

**CANBY CITY COUNCIL
CITY COUNCIL WORK SESSION
August 5, 2015**

Presiding: Mayor Brian Hodson.

Council Present: Todd Rocha, Greg Parker, Traci Hensley, Tim Dale, Tracie Heidt, and Clint Coleman.

Planning Commission Present: John Savory, John Serlet, Shawn Hensley, and Kris Rocha.

Staff Present: Rick Robinson, City Administrator; Joseph Lindsay, City Attorney; Bryan Brown, Planning Director, Matilda Deas, Senior Planner; and Kim Scheafer, City Recorder.

Others Present: Ken Pirie, Matt Hastie, Brian Vanneman, Allen Manuel, Jane Buchanan, and Daniel Webb.

The City Council and Planning Commission met in a Work Session to discuss the North Redwood Development Concept Plan.

Council President Dale called the Work Session to order at 6:00 p.m. in the City Hall Conference Room.

Ken Pirie, consultant with Walker Macy, gave a presentation on the North Redwood Development Concept Plan. He discussed the public outreach for the project. It would go before the Planning Commission on September 14 and to the Council on September 16. He then explained the current conditions of the site. It was 66 acres and 18 property owners. They developed criteria to use as guidelines for the project, which included safe streets, mix of housing types, and integrating the natural area. This land was currently outside of the City, and there was no plan to change the current Comprehensive Plan zoning. Most of the area was low density residential, with portions of medium and high density residential. He discussed the alternative concepts using this zoning. The recommended concept proposed two development areas, one east of Willow Creek which would connect to Teakwood Lane and one west of Willow Creek adjacent to North Redwood Street. Fifteen acres of the 66 were planned to be roadways and there was 9.3 acres of natural area. There would be dedication of private land to bring North Redwood up to collector standard. There would also be a neighborhood park next to Willow Creek. They kept flexibility in the concept plan to help developers be able to build a marketable development. He showed examples of how it might be developed and where the streets might be located. He explained how the water, sewer, and storm water would be connected to serve the site. This would be integrated with existing City road systems, would have walkability and a cohesive neighborhood, the plan integrated all of the development parcels, handled the restricted features in an equitable way, and there was reasonable cost for infrastructure.

Brian Vanneman, consultant with Leland Consulting Group, said most of the infrastructure was a similar size to other infrastructure. The roads were the same size and fell on the same amount of property for all the property owners. The park space was on the east side and he suggested a North Redwood park account be created for those on the west to contribute fees towards the park and those on the east would contribute land. The City proposed a density transfer to additionally compensate property owners who were donating park land. SDC's would also be collected. The

dedication value would be determined through an appraisal. He explained the options for when the infrastructure straddled property lines.

Matt Hastie, consultant with Angelo Planning Group, said it was important that as development occurred it met the intent of the plan and he listed the essential plan elements that needed to be met and the elements that were more flexible. There were no proposed changes to the Comprehensive Plan or Development Code to allow for implementation of the plan. There were some amendments to the Code suggested for the transfer of density for the park area and incorporating what was essential and what was flexible into the approval criteria for development.

There was discussion regarding concerns from the property owners, how the property owners would need to apply for annexation, and how to make sure the infrastructure was developed correctly with so many property owners involved.

Mayor Hodson adjourned the Work Session at 7:15 p.m.

**CANBY CITY COUNCIL
REGULAR MEETING MINUTES
August 5, 2015**

Presiding: Mayor Brian Hodson.

Council Present: Todd Rocha, Greg Parker, Traci Hensley, Tim Dale, Tracie Heidt, and Clint Coleman.

Staff Present: Rick Robinson, City Administrator; Joseph Lindsay, Amanda Zeiber, Asst. City Administrator/HR Director; and Kim Scheafer, City Recorder.

Others Present: Bob Cornelius, Peggy Sigler, Merle Thomas, Paul Schmidt, Daniel Pearson, Alice Norris, Greg Leo, John Serlet, Bradley Steinman, Shawn Hensley, and Leo Townsell.

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

COMMUNICATIONS: None.

CITIZEN INPUT & COMMUNITY ANNOUNCEMENTS: None.

MAYOR'S BUSINESS: Mayor Hodson said the July 4 turnout was great. He spoke with the owner of FOB and he was very complimentary of City Staff in helping getting his business going.

Rick Robinson, City Administrator, said several applicants would be interviewed for the Library Director position next week. August 31 at 2:00 p.m. was the groundbreaking ceremony for the new Library/Civic Building.

COUNCILOR COMMENTS & LIAISON REPORTS: Councilor Parker attended the Bike and Pedestrian Committee meeting. A member of that committee had attended the Canby Livability Coalition to discuss incorporating a bicycle way site in the Art Park. The Historic

Review Board was seeking the national historic register designation for the City Hall building and a grant for a historic land survey. He discussed how in South America, Mayors were in charge of the cities.

Councilor Hensley had a similar experience at FOB and they were very complimentary of City staff. She attended the ribbon cutting ceremony for the new airport tower in Aurora. Canby's Big Weekend would be starting on August 28 at 5:00 p.m. She also attended the Regional Economic Development Ecosystem presentation by Greater Portland, Inc. The Traffic Safety Commission was changing their meeting dates to the first Monday of each month.

Councilor Dale said Canby Utility Board had retained an engineering firm to work on the water taste and smell issue. The City received water from the Molalla River and it was safe to drink.

Bob Cornelius, Canby Utility Board Chair, said there were no concerns about the water flow from the River per the State Water Master.

Councilor Heidt said Canby Area Transit's new parking lot was striped, had new storage sheds and was now being used by almost all of the buses. A new schedule came out on August 3 and the Orange Line had been renamed Route 99. They wanted to pursue purchasing the bus lot property.

Mr. Robinson said it was in the 2015-16 budget and a letter was sent to Pioneer Properties to initiate the purchase of the bus lot property.

Councilor Heidt said there would be shuttle buses to the fair. Family Day at the Adult Center would be held on August 13. There was a school supply drive through the Canby Center. Fill the Boot Day was held on July 25 and she attended an OSU Extension open house in Aurora last week. The library had a "Nominate a Local Hero" program and the nominees would be announced on August 12. She announced the new Traffic Safety Commission members. She would not be at the August 19 City Council meeting.

Councilor Coleman said anyone interested in volunteering at the Clackamas County Fair could apply at the fair office. He gave an update on all the discount days at the fair. The Chamber Lunch would be held at the fairgrounds next Tuesday. The next Planning Commission meeting would be held on August 24.

CONSENT AGENDA: **Councilor Dale moved to adopt the minutes of the July 15, 2015, City Council Work Session and Regular Meeting; appointment of Barbara Rodgers to the Traffic Safety Commission for a term to end on June 30, 2016; and reappointment of Daniel Leischner to the Traffic Safety Commission for a term to end on June 30, 2018. Motion was seconded by Councilor Hensley and passed 6-0.

PUBLIC HEARING: Denial of Business License for Oregon Medical Grade, Inc. - Mayor Hodson read the public hearing format.

Conflict of Interest:

Councilor Rocha – 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 Coleman – No conflict, plan to participate.
Mayor Hodson – No conflict, plan to participate.

Ex Parte Contact:

Councilor Rocha – No contact.
Councilor Parker – No contact.
Councilor Hensley – No contact.
Councilor Dale – No contact.
Councilor Heidt – No contact.
Councilor Coleman – No contact.
Mayor Hodson – No contact.

Joseph Lindsay, City Attorney, presented the staff report. He said on July 15 the applicant was denied a business license to operate a medical marijuana dispensary. The City's ordinance denied business licenses that violated local, state, or federal law. In this case even though the state allowed medical marijuana, the federal government did not. He had looked at recent cases out of Cave Junction dealing with this issue and in those cases it was ruled that State law did not preempt the City's home rule and that federal law preempted state law. They could not condone or allow an illegal business in the City.

There was discussion regarding the Council's role in reviewing an administrative decision and deciding whether or not the denial was appropriate. There was clarification that the state law did not trump the City's home rule.

Councilor Hensley asked for clarification on what was a proponent and an opponent.

Mayor Hodson said a proponent was for the denial of the business license and an opponent was against the denial of the business license.

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

Applicant: Merle Thomas had lived in Clackamas County for forty years, was a veteran, home owner, and law abiding citizen. He understood the importance of keeping the community safe and maintaining a strong community appearance. He had five stores and ran them professionally. Every city he went into had the same concerns and he had showed them how he could be trusted and was concerned about the community and children. Medical marijuana was legal in the state. He spoke about the City of Rainier and how he had answered all of their concerns and his dispensary was approved. He thought together he and the City could craft rules, work in unison, and build this new industry for the betterment of all. He showed the paperwork of all he had gone through to get approval. His store in Portland had been there for a year and the landlord had many concerns at first. He just signed a six year lease with a five year renewal option. He was a man of his word and he did care about this community.

Proponents: None.

Opponents: Leo Townsell had worked in communications for three statewide marijuana legalization efforts. He had spoken to countless people on how marijuana had changed their lives.

He could confidently say that marijuana was medicine. He had seen Mr. Thomas' commitment to safe access for patients and his first priority was to ensure the quality and affordability of the medicine. There were over 5,000 registered card holders in Clackamas County and these patients desired to be able to purchase safe, legal marijuana. Mr. Thomas and Oregon Medical Grade were committed to working with the City to craft a working ordinance for future retail establishments and benefitting the community as a whole by providing quality medicine at affordable prices for those who needed it the most.

Paul Schmidt, Canby resident, said he was a retired law enforcement official. He moved to Colorado to care for his father and at that time Colorado was implementing their new medical marijuana structure. He became the agent in charge of the medical marijuana enforcement division. One of the biggest issues in Colorado was whether or not to be in support of medical marijuana dispensaries. Many of them relied on the federal law superseding state law. That was four years ago and if you looked at the State of Colorado, all the hurdles had been overcome and crime levels had gone down and it had not affected neighborhoods. He thought Mr. Thomas was here to comply and not to skirt the system, but to go forward in a positive light above the table to have a successful business. It was not a question of if it would happen, but a question of when. He would like to see Canby not in opposition, but to get good regulatory structure in place to be able to take action against those businesses that were working under the table and on the black market. These were legal businesses that paid taxes, employee benefits, and had structures to be successful businesses.

Bradley Steinman knew Mr. Townsell, Schmidt, and Thomas. He was an attorney representing the Cannabis Business Council in the Cave Junction appeal case. He helped draft HB 3460, a State dispensary law. He discussed the Federal Controlled Substances Act which did not prevent the ability of the State to regulate in this area unless there was a positive conflict such that state and federal law could not consistently stand together. It was illegal federally, but that did not mean state law did not exist and 99% of all state and local enforcement activity happened at the state and local level. He thought Mr. Thomas was entitled to a business license. He was an above-board operator who cared about doing things the right way and was the type of person they would want to have as the model.

Rebuttal: None.

Mayor Hodson closed the public hearing at 8:37p.m.

Councilor Parker was part of the 40% of the Canby citizens that voted in favor of legalizing marijuana and was in support of medical marijuana. However, their ordinance said if a business wanted to do something in violation of federal law then they could not issue a business license. He asked if the law was correctly applied. Did this violate federal law?

Mr. Thomas said there were many counties and cities doing it and they were not part of a federal criminal enterprise and neither was he. It sounded like they were hiding behind a federal law and the federal organizations had already stated they would not touch medical marijuana in any state where it was legal. He was not concerned about the federal government coming to his store or the City. The City of Rainier had the same type of ordinance, but were currently changing it after he had explained how the process worked and how he ran his businesses. He explained what the location would look like in Canby and the security that would be put in place.

Councilor Heidt said there was a lot of fear due to the unknown territory of recreational marijuana.

Councilor Dale appreciated Mr. Thomas' honesty and transparency, however he was not persuaded that they should defy federal law. The legislative framework to enforce how to properly and safely operate this type of business was not in place at this time.

Councilor Hensley said they were reviewing whether staff followed the ordinance. In her view there was an ordinance in place and staff had followed it. There was not a provision to allow an exception.

Mr. Lindsay said the Council had the ability to change the ordinance and make an exception in the future.

Councilor Coleman had a hard time getting around the legal issue. He thought Mr. Thomas seemed like a top notch professional.

Mayor Hodson thought it was a tenuous situation in the City and the conversation would need to continue.

Mr. Thomas thought the State had already set up the framework for these facilities and he had already invested a lot of money in the Canby site. He wanted to work with the City, not against them. He suggested the Council walk through one of his facilities and get more educated on medical marijuana before the decision was made.

****Councilor Parker moved to uphold the prior administrative decision to deny the business license to Oregon Medical Grade, Inc. Motion was seconded by Councilor Hensley and passed 6-0.**

RESOLUTIONS & ORDINANCES:

Resolution 1222 – Alice Norris, Willamette Falls Heritage Coalition, said they were in attendance to ask the City to join the efforts of creating a national heritage area with the center around Willamette Falls that told the stories of the area. The two themes were the beginnings of the End of the Oregon Trail and the birthplace of industry west of the Rockies. The national area would include 56 river miles and 12 communities along the Willamette River. Working together they would create economic vitality and synergy that they did not have separately. She requested approval of the resolution.

Peggy Sigler, Canby resident, said she had been a longtime advocate of a local heritage area along the river. She was excited that Canby was being included. The County Fair was designated as an Oregon Heritage Event.

Greg Leo, upriver coordinator for the heritage coalition, urged the Council to pass the resolution. This was tourism economic development at its best. There were no other national heritage areas in the Pacific Northwest and it would put them on the map. There was no land use affect and they were not asking for money that night.

****Councilor Coleman moved to adopt Resolution 1222, A RESOLUTION SUPPORTING EFFORTS TO CREATE A WILLAMETTE FALLS NATIONAL HERITAGE AREA AND URGING DESIGNATION OF SUCH BY CONGRESS. Motion was seconded by Councilor Heidt.**

Councilor Parker thought this was essential for Canby to support to bring tourism dollars to the City.

Motion passed 6-0.

Ordinance 1420 – Mr. Robinson said the contract was for the design phase, construction phase, and odor control study for the Wastewater Treatment Plant improvements. The total cost for the project was \$875,000 and the engineering portion was \$101,500. He explained the tasks that would be completed in the project. Because of the timing of the work, they were declaring an emergency in adopting the ordinance.

****Councilor Rocha moved to approve Ordinance 1420, AN ORDINANCE AUTHORIZING THE CITY OF CANBY TO ENTER INTO A CONTRACT WITH CURRAN-MCLEOD, INC. CONSULTING ENGINEERS FOR ENGINEERING SERVICES REGARDING 2015-2016 WASTEWATER TREATMENT PLANT IMPROVEMENTS; AND DECLARING AN EMERGENCY to come up for second reading on August 19, 2015. Motion was seconded by Councilor Hensley and passed 6-0 on first reading.**

NEW BUSINESS: None.

ADMINISTRATOR'S BUSINESS & STAFF REPORTS: Mr. Robinson met with a member of the Historic Review Board who wanted to have a meeting of all the City committees. Staff would be scheduling the meeting for October. He had a meeting where the City block project was discussed. He also met with ODOT regarding Elm Street and Highway 99E which was yet to be resolved. He would be meeting with the Fire Chief regarding the next steps in the Urban Renewal funding for fire apparatus they wanted to purchase. There was a new tenant in the former Transit office, Ultimate Team Spirit. A request form had been developed for the Traffic Safety Commission to look at safety issues and help streamline the process.

CITIZEN INPUT: None.

ACTION REVIEW:

1. Approved the Consent Agenda.
2. Upheld the denial of a business license for Oregon Medical Grade, Inc.
3. Adopted Resolution 1222.
4. Approved Ordinance 1420 to come up for second reading on August 19, 2015.

There was no Executive Session.

Mayor Hodson adjourned the meeting at 9:25 p.m.



Kimberly Scheafer, MMC
City Recorder



Brian Hodson
Mayor

Assisted with Preparation of Minutes - Susan Wood