

**CANBY CITY COUNCIL  
REGULAR MEETING MINUTES  
April 1, 2020**

**Due to COVID-19 Pandemic, the Mayor and City Councilors attended the meeting virtually. The public was asked to view the meeting live on CTV Channel 5 or on YouTube. Seating was available in the Council Chambers in compliance with the Governor's Executive Order regarding social distancing measures to be taken.**

**PRESIDING:** Mayor Brian Hodson.

**COUNCIL PRESENT:** Tim Dale, Greg Parker, Trygve Berge, Traci Hensley, Shawn Varwig, and Sarah Spoon.

**STAFF PRESENT:** Amanda Zeiber, Interim City Administrator; Joseph Lindsay, City Attorney; Jamie Stickel, Economic Development Director; and Melissa Bisset, City Recorder.

**OTHERS PRESENT:** No public attended.

**CALL TO ORDER:** Mayor Hodson called the Regular Meeting to order at 7:07 p.m.

**COMMUNICATIONS:** None

**CITIZEN INPUT & COMMUNITY ANNOUNCEMENTS:** It was publically noticed that Council would be attending the meeting virtually and as it was the first run of a virtual meeting, written comments and input on agenda items were accepted until 5:00 pm on Tuesday March 31<sup>st</sup>. The City received two letters from the Canby Fire District related to the Strategic Investment Zone and Columbia Distributing's application. Both letters were distributed to the City Council and saved for the record in the Council Packet Attachments. There were no public comments or input made during the meeting.

**MAYOR'S BUSINESS:** Mayor Hodson shared that there is a new sense of reality because of the COVID-19 Pandemic. He stated that he, the Interim City Administrator, School Superintendent, Chamber of Commerce Director, the Fire Chief and the Police Chief held a community briefing that was streamed live on Facebook. He complemented the Economic Development Director and Chamber of Commerce Director on their work for local businesses. Mayor Hodson stated there was a lot of good going on in the community. He encouraged the community to stay positive.

## **COUNCILOR COMMENTS & LIAISON REPORTS:**

Council President Dale stated that Canby Utility is operating similarly to the City with offices being closed and essential services still being provided and work was being conducted by email and phone where possible.

Councilor Parker stated that that the Clackamas County Fair Board received an update of cancelations of events and they needed to make to stay in compliance with the social distancing orders. The Board will be looking at what it means financially.

Councilor Hensley shared that the next Suicide Prevention Task Force meeting would take place using a virtual meeting platform.

Mayor Hodson noted that the way business is conducted may look different in the future as a result of the current experience.

**CONSENT AGENDA: \*\*Councilor Dale moved to adopt the minutes of the March 4, 2020 City Council Work Session and Regular Meeting and the appointment of Melody Thompson to the Canby Utility Board. Motion was seconded by Councilor Hensley and passed 6-0.**

## **RESOLUTIONS:**

Resolution 1330 – A Resolution authorizing Columbia Distributing’s Strategic Investment Zone application and authorizing the City Administrator to enter into a contract with Columbia Distributing.

City Attorney Joe Lindsay stated that the Resolution had been brought to the Council before and there had been a Work Session on the topic. He noted that the wording of the caption of the Resolution may be confusing because the action that the City needed to take was deciding whether or not the City wants to enter into the Contract that is attached to Resolution No. 1330. It was an agreement between Clackamas County, the City, and Columbia Distributing. He explained that if Resolution No. 1330 was passed it allowed for the County to present Columbia Distributing’s application to Business Oregon. The process was contained in State Statute. He stated that the agreement about how the Community Service Fee would be enforced needs to be approved in order for the application to move forward to Business Oregon. Business Oregon will have the final decision on eligibility of the application. Mr. Lindsay stated that at the last County Commissioner meeting, the agreement was approved unanimously.

Mayor Hodson stated that it had been tabled originally because there were a lot of questions and they wanted more information before a decision was made.

Mr. Lindsay clarified that in the event Business Oregon finds Columbia Distributing's application eligible, the agreement would be what was used to enforce the community service fee. The statute explains that the agreement must be part of the application.

Councilor Berge stated that with regards from the letters received from the Canby Fire District, and what he had heard from citizens, they were not there to make a decision about eligibility and that would be up to Business Oregon. He added that it was not the time to determine how the tax funds or community service fees would be distributed. He stated that it was a tool that allows the City to bring new revenue in. There would be approximately \$465,000 of revenue that would be coming in if not for the business coming. He stated that the decision was a step in the process that the City had already agreed to the Strategic Investment Zone (SIZ).

Councilor Parker stated he was unsure about what was being voted on after hearing from the City Attorney. He stated that he researched the information in the packet and was prepared to vote on the Resolution and information as provided in the City Council Packet.

Mr. Lindsay explained that the Resolution is left the same due to the fact that it was set over. He stated that he did not want the verbiage of the Resolution to be confusing. The Resolution itself, in order to fulfill the part of the Strategic Investment Zone process is simply to put forward the agreement with the County (the Community Service Fee agreement). He stated that they do not need to actually approve the application. He stated that the Resolution could be amended if they wanted to make it less confusing.

Councilor Parker stated that the meeting was noticed with Resolution No. 1330 and he did not feel that it was good to make changes by Committee and he was not prepared to debate, amend and vote on new language. He asked for completed staff work.

Councilor Spoon asked about the original SIZ agreement. She thought that there was a process built into it and that the agreement was supposed to be authorized.

Mr. Lindsay stated that the Council could approve Resolution No. 1330 as is and it wasn't running in conflict of the statute. Mr. Lindsay referenced State Statute and noted that he has spoken with a District of Justice Attorney about the process.

Discussion ensued regarding the application, eligibility and the agreement process. It was noted that if the County was unable to get the City's agreement then the application would not be considered complete and would not be able to move forward for the consideration of Business Oregon.

Mr. Lindsay reminded the Council that the City became an active participant in 2010 in the Strategic Investment Zone and the Standardized Agreement.

Councilor Parker asked if the City should review the application and see that it was filled out correctly. Discussion ensued regarding the City's role in reviewing the application. Councilor Parker stated that that the applicant didn't apply in time.

Council President Dale stated that the City doesn't determine eligibility and that the agreement is for the Community Service Fee and by approving the agreement the application would be forwarded to Business Oregon.

Councilor Spoon expressed concern with the application needing to be authorized as part of the process based on the original agreement.

Discussion ensued about the best way to explain to constituents the action. Councilor Berge suggested explaining that through Council action they are holding the applicant responsible if their application is deemed eligible. Council President Dale suggested that the explanation is that if the Council were to pass Resolution No. 1330, it would approve a long standing agreement that will grant a very sizeable tax abatement for Columbia Distributing and there are offsets with the Community Service Fee, and in exchange the City had attracted a very large employer that would eventually provide a sizable increase to the tax base.

Councilor Parker stated there are four benefits that come to a community when they engage in the Strategic Investment Zone: One of the benefits was the establishment of an office in the County that works with the applicant to make sure that there is a good faith effort for contracting with local businesses. He stated that it cannot happen when the building is already built. It was a mechanism to encourage the use of local contractors. He stated that because the building was already built 25 percent of the benefit is not recognized.

Mayor Hodson suggested that a motion could be: I move to approve the authorization of the City of Canby to enter into a Strategic Investment Zone Agreement with Clackamas County. Discussion ensued regarding what a motion might be.

Councilor Spoon was not comfortable with amending the Resolution.

Mayor Hodson stated that the proposed motion in the City Council Packet was: I move to approve the authorization of the Interim City Administrator to enter into the Strategic Investment Zone Standardized Agreement with Columbia Distributing and Clackamas County.

**\*\*Councilor Berge moved to approve the authorization of the Interim City Administrator to enter into the Strategic Investment Zone Standardized Agreement with Columbia Distributing and Clackamas County. Motion was seconded by Councilor Hensley.**

Council President Dale did not feel that the late application date was an issue, he was more concerned that it was a poorly written piece of legislation. He stated that not all of the taxing

districts are represented as part of the application process. He shared Councilor Parker's disappointment with the missed opportunity to use local contractors. He asked how the grievance could be expressed. The concern could be expressed with Business Oregon. Council President Dale stated that the tax assessor's estimate was roughly \$39,000 in the first year. He stated he would support in the community service funds negotiations looking at things in a prorated basis by district. He supported the City's prorated portion being given to Canby Fire and he would support the Council urging the County to devote its portion as well. He thought that Canby Fire would then be made whole in terms of any abated revenue.

Mr. Lindsay stated that if Business Oregon deemed the application eligible then the 90 day clock would start on a third agreement with the other taxing districts and at that time they could determine how they would like it divided up as long as 75 percent of the taxing districts approve.

Councilor Spoon stated that the original SIZ Agreement and Exhibit B states that eligible companies must meet the local requirements in addition to any Oregon requirements. It also stated that companies must sign a First Source Contracting Agreement for construction.

Mr. Lindsay stated that if the Council felt that the requirements were not being met then it could be brought up to Business Oregon.

Councilor Spoon asked if it was the City's obligation to see that the applicant met the local requirements. She felt that Columbia Distributing did not meet the local requirements as they have not signed a First Source Contracting Agreement. She stated that the whole idea of a SIZ was a win-win. She thought it should be looked into further and a decision should not be rushed into based on the local requirements. She stated that the First Source Contracting Agreement should have been signed and used for construction.

Council President Dale felt that they were dealt a tough hand. He stated that there were discrepancies and that there were bound to something that was agreed upon in 2010 and felt that they were dancing around whether or not they fundamentally agreed upon the SIZ as a tool. He stated that if they do not want to use it as a tool in the future then they will need to deal with that issue at a later time.

Mayor Hodson stated that in the next phase they would look at the Community Service Fee and have discussion about how it would be distributed.

Councilor Varwig thought that if it was approved then they needed to make sure that the other taxing districts were fought for and make them whole with the Community Service Fee.

Councilor Hensley stated that the decision was to move it forward to Business Oregon. She called for the question.

Mr. Lindsay explained that there is liability and it is an advertised offer for businesses to potential use in their toolbox.

Councilor Spoon asked when they would determine if they met the local requirements in the SIZ Agreement.

Economic Development Director Jamie Stickel stated that Art Fish of Business Oregon has copies of the Strategic Investment Zone Agreement as it relates to Clackamas County as when they discussed what steps the company need to take, he helped highlight the First Source Contracting and agreements. She stated that they are aware of the First Source Hiring and Contracting.

Councilor Spoon asked who determines local requirements are met. Mr. Lindsay stated that in his reading of the state statutes he believes that the County is the one who carries the application up to Business Oregon.

Discussion ensued regarding what would happen with future applications.

Mr. Lindsay suggested that they not move the goal posts so far that they are not able to submit the application to Business Oregon.

Councilor Hensley felt that the conversation was not relevant to the motion. Councilor Spoon stated she was seeking clarification.

Councilor Spoon asked for what the intent of the motion was.

**\*\*Councilor Berge amended the motion stating “I move to approve Resolution 1330: A Resolution authorizing Columbia Distributing’s Strategic Investment Zone application and authorizing the City Administrator to enter into a contract with Columbia Distributing and Clackamas County. Councilor Hensley Seconded.**

Councilor Spoon stated that her exception to the application was not punitive, the application deadline was clear and unambiguous and she understood the City is not the enforcing body but she would not authorize the application as it was. She felt that if the City started capitulating on requirements then when the next company wants grace on a requirement, then the City would be in a cycle of a Pandora’s Box. She stated that City Staff had emails documenting their awareness that they could potentially qualify for the SIZ no later than April 6, 2018. She felt there was ample time for the applicant to read the application. She thought they had an obligation to do their own due diligence. She felt that allowing it to move forward was government at its worst. She stated that it was bureaucrats deciding that a large corporation should receive a tax exemption regardless of what the law says and regardless that the company made an error of negligence on their own account. Councilor Spoon stated that locally business owners are

expected to jump through expensive hoops that cost them significant amounts of time and money. She felt that the government should treat all applicants equally with respect to the law. She stated that Columbia Distributing did not meet the local requirements and should be expected to follow the rules and accept the consequences when they don't. She stated that she would like to have a conversations with local taxation districts.

Councilor Parker stated that part of it involves keeping faith with citizens. He stated that there are rules and that in bold on the application it states that it must be filled out before construction begins. He expressed concern that it came across as defying common sense.

Council President Dale stated that his concern was that the Council entered into an agreement a decade ago to participate in the program, he was concerned about the chilling effect it could have on other businesses, and he stated that there was good faith that needed to be upheld on the City's portion of the agreement. He felt that if Canby Fire could be made whole, and grievances could be made to Business Oregon about not satisfying the local requirements then he could live with it. He thought that the City should work with the County to make Canby Fire whole.

Discussion ensued regarding how to make the City's concerns known.

Councilor Berge stated that while it had been noted that Columbia Distributing did not turn in the application on time, they had been working directly with the City during the entire time leading up to submission of the application. He stated that it was the first application to come to Clackamas County. They had been working hand-in-hand with Business Oregon and the City.

Discussion ensued regarding the process with Business Oregon and Columbia Distributing.

Councilor Varwig stated his hesitation was not the technicality of when the application came in but with the Community Service Fee. He stated that they can work later with making the Fire District whole. He felt that it was a learning experience and that it will be done better the next time.

It was noted that City Staff worked in earnest and good faith to move the application forward.

**\*\*Councilor Hensley moved to call the question and end the debate. Councilor Berge Seconded. Motion carried 6-0.**

**Mayor Hodson called for a roll call vote.**

**AYES: Berge, Dale, Hensley, Varwig**

**NOES: Parker, Spoon**

**Resolution No. 1330 Passed 4-2.**

**Resolution No. 1332** - A Resolution adopting a revised City of Canby Drug & Alcohol Policy for use with DOT Regulated Employees and identifying an effective date and repealing Resolution No. 1281.

Interim City Administrator Amanda Zeiber stated that the City had an adopted Drug and Alcohol Policy that was required in order for the City to be eligible to receive federal FTA Grant Funding. CDL Drivers and Mechanics that work on Transit buses are covered. The Policy was last updated in February 2018. Last year Federal Transit Administration conducted an audit and as part of the routine audit Canby was selected for site visits. They reviewed the Drug and Alcohol Policy and made recommendations including some housekeeping and minor changes to keep the City in compliance with the federal regulations. The Collective Bargaining Unit received a copy of the proposed changes and they did not have any feedback.

**\*\*Councilor Hensley moved to adopt Resolution No. 1332: A RESOLUTION ADOPTING A REVISED CITY OF CANBY DRUG & ALCOHOL POLICY FOR USE WITH DOT REGULATED EMPLOYEES AND IDENTIFYING AN EFFECTIVE DATE AND REPEALING RESOLUTION NO. 1281. Motion was seconded by Councilor Berge and passed 6-0.**

#### **NEW BUSINESS:**

**Approve Declaration of Emergency** – Mayor Hodson stated that on March 17, 2020 he issued a Declaration of a State of Emergency for the City of Canby. He stated that taking the action triggers the regulation and control powers vested in the Canby City Council under Canby Municipal Code 2.52.070. It allows the Mayor and City staff greater flexibility to quickly address hazards posed by the COVID-19 by facilitating more expedient coordination with public agencies and quicker deployment of resources and staffing to safeguard the community. It also provides for the ability to modify work schedules of emergency responders to meet reduced staffing or increased emergency responses due to the COVID-19. The state of emergency declaration provides the City with the latitude to coordinate an effective response by redirecting funding for emergency use as needed and suspending standard procurement procedures. Additionally, the designation aides the City's efforts when requesting assistance and/ or reimbursement for expenditures related to COVID-19 response.

Council President Dale recognized the Mayor's early action as it had turned out to be a crisis where early action was good.

**\*\*Council President Dale moved to RATIFY THE MAYOR'S DECLARATION OF EMERGENCY. Motion was seconded by Councilor Hensley and passed 6-0.**

**Approval of City Administrator Hiring Standards, Criteria and Policy Directives** – Mayor Hodson stated that there was a work session earlier in the evening to discuss the recruitment process for a City Administrator. The job description and what they were looking for would remain the same as the most recent recruitment for City Administrator. They would be looking at a national search with not necessarily an emphasis on a regional candidate. They also wanted a salary survey to be conducted and offer a competitive salary and benefits package.

**\*\*Council President Dale moved to APPROVE THE CITY ADMINISTRATOR HIRING STANDARDS, CRITERIA AND POLICY DIRECTIVES. Motion was seconded by Councilor Varwig and passed 6-0.**

**CITY ADMINISTRATOR’S BUSINESS & STAFF REPORTS:** Interim City Administrator Amanda Zeiber stated that although City Staff has been consumed with handling the COVID-19 response, there were City projects that are moving forward. The Grant Street Arch Project and Quiet Zone Project were combined in a bid package that went out. There was a pre-bid conference scheduled the following week and if there were no delays, construction was anticipated to begin in June. The Splash Pad design was moving forward and there was hope that it could be opened by July 4<sup>th</sup>. The South Street Ivy Project has 30 percent of the plans being reviewed by Public Works. The Hazel Dell Signal Project was moving forward and they were looking at it being operational by June 2020. The South Ivy Street Pump Station is on schedule for an August 2020 completion. There would be a bid opening for the Wastewater Treatment Plant Clarifier Project. There would be an electronic process for the bid opening. Bringing Wi-Fi in three parks was being worked on however several of the entities involved have delays related to the project. It was in partnership with DirectLink.

Mayor Hodson thanked City Staff for their work on continuing to move the projects along. He recognized Ms. Zeiber for her leadership. He stated that the projects were important.

Councilor Parker thanked Ms. Zeiber for keeping the Wi-Fi in the Parks project moving forward and felt that the opportunity for citizens to have access to Wi-Fi in the Parks fits into community.

Councilor Hensley stated that connectivity is important especially during the current times.

Councilor Dale stated that he was in a fairly strict quarantine situation but as he has been forced to go out to get food and gas he was thankful for the businesses and citizens of Canby. He stated that people were still smiling, saying hi, and having good spirits while maintaining safe distances.

Councilor Parker thanked Ms. Zeiber and Mr. Lindsay for their work. He thanked Ms. Bisset for her efforts on making a virtual meeting happen.

ACTION REVIEW:

1. Approved the Consent Agenda.
2. Approved Resolution No. 1330.
3. Approved Resolution No. 1332.
4. Ratified the Declaration of Emergency.
5. Approved City Administrator Hiring Standards, Criteria and Policy Directives as discussed in Work Session.

The meeting adjourned at 9:22 p.m.

  
Melissa Bisset, CMC  
City Recorder

  
Brian Hodson  
Mayor