

CANBY CITY COUNCIL
WORKSHOP
FEBRUARY 6, 2002

Present: Mayor Terry Prince, Council members Walt Daniels, Shirley Strong, Randy Carson, and Teresa Blackwell, Planning Commissioners Jean Tallman, Randy Tessman, and Paul Thalhoffer, Parks and Recreation Advisory Board Member Rick Maier, City Administrator Mark Adcock, Library and Parks Director Beth Saul, Community Development and Planning Director John Williams, Project Planner Matilda Deas, Marty Moretty, Carolyn Ann Carson Graybill, and David Howell.

Mayor Prince called the session to order at 6:35 p.m. A light dinner was served.

The Council met in joint workshop session with the Planning Commission for a staff presentation of the Parks Master Plan and Acquisition Plan.

Mayor Prince adjourned the session at 7:25 p.m.

CANBY CITY COUNCIL
REGULAR SESSION
FEBRUARY 6, 2002

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

Also present: City Administrator Mark Adcock, Community Development and Planning Director John Williams, Marty Moretty, Library and Parks Director Beth Saul, Leonard Walker, Curtis and Lila Gottman, Lt. Greg Kroeplin, Sgt. Brian Howarth, Finance Director Chaunee Seifried, Finance Operations Manager Laura Dornbusch, Court Supervisor Kathy Mashek, Irene Breshears, Lisa-Marie Pendley, James Taylor, Ernie Graham, Murray Taylor, Bob Trappe, Jamie Johnk, Dan Stoller, Carolyn Anne Carson Graybill, Craig Finden, Jean Tallman, Leonard Walker, David Howell, Steven Amick, Tom Scott, Jeff Scott, Wayne Scott, Deborah Sommer, and Donald Staehley.

Mayor Prince called the regular session to order at 7:37 p.m., followed by the opening ceremonies and a moment of silence.

CITIZEN INPUT ON NON-AGENDA ITEMS: None.

PROCLAMATION: Iwo Jima Remembrance Day - Mayor Prince read the proclamation as members of the Canby-Aurora Veterans of Foreign Wars Post and Auxiliary Post 6057, and Commander Murray Taylor were on hand to accept. The annual rededication ceremony will be held on Saturday, February 16, 2002 at 10:00 a.m. at the Canby Adult Center around the flagpole

which was donated and erected in years past by the VFW in remembrance of those who took part in this battle. This is the only memorial in the City of Canby to be dedicated to our WWII veterans. Auxiliary members Irene Breshears and Lisa-Marie Pendley presented invitations and patriotic poppy pins to the Mayor and Council.

CONSENT AGENDA: **Councilor Strong moved to approve the Minutes of the regular session of January 16, 2002, Accounts Payable of \$268,980.55, and Amendment to City/Canby Adult Center Agreement with Clackamas County for FY 2001-2002. Motion was seconded by Councilor Blackwell and passed 4-0.

Mayor Prince announced that Councilor Johnson had a ruptured appendix and was recuperating in the hospital and our thoughts were with him for a good recovery.

PUBLIC HEARINGS:

Ann 01-02, Annexation of three tax lots totaling 45.42 acres -

Mayor Prince opened the public hearing at 7:45 p.m.

Mayor Prince read the public hearing format.

The applicant, Canby School District, was represented by Deborah Sommer and Donald Stachley. There were no proponents or opponents on hand who wished to speak.

CONFLICT OF INTEREST:

Councilor Daniels - No conflict, plan to participate.

Mayor Prince - No conflict, plan to participate.

Councilor Strong - No conflict, plan to participate.

Councilor Carson - No conflict, plan to participate.

Councilor Blackwell - No conflict, plan to participate.

EX'PARTE CONTACT:

Councilor Daniels - Driven by site, drew no conclusions.

Mayor Prince - Driven by site, drew no conclusions.

Councilor Strong - Drew no conclusions.

Councilor Carson, Driven by site, drew no conclusions.

Councilor Blackwell - Drew no conclusions.

STAFF REPORT: Community Development and Planning Director John Williams stated that the applicant, Canby School District, is seeking to annex three tax lots (Tax Lots 900, 1100, and 1200 of Tax Map 4-1E-03) totaling 45.42 acres into the City of Canby for the purpose of constructing a new middle school and related facilities. If approved by the Council, the intention would be to place the annexation on the May 2002 ballot. The tax lots are located on the south side of Township Road and the properties are currently vacant. The Planning Commission voted 5-0 to

recommend approval of the application and he felt that the first three criteria they considered were the most critical.

The first criteria has to do with the annexation priority system with "A and B" lands to be annexed in first, and these properties are priority "C". The code requires that there be some special benefit demonstrated and although the land is designated as "C", use of the property as a school should constitute a special benefit to the City and thus justify annexation.

The second criteria is the analysis of the "need" for additional property and because it is a school property, there is "land for school needs" incorporated into the buildable lands study. The typical issue with this criteria has to do with the supply of residential land and it wasn't felt to be a factor in this case. The applicant has purchased one of the properties and has an option on the two additional properties, so all of the land is fully expected to be for public purposes.

The third criteria deals with smaller non-farm land being considered a priority over larger farm land. The School District does need the large parcels to be consolidated in order to build the facility as they intend, so the small properties would not suit their purposes. This seems to be an overriding justification for this criteria. They do intend to maintain agriculture activity on the property through the FFA program until a school is built.

The other ten criteria were fairly straight-forward and the recommendation from the Planning Commission had the addition of six understandings, most of which have been seen before regarding the zoning and possible conditions on an eventual application. Mr. Williams pointed out the sixth and new one states that costs associated with the election not covered by the initial deposit shall be the responsibility of the applicant/property owner. At this time, an applicant is required to make an \$1,800 deposit towards election costs in addition to the \$1,500 annexation application fee and the County costs have been rising. In the last annexation election, the bill back from the County was over \$4,000 for the one applicant so for small property owners, the annexation process is getting to be quite costly. It depends what other things are on the ballot from the rest of the County as to how many people will be sharing the incurred costs, and in our last annexation case, it was an off-year election and only three items were on the ballot creating the high cost. Mr. Williams said that they have been letting the applicants know that they consider one of the standard elections such as the general election in November or even the primary in May as the close second for a better chance of keeping costs down.

He pointed this provision out so that the applicant/property owner is aware that they are responsible for the full cost of expense incurred for the election process passed on by the County and shall be payable upon receipt of an itemized billing from the City of Canby.

There was nothing unusual brought up by any of the utility providers so concluded his staff report and asked for questions from the Council.

Councilor Daniels said that there were options on two of the pieces of property and if they don't exercise those before the election, what happens to those properties?

Mr. Williams answered that the option was after the annexation date so once the property is in, they will still have the option. So theoretically, if the annexation passes and the School District doesn't take advantage of the option, the property would be land in the City zoned "residential".

PUBLIC TESTIMONY:

APPLICANT: Don Staehley, Chief Financial Officer for the School District, gave some history on how they came about obtaining this property. As a result of the May 2000 election, the voters approved a bond levy and part of that levy was \$2 million towards the purchase of land. There was also money obtained when the School District sold land on N. Holly and combined those funds resulting the ability to purchase these parcels before them to night requesting annexation. The land was selected after a significant process of community members looking at sixteen parcels using twenty requirements and criteria to judge and compare. The field was narrowed to two and then public hearings were held. Out of all the comments that were made, there was only one comment that had questions and would have preferred the other property, all the rest were positive and preferred the property they have since selected.

At this time, the School District owns approximately thirty-eight acres in this area with the option to purchase the other two parcels by December 2004. Two of the parcels are contiguous with Township Road which they need in order to have access and it would give them the ability to plan the property to prevent any safety issues getting onto the road. The properties wrap around Trost to the north and east so it would also allow them to plan the joint properties correctly similar to Eccles/ Knight Schools and Lee/Ackerman sharing land. Costs can be reduced by sharing services and reducing maintenance costs.

The third parcel is to the south and is a five acre parcel; the intention of the Board is to purchase this property and work with the community, Council, and other patrons of the District. Last year Trost had a student population of 659 and at that time, the kindergarten students were housed at Lee Campus. In addition, Ackerman Middle School which houses the sixth through eighth grade students has a student population of 1150-1200. Prior to eight years ago, Lee Campus was an elementary school when Trost became a K-5 school; all these schools are at capacity. A boundary adjustment was made and with the transfer of attendance boundaries from Trost to Carus and Trost to 91 School, 159 students were transferred to those outlying schools thereby maximizing space available in the schools and maximize efficiency. However, the growth in that area continues and now, even after transferring 159 students, Trost is at 559 students. There are projections that within four years there will be 630 students; the capacity for that building is 575.

This is one of the steps in assuring that there will be adequate space available. They have the responsibility to provide an education and a place for all students.

School District Superintendent Deborah Sommer stated that the annexation of this property is part of a four-part process of long range facility planning. The plan when she came three years ago was to try to deal with burgeoning enrollment and the first effort was to pass the bond for \$30.9 million. Following the bond, they have since purchased the land. The plan from the onset was to purchase land for a new middle school and the demographics continued to demonstrate the need. But since her arrival, she has had conversation to consider other options. Certainly, a middle

school is needed since Ackerman is overcapacity with 1100 students, but they continue to have elementary overcrowding. Part of the long-range planning was to reopen Lee as a K-5 school and explore something different on the new site rather than just a standard sixth through eighth grade school. There has been discussion about maybe building a three-part campus that would have a kindergarten through fifth, sixth through eighth, and nine through twelve building with shared facilities; perhaps a magnet school with some program options not currently available to students in our school district; build a school and program that offered non-traditional options such as year round or operated 24 hour/7 day. Whatever option, it would require extensive discussion with the community so, the first step is to get the land, the second step is to make the internal boundary adjustments to the short term, and the third step is to convene a citizen task force to look at the program and grade configuration issues. Given the size of the piece of property, Ms. Sommer has had several people ask as to whether a new high school should be built, but she senses that they are not yet ready to take that step; possibly a magnet program that had a high school component could be built. Students could then still participate in extra curricular programs at Canby High School and still be *Cougars* without creating that dual high school competition. So at this time, she does not know the configuration or program focus; there will have to be a citizens' advisory to help with that. That effort was initially planned for this Spring and when the demographer gave her annual report to them in January of 2002, her figures indicated that there was still a problem that needs to be addressed. In light of the budget concerns, a budget task force was convened instead, and they are awaiting the reconvening of the special session of the State legislature which will most likely result in a significant budget reduction mode for next year and need to take care of those issues before they can get back to planning for a new school.

At this point, she is anticipating having a citizens' task force this fall to look at grade level, program focus, and which type of school to put at new location. After that process, to survey the community to find out what support there would be for various models because ultimately, the citizens would need to support this through another bond. The plan would be to go for a second bond in 2004 and open the new facility in 2006. The School District will try to honor that time line but it means that this fall, things will have to get going.

OPPONENTS: None.

PROPOSERS: None.

REBUTTAL: None.

Mayor Prince closed the public hearing at 8:07 p.m.

DISCUSSION:

Councilor Carson said that looking at the criteria, this definitely fell into Category "C" but considering this was a school, there were not any large parcels of "A" and "B" inside the City to accommodate a project this large. The property is not being used for farmland other than the FFA's usage; it meets all the other criteria.

Councilor Blackwell agreed that this annexation created a special benefit since it was the school and wouldn't have any problem moving forward to a vote of the people.

****Councilor Daniels moved to approve ANN 01-02, a request to annex three tax lots totaling 45.42 acres into the City of Canby city limits, and direct staff to return with written findings and ballot language at the next regular meeting of the City Council on February 20, 2002. Motion was seconded by Councilor Strong and passed 4-0.**

Ann 01-03, Annexation of 1.97 acres at 433 SW 13th Avenue -

Mayor Prince opened the public hearing at 8:09 p.m. and dispensed with the reading the public hearing format.

The applicant James Stanley Harbison was not present and there were no proponents or opponents present at this time who wished to speak.

STAFF REPORT: Planning Director John Williams said that the Planing Commission voted 5-0 to accept the annexation which if approved by Council, would be the second to go before the voters on the May 21, 2002 ballot. The application is to annex one tax lot of 1.97 acres (tax lot 1200 of tax map 4-1E-04CA) located on the southwest corner of S. Fir and 13th Avenue directly across from H.O.P.E. Village. At present, there is a single family residence surrounded on three sides by city limits and if annexed, there would probably be about nine single family lots and the applicant is interested in proceeding that way.

Mr. Williams said that the criteria were the same but the Planning Commission had used a slightly different analysis because the parcel is smaller and is dedicated as "A" in the annexation priority system so no special benefit had to be demonstrated. Referring to the criteria for the analysis for the need for additional property criteria, this property is about a month to six week's supply and was not included in the staff report but he had the information ready to pass to the Council for their general information indicating the amount of buildable land. Because this only added about a month's worth of supply and because it was the only one on the ballot, the Planning Commission found that the "need" issue was addressed satisfactorily.

In terms of the smaller non-farmland criteria, it was felt that this term was met because it was under two acres. The same recommendations were proposed, including the new one about the cost of the annexation being borne by the applicant.

He referred to a supplemental memo from Associate Planner Clint Chiviarini and an attached e-mail received after the Planning Commission hearing from Mr. Todd Snelson who raised concerns about the future development of the property and the possible design of buildings should it be annexed. In response to Mr. Snelson, staff told him that concerns such as his were best addressed during future subdivision hearings since we typically do not place development conditions on annexations. Mr. Snelson was also invited to join the residential design task force which starts their first meeting next week, Tuesday February 12th at 7:00 p.m. at the Adult Center. The comments that he made are things that we don't have any control over as the process stands now, so at next week's meeting they will be looking at whether citizens of Canby would like to have some additional control over what residential development looks like. Staff does not recommend any changes in the Planning Commission's recommendation as presented and to

direct staff to come back with ballot language.

APPLICANT: Not present.

OPPONENTS: None.

PROPONENTS: None.

REBUTTAL: None.

Mayor Prince closed the public hearing at 8:13 p.m.

DISCUSSION:

Councilor Carson stated that it was Priority "A" land and the infrastructure was already in place since it was next to H.O.P.E. Village. With the school property that Council just approved tonight and if approved by the voters, it would remove 45.42 acres from the residential zoning and only gaining 1.97 acres in this case. He would be willing to vote for this request to annex.

****Councilor Daniels moved to approve ANN 01-03, a request to annex 1.97 acres at 433 SW 13th Avenue into the City of Canby city limits, and direct staff to return with written findings and ballot language at the next regular meeting of the City Council of February 20, 2002. Motion was seconded by Councilor Strong and passed 4-0.**

COMMUNICATIONS: A letter from Barbara Kirwan with First Student requested a street closure on Saturday, April 20, 2002 from 6:00am-3:00pm to use SW 4th Avenue from S. Douglas to S. Birch for a school bus Road-e-o to develop driving skills for their drivers. They were originally scheduled to use the Canby High School parking lot but were informed that with the construction going on at the high school, they would not be allowed to use their back parking lot and for this reason, were requesting the closure of the street to accommodate the buses and their maneuvers.

Councilor Daniels asked if this closure would allow access to the residents on S. Douglas and City Administrator Adcock said that the Police Department and other departments would be coordinating the event with First Student.

Councilor Strong was concerned that this road closure would cut off the back way to the shopping center used by the residents in this area. This event is scheduled on a Saturday which is a day that a lot of people would be traveling that way.

Councilor Daniels said there was another route down 2nd Avenue they could go down. Ms. Strong said that a lot of cars didn't like to use 2nd Avenue because of the truck traffic and the location of Pacific Pride service station that had trucks going in and out.

Mayor Prince agreed with her concerns but felt that it was for a good cause. Councilor Daniels said that this change was necessary because the construction at the school had prevented First Student to have access to the back parking lot. This is also reducing the spaces available for student parking.

Councilor Blackwell understood Ms. Strong's concerns but would recommend the closure.

****There was Council consensus was to allow the street closure and staff would notify the appropriate departments.**

Hometown Hero Award application of nomination has been received, reported Mr. Adcock. He asked Council to please look over and it can be followed up on the February 20, 2002 meeting.

NEW BUSINESS: Discussion re: City of Canby Personnel Policies - City Administrator Mark Adcock said that he realized that when he came to Canby there were no written policies for personnel or employment practices and felt that it was necessary for a town this size at this time. Staff has developed some personnel policies and it is his wish to bring this document back for formal approval by the Council in the way of a resolution at the next meeting and any questions, please call him so that he could answer or address any concerns they would have.

Mayor Prince stated that the sixty-three pages created a very concise and clear document. He appreciated all the effort that had gone into this.

Councilor Carson felt it was very comprehensive and thanked all those who had a part in creating this.

Mr. Adcock said that copies had been sent to the bargaining units as a courtesy.

Intergovernmental Agreement between Canby Police Department and Clackamas County re: Criminal Forfeitures - City Administrator Adcock stated that Chief Ken Pagano had originally planned to present this but he is recuperating at home from orthopedic surgery. Lt. Greg Kroeplin was on hand to answer any questions Council might have on this item. This agreement has been looked at by the City Attorney and it basically formalizes the relationship between the City of Canby Police Department and Clackamas County on criminal forfeiture proceedings.

Mayor Prince asked Lt. Kroeplin for an overview.

Lt. Kroeplin said it would build consistency and spells out the jurisdictions very clearly. The County District Attorney would act as forfeiture counsel for the City for criminal forfeitures.

City Attorney John Kelley noted that this was criminal forfeiture only and not civil forfeiture. The City would still maintain the civil forfeitures and is not part of this tri-county consolidation effort.

****Councilor Strong moved to approve the Intergovernmental Agreement between the City of Canby Police Department and Clackamas County regarding Criminal Forfeiture. Motion was seconded by Councilor Carson and passed 4-0.**

UNFINISHED BUSINESS: Discussion re: Council Vacancy - As a member of the subcommittee along with Councilor Johnson and Mayor Prince, Councilor Carson stated that there were twelve

good candidates and after interviews and discussion, they unanimously selected Jean Tallman. He appreciated the new ideas brought forth by the candidates and they intend to compile and introduce those ideas to Council at a later date. Mrs. Tallman is currently a member of the Planning Commission. Her strengths she will bring are "enormous" as she has knowledge of planning issues and process, background in budget, and in the past, has even served as a councilor in California.

****Councilor Carson moved to appoint Jena Tallman to the Canby City Council to fill the open seat created by resignation of Corey Parks for a term to end December 31, 2002. Motion was seconded by Councilor Strong.**

Mayor Prince said that he felt very privileged that Council appointed him to this selection committee and a lot of good ideas came out of these interviews, as well as good people coming forward to apply. This was the most applicants that have ever applied that he could remember. He appreciated Jean coming forward and knew that she would "hit the ground running".

Councilor Carson said that there would be the swearing-in ceremony on February 20, 2002.

****Motion passed 4-0.**

Discussion re: Street Utility Fee - Administrator Adcock reviewed that the Budget Committee recommended as a Council that they direct staff to develop a fee for implementation in the next fiscal year. The Council then directed staff to prepare a program of work about how the transportation utility fee would work. One of the key components was to include public information and education.

Community Development Director John Williams said that staff has invested a lot of time in understanding the legal and procedural issues around street utility fees. Canby would not be the first to adopt them; he thought there were around ten in Oregon now. There are some that are a lot "tighter" than others, ones like that take more time to develop. The City of Medford was recently challenged in a lawsuit and the key question of street utility fees is are they taxes or fees? No one disputes that cities have the ability to create fees for things like water and sewer service but taxes are in a different area according to Oregon law. We are subject to limitations on the amount of taxes we can levy and certainly an appearance issue as well.

There are two things that are essential in creating a street utility fee, broad support in the community and educating the public through public involvement. He wanted to check in with the Council on going ahead with a public involvement process. He was also aware that the Council wanted to have the Planning Commission involved in the process as well. He was thinking along the lines of several neighborhood meetings and could run some ideas past the Planning Commission when they met next Monday. By code, they are officially the citizen involvement body. Mr. Williams wanted to know what all the issues surrounding the fees were before he went to the public.

Staff has worked with other jurisdictions and has a good idea of what a reasonable resolution

should look like. The key thing is that the fee is based on the amount of usage. A system needs to be developed to compromise actual metering or a usage fee and a flat fee. The conclusion from legal minds is that the flat fee is not defensible. In order to get to an accurate understanding of what the usage is, you have to know what is out there. For example, different rates of usage can be figured on single family residences, apartments, etc, but it is more difficult to figure on businesses. Right now, we don't even know exactly how many businesses there are in Canby let alone how many square feet they occupy and what types of businesses; this type of data needs to be developed in order to have a good, accurate usage fee.

He asked if Council would like him to proceed and set up a series of public meetings before he comes to them with things other cities have done?

Councilor Daniels thought that the public input would be important before they proceeded any further. He thought that knowledge could be gained from other cities and Canby could set something up independently rather than being a part of a County-wide effort.

Mr. Williams said that the Clackamas County Coordinating Committee has directed county staff to hire a consultant to look into creating a county-wide transportation utility fee but he wasn't sure how much success they would have. After conferring with some potential consultants and they determined what the level of information was in the cities, they were not going to bid on the job. The County gave City staff three scenarios for budgets: \$50,000, \$75,000, and \$100,000 for spending on this study and the one consultants that John spoke with last week said that with the level of information that was out there, he wouldn't be able to do the project for less than \$500,00. Every other city is in the same boat that we are - they don't have an inventory to know exactly what is out there in their city. He doesn't know what kind of luck the County will have in recruiting a consultant; the responses for the RFP should be coming back by early next week.

Based on the cost that the County has projected, the cost to the City of Canby based on population would be about \$2,000-\$3,000. Staff thinks they can do a good job independently based on what other cities have already done. Although it would be very time-consuming, there could be an advantage because staff could control the process, the time line, and the outcome. If we become involved in the County-wide effort, it would be very difficult to not only gather the data but also discussions in the end about cost allocation.

Councilor Blackwell said several other jurisdictions, Sandy, Oregon City, and Gladstone, are going ahead with their own process. There was a concern because 56% of Clackamas County is unincorporated and if there were a County-wide utility fee, where would the money go? Most of the cities wanted the fees that were collected in their jurisdiction to stay locally instead of being put into a long list of county projects that may or may not happen.

Mayor Prince said he had also heard that other cities are reluctant to join with the County feeling that they can get more for their money at less cost by going out for it themselves.

Councilor Blackwell added that the committee's feelings were that cities might have an easier time presenting them to the County as a whole, rather than individually.

Mayor Prince stated that in Tualatin, they tailored their plan to their own needs and it gained support for that reason.

Councilor Carson said at the Clackamas Cities Dinner the concern of the cities was who was going to actually receive the funding if we have to put out "x" number of dollars, will it come back or what part?

Mr. Williams said as a counter argument that the County was interested in getting money from the cities whose users travel the rural roads. For example, Knights Bridge Road - what percentage of usage is by Canby residents? If we collect our own utility fee and the County doesn't get Canby citizens included, then they feel like it's the ten people who live along that road who have to pay for the share of the maintenance rather than the 13,000 Canby residents who actually use the road. So there are some regional issues that need to be looked at.

Mayor Prince commented that's why the County gets a larger percentage of the gas tax money and the cities don't.

Councilor Blackwell said that areas like Lake Oswego and the Clackamas Town Center are areas that we are responsible for a portion of those roads since we use them to shop. She would rather support a local fee so that our community would better benefit.

Mr. Williams is proposing a public involvement process starting in March. led by staff and the Planning Commission, to talk about the needs of the road system, and discuss the street utility fee as a possibility of a solution and Council concurred with that process.

ORDINANCES & RESOLUTIONS:

Ordinance 1090 -

Administrator Adcock said that several years ago the City moved away from the old Springbrook software due to unreliability and now a Windows-based Court Financial module by our current Caselle Software system had been released for marketing. At this time, our Court's old Springbrook system is failing. In the current year's budget, a specific line item of \$18,000 had been budgeted for the purchase of the Caselle Court software and now is a good time to transition.

Councilor Daniels asked if this software has just been released, would we be guinea pigs?

Court Supervisor Kathy Mashek said that three other courts in Oregon were using the Windows-based system. Caselle has had a DOS-based program for a long time but it has only been until fairly recently that they created the Windows-based system which our City was interested in obtaining. Mayor Prince asked if she had more confidence in this system than in the current system and she said she did. The positives of this system were that presently they are having to do several procedures manually because Springbrook doesn't have the capabilities to do what the court needs. Cash processing is presently having to be done in Springbrook, manually, and in QuatroPro spreadsheets. Docketing has to be done weekly, and the system is starting to lock up

and throw them out; corrections are being done in the current system but by the end of the day they have disappeared.

Councilor Carson asked about the training support and Kathy responded that the three Court employees would travel to Caselle and is included in the purchase price. There are line items in the current budget that include the travel and other related expenses. Ms. Mashek said that telephone support was available directly to them with a maximum two hour response time.

****Councilor Daniels moved to adopt Ordinance 1090, AN ORDINANCE AUTHORIZING THE MAYOR AND CITY RECORDER TO EXECUTE A CONTRACT WITH CASELLE, INC. OF SPANISH FORK, UTAH FOR COURT MANAGEMENT SOFTWARE AND SUPPORT SERVICES; AND DECLARING AN EMERGENCY to come up for second reading on February 20, 2002. Motion was seconded by Councilor Carson and passed 4-0.**

Ordinance 1091 -

City Administrator Adcock reviewed from the last Council meeting about the prevailing interest rate regarding local improvement districts. Out of that discussion, the City Attorney recommended that the Council consider amending the ordinance and the Municipal Code where the wording says that the Council shall assess a 10% interest rate on property owners that choose to make installment payments back to the City. The ordinance before them tonight allows the Council to exercise their own discretion in determining the rate in accordance with Oregon law.

Finance Operations Manager Laura Dornbusch said tonight's decision would allow the City to set the rate by the project rather than a flat 10%. This refers only to the property owners who are electing to make an installment method of payment. The first of three parts deals with the interfund loans for the parks and streets and how they are going to pay for their portion of the LID upgrade which will be discussed on March 6th; the interim interest financing for this LID project will come to Council on February 20th on first reading; and the portion tonight refers only to the installment interest piece of the project. Currently, when property owners elect installment payments it is a flat 10%; the ordinance tonight would allow the Council to charge interest at a rate determined by the Council and which would give the flexibility to assess whatever interest rate is appropriate.

Attorney Kelley pointed out for clarification that the language that he chose paraphrases the language that is in the LID ordinance in the State statute (ORS 223.230).

****Councilor Blackwell moved to adopt Ordinance 1091, AN ORDINANCE AMENDING CANBY MUNICIPAL CODE SECTION 4.04.110 REGARDING INTEREST CHARGED TO PROPERTY OWNERS OF PROPERTY BENEFITTED BY PUBLIC IMPROVEMENTS; AND DECLARING AN EMERGENCY to come up for second reading on February 20, 2002. Motion was seconded by Councilor Strong and passed 4-0.**

Resolution 771 -

Community Development and Planning Director John Williams reviewed that staff had met with Council in December 2001 in workshop session for discussion of the building department fees and Council asked that this come back after public input at a meeting held on January 23rd and with a more detailed proposal of specific fees for the various parts of the building code.

Mr. Williams said they sent out about 150 notices and seven people attended the meeting with a few people speaking.

He also said that according to state law on how to adopt building code and fee changes, there needs to be a public hearing for public testimony tonight before a decision is made. He summarized the prior public testimony and that most of the comments had been about the State of Oregon's requirement that the City create a "rainy day" fund for building departments so they can survive through lean years. Part of the whole evolution of building departments is that they are to be completely self-supporting with fees. The concern is that if you are funding your building department entirely with fees that come in, what happens in the years where you don't get in enough building permits? So, the State is wanting to see funds created so that the department can survive at least with a minimal level of personnel through those periods. What staff has proposed, is to set aside about \$25,000 to \$50,000 per year in order to reach a goal of about \$207,000 in about four to eight years, depending on how much revenue comes in. Once the reserve fund is obtained, the fees would then be backed down so the fees would not be taken forever.

The comments from the public meeting were that the general public should pay for this "rainy day" fund rather than the permittees since services provided in the down period will not be related to today's applications. If builders are going to be charged for costs they generate, should they also pay for services they don't generate? Is it fair for them also to pay for services down the road that they won't actually be using?

As a proposed option, Mr. Williams stated that this fund could be backed out of the proposed fee increase, which amounts to 12% of the fee increase, but a reserve fund would have to be created so then the funds would have to come out of the general fund and set aside in a protected way. To go in this direction, the State would have to be renoticed with a new fee schedule and come back to Council with a revised proposal.

A more general comment at the public meeting was raised relating to the philosophy of fee increases. If we are raising fee revenue, it needs to be balanced with a decrease in the general revenue so the budget is maintained at a similar level or as prescribed by Measure 50.

One attendee stated that he had no problem with paying for costs caused by his application or with the City using the increased revenue to provide necessary services.

But, there wasn't a large group in attendance, so Mr. Williams wasn't sure what kind of cross-section of the community was taken that night. The notices were sent to those who had taken out permits over the last five years so those taking out one-time permits wouldn't necessarily be

interested. The detailed fee schedule was attached to the staff report.

Councilor Carson asked about the state mandated 12% "rainy day" fund and if all the building permit fees proposed had been moved up by that percentage, and Building Inspector Bob Godon said that it was included in all the fees.

PUBLIC TESTIMONY: Tom Scott residing at 2027 NE 19th Avenue, Canby, said he was a local builder and developer and didn't have a problem paying for services they use, but it's paying for services down the road that they won't use, referring to the 12% reserve fund. He complimented the city staff and the excellent job they do, but this will make Canby have the highest plan check fee and he is afraid that we will price ourselves out of the market - people won't be able to afford buying a house in Canby. The SDC charges have also substantially increased. Will there be any affordable housing in Canby? Ultimately, the increases get passed on to the homeowners.

Mayor Prince asked why the plan check fee was so high and Mr. Godon said that the plan check fee was a result of the recent Cost of Services Study that showed that the time spent in plan review is comparable to the time spent on inspections. The traditional fee had been set at 65% of the building permit, but the Cost of Service study showed it should be at 100%. The complexity of the buildings has increased a lot over the last several decades and as a result, plan review time has gone up because of energy requirements and other issues.

The plan check fee was the only fee at the top of the comparative study. Canby's building permit fee was the lowest and the mechanical fee was in the middle, so the fees averaged in the middle overall in the comparison study with other cities.

****Councilor Carson moved to adopt Resolution 771, A RESOLUTION ADOPTING FEES FOR THE CITY OF CANBY BUILDING DEPARTMENT. Motion was seconded by Councilor Daniels.**

Councilor Carson said that he understood where Mr. Scott was coming from, but the State is mandating this rainy day fund and we are still below overall a lot of other towns in the area. We need to recover a good portion of our costs, especially in the building department. At this time, we have no money to set aside for this.

****Motion passed 4-0.**

MANAGERS' REPORT: Beth Saul referred to *Canby Can Read* program started in Canby by Robin Adcock and said that there has been a move to try to buy books for these students. The Canby Public Library is taking donations of new or good-as-new used books starting next Wednesday, February 13-16, 2002 for this cause. Donations can also be made or order forms filled out and on Saturday the 16th, "celebrity" readers will be on hand for the final day.

CITIZEN INPUT: None.

COUNCILORS' ISSUES: Councilor Blackwell read a letter from the Canby Historical Society's President Kathleen Heynderickx thanking the City for their current funding and believing in their mission.

Councilor Carson announced about the Clackamas County meeting last Friday regarding regional industrial lands; John Williams was also in attendance. They were talking about the need to increase the availability of industrial land and at this time, there is not much industrial land available. The discussion was how to come up with a plan to use what is out there and how to increase the land needed for industrial areas. Over the next few months, they will be trying to finalize what they will do, to either develop more or maximize what they have.

Mayor Prince announced again about the Iwo Jima Flag Ceremony at Canby Adult Center, 10:00 a.m., on Saturday, February 16th.

ACTION REVIEW:

1. Approving the consent agenda.
2. Appointing Jean Tallman to fill the vacant Council seat and setting the Swearing-in Ceremony for the February 20, 2002 Council meeting.
3. Approving Ordinance 1090 for second reading on February 20, 2002.
4. Approving Ordinance 1091 for second reading on February 20, 2002.
5. Adopting Resolution 771.
6. Approved request by First Student for street closure for Road-e-o.
7. Approving Intergovernmental Agreement between Clackamas County and Canby Police Department re: Criminal Forfeitures.
8. Moving forward with meetings for public education and input on the proposed Street Utility Fee.
9. Approving annexations and directing staff to bring back written findings and ballot language for ANN 01-02 and ANN 01-03 on February 20, 2002 for the May 2, 2002 election.
10. Bringing back an ordinance adopting the City personnel policies on February 20, 2002.

****Councilor Strong moved to go into Executive Session under ORS 192.660 1(e) real property transaction. Motion was seconded by Councilor Carson and passed 4-0.**

Mayor Prince read the executive session format and recessed the regular session at 9:23 p.m.

Mayor Prince reconvened the regular session and immediately adjourned at 10:10 p.m.

EXECUTIVE SESSION
FEBRUARY 6, 2002

Present: Mayor Terry Prince, Councilors Walt Daniels, Shirley Strong, Randy Carson, and Teresa Blackwell, City Administrator Mark Adcock, City Attorney John Kelley, and David Howell.

Mayor Prince called the session to order at 9:30 p.m.

ORS 192.660 1(e) - The Council discussed real property transaction.

Mayor Prince adjourned the session at 10:05 p.m.



Chauncey F. Seifried
City Recorder pro-tem



Terry L. Prince
Mayor



Prepared by Marty Moretti
Office Specialist