

**CANBY CITY COUNCIL
WORK SESSION MINUTES
July 15, 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.

PRESIDING: Mayor Brian Hodson.

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

COUNCIL ABSENT: Traci Hensley

STAFF PRESENT: Amanda Zeiber, Interim City Administrator; Joseph Lindsay, City Attorney; Police Chief Bret Smith, Lieutenant Jorge Tro, Lieutenant Jose Gonzalez; and Melissa Bisset, City Recorder.

OTHERS PRESENT: None.

CALL TO ORDER: Mayor Hodson called the Work Session to order at 6:05 p.m.

DISCUSSION REGARDING POLICE DEPARTMENT POLICIES

Bret Smith, Police Chief, reviewed the document “75 Things White People Can Do for Racial Justice.” On the list were outfitting all police officers with body cameras and police de-escalation training. Another document was “#cantwait” that recommended banning chokeholds and strangleholds, requiring de-escalation, requiring warning before shooting, requiring a police officer exhaust all alternatives before shooting, requiring a duty for a police officer to intervene, banning shooting at moving vehicles, requiring the use of force continuum, and requiring comprehensive reporting. He explained the six police accountability legislative bills which were all created under an emergency clause meaning that they became law as soon as they were signed by the Governor. These included SB 1604 arbitration reform and disciplinary matrix, HB 4201 establish a Joint Committee on Transparent Policing and use of force reform, HB 4203 police chokehold ban, HB 4205 police officers duty to intervene and report misconduct, HB 4207 establish a public statewide online database of suspensions and revocations of certifications of police officers, and HB 4208 prohibit law enforcement agencies from using tear gas or long range acoustic devices or sound cannons for purposes of crowd control except in circumstances constituting the crime of riot. He then discussed the Canby Police Department General

Orders/Policies document and how they had included the recent changes in the department's rules and regulations and how many of them were already being done as standard conduct.

Jorge Tro, Police Lieutenant, discussed use of force reporting and accountability. If there was a use of force incident reported, all of the officers involved were required to write a report, all the witnesses were interviewed, and a supervisor reviewed all of the reports and filled out a separate use of force incident report which went to command staff. The command staff reviewed all of the reports and wrote a summary and a yearly report. Any deadly physical force used against someone was reported and submitted to Oregon DOJ and there were federal use of force requirements. Anytime there was a death due to an officer's use of force or a serious bodily injury or discharge of a firearm, reports had to go to the FBI. There were also policies and procedures that prohibited profiling and any complaint about profiling was investigated thoroughly and the complaint had to be submitted to the Law Enforcement Contact Policy and Data Review Committee for their review. If an officer was involved in a death or serious injury to a suspect in Canby, it was investigated by the Interagency Clackamas County Major Crime Team as well as all of the other reporting. He shared the Statistical Transparency of Policing data which showed the discretionary traffic and pedestrian stops made by officers. The analysis was from July 1, 2019 to June 30, 2020. There were 2,379 self-initiated stops by officers. The information was broken down by race and gender as well as the number of arrests and searches. The percentages were indicative of Canby's population.

Jose Gonzalez, Police Lieutenant, discussed Internal Affairs investigations and the complaints that came in from citizens. He reviewed all of the complaints and contacted citizens about the resolutions to their complaints. He also reviewed any of the reports that came in for violations of policy. He helped find remedies for the police officer so the action would not happen again in the future. All complaints were logged in a database and filed so if there was a third party audit they could review all of the documents. He also had to notify the District Attorney's office if there was a complaint of bias and the officer had to testify so they would know whether they could use the officer as a witness. There were mandates in place for officers to report if they saw another officer behaving inappropriately. They voluntarily reported any use of force to the FBI monthly, which was ahead of the game of most departments in the state.

Chief Smith said they had addressed and complied with all of the #8cantwait recommendations with a few exceptions such as shooting at a moving vehicle as a deadly force standard. They gave warnings as soon as practical. The only one that was not met was the body cameras, but they were moving in that direction. All of the cars had cameras in them for traffic stops. In the ten years he had been in Canby there had been two use of force complaints and four or five treatment complaints, none of which were substantiated.

Mayor Hodson asked how often the policies were reviewed. Lieutenant Tro said for any legislative or case law change that came through, their policies were changed accordingly. The ones that did not come up were reviewed every three years. An auditor also reviewed the policies

to make sure they were current and in compliance. For accreditation they had to have proof that they were following the policies. An Oregon DOJ attorney also came out to explain the changes to the law once per year.

Mayor Hodson asked in what areas they might be falling short. Chief Smith said if there was a new policy change, it might take time to adapt. One of the things they needed to do was create a disciplinary matrix which was a new state requirement that they had not had time to do yet.

Councilor Spoon asked if there were policies about job candidates who were leaving a position in the middle of an investigation or who had an investigation in the past. Chief Smith said they had a requirement to ask for that type of information from the agency that candidates were coming from. They would know about it before anyone was hired. The candidates were also asked that question during interviews and if they were currently under investigation they were not considered for the job until the investigation was complete.

Councilor Dale asked about body camera recordings being public record even inside of a private residence. Lieutenant Tro said there were challenges with the body cameras, and editing to blur out juveniles would be one as well as when to record and when not since it was a public record.

Councilor Parker asked if any of these policies and laws alone would have prevented the abuse that happened in West Linn. Chief Smith did not have the details on that incident. They were trying to hire the right people with the right motives and provide good training and supervision for the department.

Councilor Parker would like advice on what the Council could do to prevent abuses like that in a police force. He thought it could be a conversation as a team as they tried to work together to reach that goal.

Councilor Berge thought the presentation was excellent. He thought the department was providing good leadership and were ahead of the curve.

The meeting adjourned at 6:52 p.m.



Melissa Bisset, CMC
City Recorder



Brian Hodson
Mayor

Assisted with Preparation of Minutes - Susan Wood

**CANBY CITY COUNCIL
REGULAR MEETING MINUTES
July 15, 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: Trygve Berge, Tim Dale, Traci Hensley, Greg Parker, Sarah Spoon, and Shawn Varwig.

COUNCIL ABSENT: Traci Hensley

STAFF PRESENT: Amanda Zeiber, Interim City Administrator; Joseph Lindsay, City Attorney; and Melissa Bisset, City Recorder.

OTHERS PRESENT: None.

CALL TO ORDER: Mayor Hodson called the Regular Meeting to order at 7:01 p.m.

PRESENTATIONS

Swearing in of New Police Officer – Brett Smith, Police Chief, introduced new Police Officer David Wohlers.

Jon Henricksen, Municipal Court Judge, administered the oath of office to Officer Wohlers.

Canby Disposal Rate Increase Proposal – Andy Kahut and Steve Donovan from Canby Disposal gave a presentation on solid waste and recycling rates. They discussed the current status of recycling markets, proposal for the implementation of rate increases for solid waste and recycling, and neighboring community rates. In September 2019 they informed Council about their intent to request a special rate review under Section 7.5 of the franchise. In fiscal year 2019, Canby Disposal lost 5.70% before taxes; the net loss from Canby operations was \$181,576 on total revenues of \$3,186,673. They were requesting a general rate increase to be phased in on September 1, 2020 and on March 1, 2021. It cost \$130 per ton to dispose of recyclable materials collected from the curbside recycling program in September of 2019. Since that time, the cost of disposal rose to \$138 per ton. They expected to see that number increase to \$150 per ton by the end of 2020. The comparable tipping fee for solid waste at any Metro franchised transfer station was \$97.45 per ton. The Chinese government passed a domestic law forbidding Chinese processors from accepting foreign recyclables. Based on revenue requirements, they were requesting a 20.11% general rate increase. This translated to \$4.95 per month to the average

single family residential customer (32 gallon cart with recycling and yard debris). Recognizing the magnitude of this increase, they were proposing to phase the increases over one year as follows: on September 1, 2020 implement one half of the increase which was \$2.47 per month to the average single family customer and then on March 1, 2021 implement the other half of the increase which would be \$2.48 per month to the average single family customer. They displayed a graph of neighboring communities' rates that showed how Canby was lower than most other cities even with the increases.

Mayor Hodson said they were a great community partner and he appreciated the information. He asked if there were companies in the U.S. or Canada that would do the recycling that China used to or if recycling would just need to go into the trash.

Mr. Kahut said there was a paper mill in Washington that accepted the paper recycling, however several mills in Oregon had shut down in the last decade. Several small cities had dropped their recycling programs because of the transportation costs to get the materials to the market. It was changing every month and he was not sure how it would end up.

Mr. Donovan said several other cities were throwing it away currently.

Councilor Dale asked what the increase would be for 65 gallon users. Mr. Donovan did not have the specific number, but it would be the same 20 percent increase.

Mayor Hodson said if the recycling program was removed, people would have to use larger garbage containers. How much longer would they be able to do the recycling program? Mr. Kahut did not think it would completely go away anytime soon. If it did, people would have to upsize their containers.

Councilor Parker thought it was interesting that there was more garbage being generated by people staying home due to COVID. He thought they could only respond to the world market and recyclables issue. He asked if they could project the expenses and adjust the rates accordingly.

Mr. Donovan said they could change the franchise to be more forward looking, but they could not have predicted the recycling market to take this down turn.

Mr. Kahut said that was the biggest hit he had ever seen in his career and they were hoping it was a one-time increase and they would not have to come back like this again.

Mayor Hodson emphasized the need for communication with rate payers about this increase. He thought they should come back with an update in March to let them know where things were at.

Councilor Parker was in support of changing the franchise and the need for consumer education about the costs of recycling.

There was discussion regarding changing the franchise to allow for more gradual rate increases on a regular cycle.

Councilor Berge asked what fee they were trying to shoot for. Mr. Donovan said the revenue requirements set a 12% pre-tax profit and that was the bar they set for revenue requirements. They had a negative 5% and up to the 12% pre-tax, so it was a 6% after tax as the net. There were four diesel trucks that showed up every garbage day to people's homes, which was a lot of equipment, labor, and fuel and once it was collected it had to go to the transfer station and transported to Eastern Oregon for the landfill.

COMMUNICATIONS: None.

CITIZEN INPUT & COMMUNITY ANNOUNCEMENTS: It was publically noticed that Council would be attending the meeting virtually and written comments and input on agenda items were accepted until 5:00 p.m. on Wednesday, June 15.

Paul Ylvisaker, Canby resident, said last month he had discussed the use of fireworks at the graduation ceremony and this was a follow up to that discussion. The School District did not have the authority to use fireworks at graduation. It violated his environment and harassed him with the unwanted explosions. He stated the Council knew about the fireworks, but did nothing to stop it which did not promote public trust and confidence in the Council. He reviewed the Council's values and goals and how this violated them for an inclusive community and exceptional public services. He thought it violated the ordinances of the City, which was law that should be followed.

Mayor Hodson planned to have a conversation with the City Attorney and School District about the process for the fireworks because it should have come to Council for approval.

Councilor Varwig clarified he did not know about the fireworks prior to graduation.

Valerie Bird, Canby resident, said some of the major players on social media platforms had all banned discussions on 5G and the effects on human health. Many companies were advertising the benefits of 5G, but nothing about the studies on health. Many countries and cities had halted the implementation of 5G. She explained what she had found in multiple scientific sources and books about the effects. The 5G antennas were going up everywhere and there was a proposal to put them on residential homes. She thought more investigation needed to be done before a blanket roll out.

Joe Lindsay, City Attorney, clarified the City had not permitted any of these sites yet.

Brad Clark, Canby resident, discussed the cost of law enforcement which was 60% of the City's budget, especially when compared with other cities. He thought Canby's was high in comparison and he wanted to make sure they were not missing other opportunities by disproportionately spending the budget.

Amanda Zeiber, Interim City Administrator, said that number was reflective of the General Fund budget rather than the overall City budget. The Police Department was about 55% of the General Fund budget.

Mr. Clark had combined the Police and Court for the 60%.

Mr. Lindsay said the Police and Court were different branches of government and the Court made money for the City.

Mayor Hodson would look into it further and get back with him.

MAYOR'S BUSINESS: Mayor Hodson reported on the City Administrator recruitment. Interviews were currently being conducted and the final candidates would come to town. The Parks and Recreation Advisory Board would meet next week. In June they selected a new Chair. Regarding tolling and I-205 expansion, he had been invited to meet with a group of potentially impacted cities. C4 would meet in August. The last meeting they discussed the work plan for the year. Regarding COVID, Clackamas County had remained steady between 18-24 cases. He asked people to wear masks when they were going into businesses.

COUNCILOR COMMENTS & LIAISON REPORTS: Councilor Spoon welcomed the new Transit Advisory Committee members. She would like to discuss the Diversity, Equity, and Inclusion Strategic Plan she had proposed.

Councilor Varwig welcomed the new Library Board member. The Library Director was retiring. The Fire Department was remodeling the main fire station. The new ladder truck had arrived.

Councilor Dale said the last two Canby Utility meetings had dealt with yearly housekeeping issues.

CONSENT AGENDA: **Council President Dale moved to adopt the minutes of the June 17, 2020 City Council Regular Meeting, new limited on-premises OLCC liquor license for B's Bake Shoppe, appointment of Jessica Hines to the Library Board, and appointments of Warren Holzem, Alex Vice, and Paul Waterman to the Transit Advisory Committee and passed 5-0.

RESOLUTIONS & ORDINANCES

Resolution No. 1339: A Resolution authorizing a rate increase and establishing a new rate schedule for garbage collection by Canby Disposal within the City of Canby.

****Councilor Varwig moved to adopt Resolution 1339, A RESOLUTION AUTHORIZING A RATE INCREASE AND ESTABLISHING A NEW RATE SCHEDULE FOR GARBAGE COLLECTION BY CANBY DISPOSAL WITHIN THE CITY OF CANBY. Motion was seconded by Council President Dale and passed 5-0.**

Resolution No. 1340: A Resolution to ratify the contract between the City of Canby (City) and the Local 350-6 AFSCME Council 75 AFL-CIO (Union) for the period from July 1, 2020 through June 30, 2021; and repealing Resolution No. 1273.

Ms. Zeiber said the AFSCME contract expired on June 30, 2020. The negotiation process had started and then had to postpone meetings and hold virtual meetings due to COVID-19. They decided to do a one year contract because of all the unknowns. The contract would be retroactive to July 1, 2020 and would expire on June 30, 2021. Next spring there would be another negotiation process. The contract included a 2.5% COLA and legislative updates related to additional pay during emergency closures. There was agreement to limit employees having additional pay when city offices were closed if they were considered essential and had to come in for a two week period.

Councilor Parker clarified the Council had discussed the contract in Executive Session.

****Councilor Varwig moved to adopt Resolution 1340, A RESOLUTION TO RATIFY THE CONTRACT BETWEEN THE CITY OF CANBY (CITY) AND THE LOCAL 350-6 AFSCME COUNCIL 75 AFL-CIO (UNION) FOR THE PERIOD FROM JULY 1, 2020 THROUGH JUNE 30, 2021; AND REPEALING RESOLUTION NO. 1273. Motion was seconded by Councilor Berge and passed 5-0.**

Ordinance No. 1530: An Ordinance authorizing the Mayor and Interim City Administrator to execute a contract with CURRAN-McLEOD, Inc. Consulting Engineers for engineering services to complete improvements to N Locust Street Reconstruction; and declaring an emergency.
(First Reading)

Ms. Zeiber said Locust Street had intermittent old curbs and sidewalks and a deteriorating surface. This project was a complete rebuild of the curbs and sidewalks on one side and parking on both sides from NE 4th to NE 10th. Improvements would also be made to N Knott between NE 3rd and 4th. They were receiving \$374,000 in federal funds for the project and the rest would be funded through street and sewer SDCs. The reason for the emergency language was because this was a high priority project to connect the new splash pad, library, and fairgrounds with safe pedestrian routes and due to the timing of a power extension project at the fairgrounds.

Councilor Varwig asked if this project included pedestrian crosswalks across 10th Avenue. Ms. Zeiber said they were looking into additional crosswalks and locations.

****Councilor Berge moved to adopt Ordinance 1530, AN ORDINANCE AUTHORIZING THE MAYOR AND INTERIM CITY ADMINISTRATOR TO EXECUTE A CONTRACT WITH CURRAN-McLEOD, INC. CONSULTING ENGINEERS FOR ENGINEERING SERVICES TO COMPLETE IMPROVEMENTS TO N LOCUST STREET RECONSTRUCTION; AND DECLARING AN EMERGENCY to come up for a second reading on August 5, 2020. Motion was seconded by Councilor Varwig and passed 5-0 on first reading.**

Ordinance No. 1531: An Ordinance granting a nonexclusive franchise to Canby Telephone Association (DirectLink) to provide telecommunication services within the City of Canby; and establishing an effective date. *(First Reading)*

Mr. Lindsay said the franchise agreement with Canby Telephone for telecommunication services had expired. There was a brief renegotiation and the new agreement was mostly an extension of the last agreement because it was a good agreement and similar to other telecommunication agreements with other providers. It was a ten year agreement with 5% of gross revenues paid to the City. It would also allow CTV5 to continue with their PEG fees in the same way.

Jim Hunsaker, Canby Telephone, was there to answer any questions. He said Canby Telephone prided itself in being involved in the community.

Mayor Hodson clarified they would be going from 7% to 5% in anticipation of the regulations regarding 5G.

Mr. Lindsay stated it was due to the legal need for 5G and the intent to have a level playing field.

Councilor Dale asked if there would be a significant budget impact to take into account. Mr. Lindsay did not think it was that significant.

Councilor Dale said the franchise fee was a pass through to the customer. Mr. Hunsaker said they were permitted to pass it through, but they did not pass the entire fee through.

Councilor Dale asked if the FCC had decided 5G would count for telephone, cable TV, and internet. Mr. Hunsaker said it was a fast data source that would bridge between internet and traditional telephone.

Councilor Dale was in support of reducing it to 5%. He asked if they needed to change the Wave franchise agreement as well. Mr. Lindsay would look into it.

****Council President Dale moved to adopt Ordinance 1531, AN ORDINANCE GRANTING A NONEXCLUSIVE FRANCHISE TO CANBY TELEPHONE ASSOCIATION (DIRECTLINK) TO PROVIDE TELECOMMUNICATION SERVICES WITHIN THE CITY OF CANBY; AND ESTABLISHING AN EFFECTIVE DATE to come up for a second reading on August 5, 2020. Motion was seconded by Councilor Spoon and passed 5-0 on first reading.**

Ordinance No. 1532: An Ordinance granting a nonexclusive franchise to Canby Telephone Association (DirectLink) to provide cable television service within the City of Canby; and establishing an effective date. *(First Reading)*

Mr. Lindsay said the previous discussion related to this franchise agreement, only this was for cable service. It also allowed for PEG fees for CTV5.

****Council President Dale moved to adopt Ordinance 1532, AN ORDINANCE GRANTING A NONEXCLUSIVE FRANCHISE TO CANBY TELEPHONE ASSOCIATION (DIRECTLINK) TO PROVIDE CABLE TELEVISION SERVICE WITHIN THE CITY OF CANBY; AND ESTABLISHING AN EFFECTIVE DATE to come up for a second reading on August 5, 2020. Motion was seconded by Councilor Varwig and passed 5-0 on first reading.**

CITY ADMINISTRATOR'S BUSINESS & STAFF REPORTS: Ms. Zeiber updated the Council on the splash pad project which was moving along successfully and would be completed by the end of August. The Ivy Street sewer project was out to bid and they were getting a good response.

Mayor Hodson said PGE was putting in a new power transfer line on Elm Street for the quiet zone project. The bi-monthly reports from staff were available in the Council packet.

ACTION REVIEW:

1. Approved the Consent Agenda.
2. Approved Resolution No. 1339.
3. Approved Resolution No. 1340.
4. Passed Ordinance No. 1530 to a second reading on August 5th.
5. Passed Ordinance No. 1531 to a second reading on August 5th.
6. Passed Ordinance No. 1532 to a second reading on August 5th.

The meeting adjourned at 9:00 p.m.



Melissa Bisset, CMC
City Recorder



Brian Hodson
Mayor

Assisted with Preparation of Minutes - Susan Wood