong abstaining.**

#### **ORDINANCES & RESOLUTIONS:**

Ordinance 1104 - Administrator Adcock said these street lights would be used along Second Avenue and North Ivy streetscape project. Staff recommended approval of the ordinance for \$36,480 to Sternberg Vintage Lighting.

**\*\*Councilor Daniels moved to adopt Ordinance 1104, AN ORDINANCE AUTHORIZING THE MAYOR AND CITY ADMINISTRATOR TO EXECUTE A CONTRACT WITH STERNBERG VINTAGE LIGHTING OF NILES, ILLINOIS TO PURCHASE 30 STREET LIGHTS, AND**

**DECLARING AN EMERGENCY to come up for second reading on September 4, 2002. Motion was seconded by Councilor Blackwell.**

Councilor Carson said these street lights would compliment their new Ivy Street and Second Avenue streets when they were completed.

Mayor Prince said due to staff diligence, the street lights would each cost \$50 a piece less than originally planned.

**\*\*The motion passed 6-0 on first reading.**

Ordinance 1105 - Administrator Adcock said they requested that this ordinance be pulled for later discussion.

**MANAGERS' REPORT:** A Budget Committee Meeting was announced by Administrator Adcock on August 28, 2002 at 7 p.m. in the Canby Utility Board Room to discuss long term financial planning.

Request from Planning Commission for a Joint Workshop - Administrator Adcock said the Planning Commission proposed a joint workshop for October 2 to discuss the next steps in the park acquisition plan. Council gave consensus to meet on that date.

**CITIZEN INPUT:** Leonard Walker, resident of 1526 N Plum Court, Canby, said they were trying to establish a neighborhood association in the Northeast portion of town and their first meeting would be August 27 at the City Shops at 7 p.m.

**COUNCILORS' ISSUES:** Councilor Tallman said at the Fireman and Police Appreciation Dinner in February, she donated some money to get a second dog for the Police Department, and that new dog had arrived. All the money for the dog was donated, with Canby Rotary giving a large amount. Kiwanis was in the process of buying a bullet-proof vest for the dog. Police Officer Lisa Panoff-Jamison was currently "bonding" with her new partner.

Councilor Daniels added to bring the "White Paper" to the upcoming Budget Committee meeting.

Councilor Blackwell was excited that this was the second neighborhood group that was forming. She also thanked Mr. Craig Lewelling for his attendance at the IAA/Agency meetings.

Councilor Johnson complimented staff for a great transit celebration yesterday and especially thanked John Williams, Margaret Yochem, and Mark Adcock.

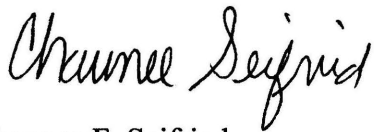
Mayor Prince announced that the buses would officially start running on Sunday, September 1, with the dial-a-ride program. The next day was the Labor Day holiday, September 2, in which they would not be running, so the first fully operational day would be on Tuesday, September 3. There were bus schedules at City Hall. Joyce Peters also announced that the current bus schedule and routes were on the City web page. The Mayor added that there had been a broad range of citizens to help set up the routes.

### **ACTION REVIEW:**

1. Approving the consent agenda.
2. Approving Ord. 1104 to come up on second reading on September 4, 2002.
3. Forwarding a recommendation for approval to OLCC for the liquor license for Safeway, Inc.
4. Approving the Raper request for a Hardship Permit.
5. Approving the request for City water service connection from Dutch Vista Road Homeowners.
6. Accepting the Findings, Conclusion, and Final Order for Tofte ANN 02-01.
7. Setting a joint Council/Planning Commission workshop for October 2, 2002 to discuss park acquisition issues.
8. Approving Martin request for street closure for a block party on August 25, 2002.
9. Approving parking restriction request for Wait Park remembrance event on September 3, 2002.
10. Approving Res. 808 with accompanying ballot language and explanatory statement..

There was no Executive Session.

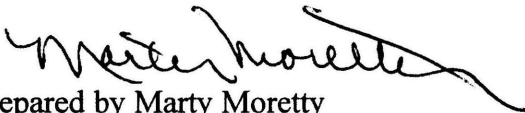
Mayor Prince adjourned the regular Council meeting at 9:26 p.m.



Chaunee F. Seifried  
City Recorder pro tem



Terry L Prince  
Mayor



Prepared by Marty Moretty  
and Susan Wood  
Office Specialists

**BEFORE THE CITY COUNCIL  
OF THE  
CITY OF CANBY**

<b>A REQUEST TO ANNEX TWO</b>	)	<b>FINDINGS, CONCLUSIONS &amp; ORDER</b>
<b>TAXLOTS TOTALING 49 ACRES</b>	)	<b>ANN 02-01</b>
<b>OF LAND INTO THE CITY OF</b>	)	<b>(Renaissance Homes)</b>
<b>CANBY</b>	)	

**NATURE OF APPLICATION**

The applicants are seeking to annex two taxlots totaling 49 acres into the City of Canby. Both tax lots are currently vacant. If annexed, the applicant intends to build single family homes in several phases as well as dedicate several parks.

**HEARINGS**

The City Council held a public hearing and considered this application at its meeting of August 7, 2002.

**CRITERIA AND STANDARDS**

If the City Council approves the application, it forwards its recommendation to the voters of Canby as a ballot measure where a final decision is reached during a general election.

Section 16.84.040 of the Canby Municipal Code states that when reviewing a proposed annexation, the City Council shall give ample consideration to the following:

1. Annexation shall be in keeping with prioritization categories, as designated on the adopted maps showing growth phasing (Urban Growth Element of the Comprehensive Plan). Areas designated as Type "A" urbanization lands shall be annexed prior to those areas shown as Type "B", etc. Annexation which is not in keeping with the phased growth concept shall only be permitted when the following findings are made:
  - a. Appropriateness of the annexation in terms of timing for city growth and development;
  - b. There will be some special benefit to the city overall as a result of the annexation which would not occur if the phased growth pattern was followed;
  - c. The annexation will result in no adverse impacts on the city's planned provision of public facilities and services.The burden of proving the appropriateness of the annexation is greatest for



- those proposals which are least in keeping with the phased growth concept;
2. Analysis of the "need" for additional property within the city limits shall be provided.
  3. Smaller non-farm land shall be considered a priority for annexation over larger farm land;
  4. Access shall be adequate to the site;
  5. Adequate public facilities and services shall be available to service the potential (or proposed) development;
  6. Compliance with other applicable city ordinances or policies;
  7. Compliance of the application with the applicable sections of Oregon Revised Statutes Chapter 222. (In other words, a triple majority type application must contain proof that a triple majority does, in fact, exist, etc.);
  8. Risk of natural hazards which might be expected to occur on the subject property shall be identified;
  9. Urbanization of the subject property shall not have a significant adverse effect on specially designated open space, scenic, historic or natural resource areas;
  10. Economic impacts which are likely to result from the annexation shall be evaluated in light of the social and physical impacts. The overall impact which is likely to result from the annexation and development shall not have a significant adverse effect on the economic, social and physical environment of the community, as a whole.

## **FINDINGS AND REASONS**

The City Council deliberated on all input presented at the August 7, 2002 meeting, incorporated the July 31, 2002 staff report, and considered the Planning Commission deliberations and recommendations. The City Council rejected the July 22<sup>nd</sup> Planning Commission findings as presented in the July 31, 2002 staff report for the following reasons:

1. With respect to approval criteria #1, the land is designated as a mix of Priority "A" (approximately 4.5 acres), "B" (approximately 0.5 acres), and "C" land with the majority of land being designated as Priority "C" (approximately 44 acres) for annexation. The Council found that: 1) the annexation is not appropriate in terms of the timing for city growth and development; 2) the applicants' proposal to dedicate 2 acres of land and additional property along the top of the bluff of the Molalla River for openspace and park land, to rezone seven acres to Medium Density Residential (R-1.5), and to gradually phase construction to minimize impacts on the School District does not provide a special benefit to the City overall which would not occur if the phased growth concept was followed; and 3) the annexation will result in adverse impacts on the city's planned provision of public facilities and services, specifically with regards to overcrowding of schools, additional burdening of the intersection of SE Township Road and S Ivy Street, and concerns over the construction of additional roads when considering the number of existing streets with a poor to failing pavement condition and a lack of funds for long-

term City street maintenance.

2. With respect to approval criteria #2, the Council found that the current approximate 2-year buildable land supply within City limits is sufficient at this time and a need for additional land has not been demonstrated.
3. With respect to approval criteria #3, the Council found that the proposed 49 acres is "larger" farm land and therefore should not be prioritized for annexation.
4. With respect to approval criteria #5, the Council found that this annexation would overburden the Canby School District by causing local elementary schools to exceed their capacity and require the addition of modular classrooms. Therefore, adequate public facilities and services do not exist to serve the proposed development.

### **CONCLUSION**

The City Council of the City of Canby concludes that, based on evidence presented in the July 31, 2002 staff report, evidence presented at the public hearing and Council deliberations at the August 7, 2002 public hearing:

1. The land is designated as a mix of Priority "A", "B", and "C" land with the majority of land being designated as Priority "C" for annexation. The annexation does not meet the burden of proving the appropriateness of annexation outside of the phased growth scenario.
2. The approximate buildable land supply of 2 years presently within the City is considered sufficient and a need for additional land has not been demonstrated.
3. The property is larger farm land, and therefore should not be prioritized for annexation.
4. Access is adequate to the site.
5. The City Council determined that the School District would be overburdened by annexation and development of the property.
6. The annexation proposal is in compliance with other applicable City ordinances or policies.
7. The annexation proposal complies with all applicable sections of Oregon Revised Statutes.
8. No natural hazards have been identified on the site.
9. The effect of urbanization of the subject property to designated open space, scenic, historic or natural resource areas is limited, in that the open space designation and requirements as found in the Parks Master Plan will be adhered to.
10. No adverse economic impacts are likely to result from the annexation of the subject property.

### **ORDER**

**IT IS ORDERED BY THE CITY COUNCIL** of the City of Canby that ANN 02-01, a request to annex approximately 49 acres into city limits is **DENIED**.

**I CERTIFY THAT THIS ORDER of DENIAL of ANN 02-01 was presented to and APPROVED by the City Council of the City of Canby.**

DATED this 21st day of August, 2002.



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Terry L Prince, Mayor  
City of Canby



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Clint Chiavarini  
Associate Planner

**ATTEST:**

**ORAL DECISION - August 7, 2002**

AYES: Prince, Strong, Daniels, Tallman

NOES: Carson, Blackwell, Johnson

ABSTAIN: None

ABSENT: None

**WRITTEN FINDINGS - August 21, 2002**

AYES: Prince, Strong, Daniels, Tallman

NOES: Carson, Blackwell, Johnson

ABSTAIN: None

ABSENT: None