

**CANBY CITY COUNCIL
REGULAR MEETING MINUTES
March 7, 2018**

PRESIDING: Mayor Brian Hodson.

COUNCIL PRESENT: Tyler Smith, Greg Parker, Traci Hensley, Tim Dale, Tracie Heidt, and Sarah Spoon.

STAFF PRESENT: Rick Robinson, City Administrator; Joseph Lindsay, City Attorney; Bryan Brown, Planning Director; Julie Wehling, Transit Director; Jamie Stickel, Main Street Manager; and Kim Scheafer, City Recorder.

OTHERS PRESENT: Carol Palmer, Kathy Robinson, Steven Pierson, Michael Robinson, Craig Gingerich, Tucker Mayberry, Tom & Julie Rushton, Daniel Webb, Roger & Cheryl Steinke, Fire Chief Jim Davis, Carol Rosen, Joseph Meyer, Jim Boyle, DeAnna Ball-Karb, Florence Ball, Rick Givens, Linda Hilsabeck, Steven Hilsabeck, Mark Hilsabeck, and Duane McMartin.

CALL TO ORDER: Mayor Hodson called the Regular Meeting to order at 7:30 p.m. in the Council Chambers followed by opening ceremonies.

March for Meals Month Proclamation – Mayor Hodson read a proclamation proclaiming March 2018 as March for Meals Month in Canby and presented it to Fire Chief Jim Davis.

Chief Davis expressed appreciation for the volunteers who spent numerous hours delivering meals to seniors.

Women's History Month Proclamation – Mayor Hodson read a proclamation proclaiming March 2018 as Women's History Month and presented it to Carol Palmer, Heritage and Landmark Commission Chair.

Ms. Palmer said the Women's History Trail event would be held on March 22 in the Willamette Room of the Library from 4-6 p.m.

COMMUNICATIONS: None.

CITIZEN INPUT & COMMUNITY ANNOUNCEMENTS: Daniel Webb, Canby resident, thanked the Council for their work at their Goal Setting Work Session on March 3. He had listened to the audio and agreed some code and master plan changes needed to occur. He asked if all land use applications could be halted until the changes were made.

Mayor Hodson said the Council had a Work Session Retreat. They had discussed issues with the code. He would talk with the City Administrator about what could be done.

MAYOR'S BUSINESS: Mayor Hodson said one of the items discussed at the Retreat was changing the City Council meeting time from 7:30 p.m. to 7:00 p.m. The Council had also discussed parks along with changes to the development code. Sparks of Hope had their Superhero Parade on Saturday. As part of the event, the Fire Department had displayed their equipment and rescued the Mayor from a rooftop.

Chief Davis thanked the Mayor for taking time out to be on the roof. Every child at the parade received

a red bracelet as a reminder of firefighters being heroes. The bracelets were donated by Promotional Strategies.

Mayor Hodson said at the Fire District Banquet a lot of plaques had been handed out.

Chief Davis gave highlights about the awards that had been presented.

Mayor Hodson said at the Clackamas County Coordinating Committee meeting they had discussed increasing the vehicle registration fee, congestion pricing on I-5 and I-205, and use of regional flexible funds. He reported on the Chamber of Commerce Gala.

COUNCILOR COMMENTS & LIAISON REPORTS: Councilor Smith said the Fire District met last week. They reviewed their audit, which was a clean report. They had changed their billing company, were organizing a student academy, and discussed a potential bond measure.

Councilor Parker said the Bike and Pedestrian Committee was looking at ways to improve bicycle opportunities in Canby and at ways to make regional connections. He attended Zoar Lutheran Church's Tuesday night free community dinner. He also attended Canby Builder Supply's vendor night where new building equipment was shown.

Councilor Hensley thanked the Mayor, City Administrator, and City Recorder for the Work Session. The Traffic Safety Commission had a sub-committee meeting for four way stops.

Councilor Dale said Canby Utility would meet next week.

Councilor Heidt looked forward to attending the Women's Heritage Trail event. The School District Superintendent planned two spring forums for parents. She had met with the Bridging Cultures Chair. They would be focusing on the summer lunches, Thanksgiving dinner, and ESL classes. They also wanted to expand their immigration outreach. Their big fundraiser was this Saturday at Zion Mennonite Church.

Councilor Spoon said CTV5 had been in transition. They had done some fun community engagement in the last few weeks. They were also working on some new original content. Mt. Hood Territory Tourism had been at the Chamber lunch. Volunteers were needed for the Fourth of July event. Canby students had done well in the district level Battle of the Books.

CONSENT AGENDA: **Councilor Dale moved to adopt the minutes of the February 21, 2018 City Council Regular Meeting. Motion was seconded by Councilor Hensley and passed 6-0.

PUBLIC HEARINGS: Noise Variance Application – Canby Swim Club (May 12, 2018 from 9:00 AM – 12:00 PM – Mayor Hodson read the public hearing statement.

Staff Report: Kim Scheafer, City Recorder, said this was for the Canby Gators Swim Club for a noise variance on May 12 from 9:00 a.m. to 12:00 p.m. The variance was being requested for the North Lake Physical Therapy Gator Grinder Triathlon. Canby Municipal Code required that notices be mailed to property owners within 200 feet of the location. The applicant provided addresses of residents within 600 feet and notices were sent out. This was an annual request and no complaints had been received from last year's event.

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

Proponents: Steve Pierson, local business owner, said the event had been going on for over ten years. It brought in over 300 people into the community. The Fire Department and police helped with the extra traffic. All of the proceeds would go to the Canby Swim Club.

Opponents: None.

Mayor Hodson closed the public hearing at 8:16 p.m.

****Councilor Hensley moved to grant a Noise Variance to Canby Swim Club for the North Lake Physical Therapy Gator Grinder Triathlon on May 12, 2018 from 9:00 a.m. – 12:00 p.m. Motion was seconded by Councilor Smith and passed 6-0.**

ANN 17-01/ZC 17-04 Mayberry Group, Inc. (31 Acres Between S Ivy and S Fir Streets) – Mayor Hodson read the public hearing statement.

Conflict of Interest:

Councilor Smith – No conflict, plan to participate.

Councilor Parker – No conflict, plan to participate.

Councilor Hensley – No conflict, plan to participate.

Councilor Dale – No conflict, plan to participate.

Councilor Heidt – No conflict, plan to participate.

Councilor Spoon – No conflict, plan to participate.

Mayor Hodson – No conflict, plan to participate.

Ex Parte Contact:

Councilor Smith – No contact.

Councilor Parker – No contact.

Councilor Hensley – Driven past the site, but drew no conclusions.

Councilor Dale – No contact.

Councilor Heidt – Driven past the site, but drew no conclusions.

Councilor Spoon – Lived by the site and regularly drove by, but drew no conclusions.

Mayor Hodson – No contact.

Staff Report: Bryan Brown, Planning Director, said the annexation and zone change request was heard by the Planning Commission on February 12 who recommended approval. There would be three zoning districts on the property, R-2, high density residential, R-1.5, medium density residential, and R-1, low density residential. The annexation would include 29.24 acres of real property and 1.76 acres of Ivy Street right-of-way. The Southwest Canby Development Concept Plan, which had been recently approved by the Council, included this property. It included a roundabout on Ivy Street, which would be a long term goal and could only be done when both sides of the street were developed. The Planning Commission found that all of the annexation review criteria had been met. They also found that even with annexing the previous parcels and this application, there would not be enough to meet the three year buildable land supply. The property had been well planned out for future development through the Concept Plan. They recommended approval of the annexation and proposed zoning.

Mayor Hodson said the area to the west of this annexation request had been approved for annexation a few weeks ago. He asked about the traffic study and potential mitigation for the intersection of Fir and 13th Avenue.

Mr. Brown said the traffic study looked at the traffic impacts at full development and found that it would not generate enough traffic to trigger mitigation by the developers. The Council forwarded to the Traffic Safety Commission the idea of a four way stop at that intersection. There would also be an east-west street connection between Fir and Elm Streets allowing people to avoid that intersection. There would also be another way to go over to Ivy Street rather than that direction as well.

Mayor Hodson asked if this section of Ivy Street was in County jurisdiction.

Mr. Brown said that was right. The entire right-of-way of Ivy Street was being annexed but it did not change jurisdiction and who was responsible for maintenance. That was a separate action.

Mayor Hodson asked about the public testimony received about the river being an attractive nuisance and lack of policing. He asked if fencing was being required.

Mr. Brown said those comments were helpful, and he thought the developers would consider putting in a fence when it was time to develop. There was concern that a fence would block the views, and the developers would most likely put in a chain link fence.

Councilor Heidt asked about public comments regarding Exclusive Farm Use land being subdivided.

Mr. Brown did not think it would be a problem as it was in the Urban Growth Boundary and the property was being rezoned. There was a portion of a tax lot that was not included in this annexation as it was outside of the Urban Growth Boundary.

Mayor Hodson opened the public hearing at 8:36 p.m.

Applicant: Tucker Mayberry, The Mayberry Group, Inc., agreed with the staff report. He was in support of putting in a chain link fence along the bluff.

Proponents: Craig Gingerich, Hope Village Executive Director, said they were in support of the annexation. They had a vested interest as they wanted to purchase some of the property to expand Hope Village due to the long waiting list. The impact on the schools and traffic were much lower with this type of development and they did not add to the crime rate.

Tom Rushton, Canby resident, said his concern was about Fir Street and the ADA ramps that extended into it. The ramps constricted the road width to 24 feet. Before construction started, the road needed to be widened as it was a safety issue.

Opponents: Steven Hilsabeck, Canby resident, asked for clarification on where the annexation was. He asked why the roundabout was still part of the proposal.

Mayor Hodson explained the annexation area. The roundabout was a place holder. The Transportation System Plan showed increased traffic along Ivy Street and the roundabout was a potential mitigation. The City did not have the land on the east side for the roundabout yet.

Mr. Hilsabeck suggested removing the roundabout from the plan. He asked about the pump station for this area.

Rick Robinson, City Administrator, clarified this proposal did not address any development on the east side of Ivy. The Development Concept Plan called for a pump station that would serve both the east and west side of Ivy.

Mr. Hilsabeck asked about the walking trail location and the Urban Growth Boundary line.

Mayor Hodson explained how the trail was planned to go around private property.

Mr. Robinson clarified the Urban Growth Boundary went to the top of the bluff. Everything below the top of the bluff was outside of the UGB and not part of the annexation.

Rebuttal: None.

Mayor Hodson closed the public hearing at 8:51 p.m.

Councilor Heidt asked where the pump station would go.

Mr. Brown said it would go in the right-of-way by S Ivy Street.

Councilor Spoon was sensitive to more traffic turning left from Fir Street onto 13th. She thought the discussion should continue regarding mitigation for that intersection.

Councilor Heidt explained how the State passed a new law that cities did not have voter approved annexations any longer and applications could be approved if they met the clear and objective standards.

****Councilor Dale moved to approve annexation/zone change file ANN 17-01/ZC 17-04 pursuant to the recommendation forwarded by the Planning Commission. Motion was seconded by Councilor Hensley and passed 6-0.**

Roger Steinke, Canby resident, attended the Planning Commission meeting after the last Council meeting. Even though he lived in the area, he had never been contacted by the City regarding the Beck development. People had assumed that he was going to participate in that development, but he met with Gordon Root from Stafford Development, and said he was not selling and he would like 15th Avenue removed from his property. In the Concept Plan his house was in the middle of the proposed street. He complimented Mr. Root and Levi Levasa who had been working well with him. He didn't know why he hadn't been invited to the meeting where his property was being discussed. If he did not sell his property, he was unsure how a neighboring property would be developed, especially where the infrastructure would go. He would like to have a copy of where the infrastructure and utility lines were proposed. He would also like to be included in the meetings with staff and the developer when they occurred.

Mr. Robinson could provide him with copies of the sanitary sewer master plan and water line master plan. The adopted Concept Plan allowed roadways to be extended beyond what was allowed in the Code, which would require a variance and Planning Commission approval. The Plan could be modified, but it would require review and approval.

Mayor Hodson said staff would inform him of any upcoming meetings.

RESOLUTIONS & ORDINANCES:

Ordinance 1473 – Julie Wehling, Transit Director, said Phase 0 of the Transit Master Plan was to reduce the number of service hours for dial-a-ride and move those over to the fixed route. In January the average dial-a-ride rides per hour was 2.88 and in February was 2.9. The goal was 3.1. The new schedule would accomplish several goals of the Transit Master plan. Most of the bus stops would be on 99E which would help eliminate confusion. The frequency of the new schedule would reduce wait times for transfers. The times were more predictable, the span of service had been increased by two hours and ten minutes, and more trips had been added between Canby and Woodburn and Canby and Oregon City. A number of the low use bus stops would be eliminated. The new proposed schedule had been published and a public meeting had been held. Overall the reaction had been positive to the new schedule. In order to implement the schedule, the number of vehicle hours had to be increased by 9 hours per day which would increase annual costs by 6.4%. This was Phase 1 of the Plan, and Phase 2 would be to add Saturday service or a local circulator. She recommended approval of the ordinance.

There was discussion regarding the connections to Woodburn and why they were not able to maintain a net neutral cost with the enhanced services.

****Councilor Heidt moved to approve Ordinance 1473, AN ORDINANCE AUTHORIZING THE MAYOR AND CITY ADMINISTRATOR TO EXECUTE AN AMENDMENT TO ITS CONTRACT WITH MV TRANSPORTATION, INC OF DALLAS, TEXAS FOR PROVIDING TRANSIT OPERATIONS FOR CANBY AREA TRANSIT (CAT) to come up for second reading on March 21, 2018. Motion was seconded by Councilor Spoon and passed 6-0 on first reading.**

Ordinance 1471 – Mr. Robinson said currently there was a lot of interest in City parks, and the Parks and Recreation Advisory Board was in favor of the increase in members.

Ms. Scheafer said there were four applications to fill these positions.

****Councilor Heidt moved to approve Ordinance 1471, AN ORDINANCE AMENDING CANBY MUNICIPAL CODE CHAPTER 2.56.030 AND 2.56.050 BY CHANGING THE MEMBERSHIP AMOUNT FROM SEVEN TO NINE MEMBERS FOR THE PARKS AND RECREATION ADVISORY BOARD to come up for second reading on March 21, 2018. Motion was seconded by Councilor Spoon and passed 6-0 on first reading.**

Ordinance 1472 – ****Councilor Hensley moved to approve Ordinance 1472, AN ORDINANCE, PROCLAIMING ANNEXATION INTO THE CITY OF CANBY, OREGON 31 ACRES INCLUDING 29.24 ACRES OF REAL PROPERTY DESCRIBED AS TAX LOTS 1700 AND 2000 OF PORTION OF SW ¼, SE ¼, SEC. 4, T.4S., R.1E., W.M. (TAX MAP 41E04D); AND APPROX. 1.76 ACRES OF ADJACENT S. IVY STREET RIGHT-OF-WAY AND AMENDING THE EXISTING COUNTY ZONING FROM EXCLUSIVE FARM USE (EFU) TO CITY LOW DENSITY RESIDENTIAL (R-1) FOR TAX LOT 2000 OF TAX MAP 41E04D; TO CITY MEDIUM DENSITY RESIDENTIAL (R 1.5) FOR APPROXIMATE SOUTHERN HALF AND TO CITY HIGH DENSITY RESIDENTIAL (R-2) FOR APPROXIMATE NORTHERN HALF OF TAX LOT 1700 OF TAX MAP 41E04D; AND SETTING THE BOUNDARIES OF THE PROPERTY TO BE INCLUDED WITHIN THE CANBY CITY LIMITS to come up for second**

reading on March 21, 2018. Motion was seconded by Councilor Heidt and passed 6-0 on first reading.

NEW BUSINESS: Findings, Conclusion & Final Order APP 17-03 Redwood Landing Subdivision – Mike Robinson, attorney for the applicant, requested that the appeal be remanded back to the Planning Commission. They wanted to do a better job of working with the neighbors, including the appellant, to resolve the issues. He also thought the issues in the draft findings could be remedied as well. Those issues included lot size and concept of buildable lands, excessive park land dedication and density transfers, temporary turnarounds for emergency vehicles, and alignment of proposed streets. If the Council agreed to the remand, the applicant would extend the 120 day deadline to May 11.

Mayor Hodson said the community was going through a great amount of change. He found that unintentionally there were gray areas in the code which had created these issues. The City had spent a lot of time developing a plan for this area. Larger lot sizes were the desire of the community. He hoped that a plan could be brought back that everyone could get behind. He appreciated the applicant's willingness to work with the City and neighbors.

Joe Lindsay, City Attorney, clarified this was not a public hearing. The action that was taken at the last meeting was not final until the written findings were approved. Under the Code they could continue with the decision made at the last meeting or could allow for an intermediate modification where the application was remanded back to the Planning Commission. Appellants were not losing any rights, but were now given the opportunity to address any grievances with the Planning Commission.

Daniel Webb requested to speak on this issue.

Councilor Heidt said the advantages to remanding the application back to the Planning Commission were that it would save time and money. Mr. Lindsay said the applicant could appeal to LUBA, who could potentially remand the application back anyway. The applicant could come back with a new application as well. Or the Council could send it back per City Code.

Councilor Hensley said on the night this appeal was discussed, the Council would have preferred to remand it back to the Planning Commission.

****Councilor Hensley moved to remand application SUB 17-06 Redwood Landing Subdivision by Icon Construction & Development, LLC, located at 1440, 1548, 1612, 1650, and 1758 N Redwood Street to the Planning Commission for reconsideration. Motion was seconded by Councilor Parker.**

Councilor Spoon was in support of the remand, but it was unfortunate that the applicant had not been willing to remand the application the night of the appeal. Coming back a couple of weeks later to make the request without all of the people who spoke in attendance did not help bridge the gap. It left the impression that there was a back door for the applicant to get around the decision. She thought the best thing for all people involved would be to send it back to the Planning Commission.

Councilor Smith said the applicant declined a remand at the last hearing, and he was concerned on the procedural side especially when the appellant was not being allowed to speak. It might be the right outcome, but he was concerned about the wrong procedure. He had never seen a decision changed 180 degrees between the vote and findings.

Councilor Hensley said it was irregular, but since the applicant did not agree to the remand, they were forced to vote the way they did at the last meeting.

Councilor Dale asked if there was a third option, to table this to the next City Council meeting.

Mr. Lindsay said the conclusion he came to was that their action was not finalized until the written findings were approved. They could make a motion to reconsider the issue instead. If they took action tonight, it would give the applicant direction on their next steps as opposed to waiting for another meeting. People would have the opportunity to voice their opinion at the Planning Commission hearing, and they could come to Council under citizen input.

Councilor Heidt thought it should be communicated that they were not reversing their decision, but were sending it back to the Planning Commission. They were allowing the applicant to change their plan.

Councilor Smith pointed out that the Council would have to approve a new set of findings for the remand at the next Council meeting.

Mr. Lindsay said people could voice their opinion on this topic at that time as well.

Councilor Dale wanted to make sure those who had an expectation on this matter would have the opportunity to voice their opinion. He wanted to make sure staff gave the Planning Commission the Council's findings to know what issues needed to be addressed.

Mr. Rick Robinson said since they were delaying action on the findings until the next meeting, he asked if the 120 day extension would extend to the next Council meeting.

Mr. Mike Robinson said they would extend the clock to March 23 and if the Council's action at their next meeting was to remand the application back to the Planning Commission, the clock would be extended to May 11 so the Planning Commission could issue a decision.

Motion passed 6-0.

ADMINISTRATOR'S BUSINESS & STAFF REPORTS: None.

CITIZEN INPUT: Daniel Webb, Canby resident, asked what happened next time when the application was appealed again, were they going to keep remanding it back. The applicant had been given the opportunity to have the application remanded and had not agreed and the Council denied the application and approved the appeal. He thought all of that had been thrown out the window, and where did that put the appellants. He felt like the appeal was wasted and that residents had no say in what was going on. The Council was not sticking to their decision and was giving the applicant a do-over. He was given no notification that the attorney was coming in to make this request.

Mayor Hodson was sorry for the frustration. The denial was driven from the input given by the appellants and remanding it back to the Planning Commission would be a way for the applicant to address the issues that had been brought forward.

Mr. Webb thought the applicant should submit a new application. He did not have the opportunity for his attorney to challenge this. He had not known this action was a possibility.

Councilor Hensley said the Council had wanted to remand it at the last meeting, and when it became an option tonight, she had moved forward with that option. She thought the concerns would be incorporated into the modifications of the plan and she hoped he stayed involved.

Mr. Lindsay clarified people could come and speak about this at the next Council meeting before the findings for the remand were approved and they could speak at the Planning Commission hearing on the remand issues. He thought the appellants had prevailed because the application was going to be remanded in order for the appellants' issues to be addressed.

Joseph Meyer, Canby resident, had not understood how the density transfers worked and thought he had been lied to. The applicant had not stayed in the spirit of what they said they were going to do. He recommended the applicant go back to square one rather than allowing them a do-over.

Councilor Spoon said the Council could have approved the findings and the applicant could have appealed to LUBA. If LUBA overturned the Council's decision, then the plan as it was would move forward. The advantage of remanding the application back to the Planning Commission was there was no chance for the original plan to move forward as is. She did not think it was a do-over, as the original application would not be approved.

Councilor Heidt thought the remand would hold the applicant accountable to address the issues the appellants had raised.

Councilor Smith said a remand did not necessarily mean the issue would not be taken to LUBA. That was why they needed to make decisions properly.

Mr. Webb asked what the status of the appeal was once it was remanded to the Planning Commission.

Mr. Lindsay said the application was being sent back based on the grounds of the appeal. The modified application could be appealed again if the Planning Commission approved it, but there were still items that someone did not like. He did not think it would require a new appeal fee, but would require grounds for the appeal which might be different from the original appeal.

Councilor Spoon wanted to make sure that the appellants would not be charged if they did revise their appeal.

ACTION REVIEW:

1. Approved the Consent Agenda.
2. Approved the Noise Variance Application for Canby Swim Club.
3. Approved ANN 17-01/ZC 17-04.
4. Approved Ordinance 1471 to come up for second reading on March 21, 2018.
5. Approved Ordinance 1472 to come up for second reading on March 21, 2018.
6. Approved Ordinance 1473 to come up for second reading on March 21, 2018.
7. Remanded application SUB 17-06 to the Planning Commission.

There was no Executive Session.

Mayor Hodson adjourned the Regular Meeting at 10:21 p.m.

Kimberly Scheafer, MMC
City Recorder

Brian Hodson
Mayor

Assisted with Preparation of Minutes - Susan Wood