

**CANBY CITY COUNCIL  
REGULAR MEETING MINUTES  
May 16, 2018**

**PRESIDING:** Mayor Brian Hodson.

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

**STAFF PRESENT:** Rick Robinson, City Administrator; Joseph Lindsay, City Attorney; Julie Blums, Finance Director; Bryan Brown, Planning Director; Jennifer Cline, Public Works Director; and Kim Scheafer, City Recorder.

**OTHERS PRESENT:** Rick Givens, Carol Rosen, Laurel Spillum, Jay Spillum, Greg Penner, Fire Chief Jim Davis, Lauren Robertson, Roger Steinke, Susan DuPont, Blake DuPont, and Paul DuPont.

**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:** Rick Robinson, City Administrator, said he had been in contact with Clackamas County regarding the new building and permitting legislation. The County's recommendation was for the City to continue to operate under the County's umbrella.

**CITIZEN INPUT & COMMUNITY ANNOUNCEMENTS:** None.

**MAYOR'S BUSINESS:** Mayor Hodson said C4 would be having a retreat at the end of June. They would be contacting staff regarding the City's transportation project priorities. The Mayor's Prayer Breakfast was on May 3 and it was well attended. He signed a support letter for a study of I-5 from the Wilsonville exit to the Canby exit. He attended the third grade presentation at Trost Elementary on what the children thought Canby needed. He listed the projects the children suggested.

Councilor Dale arrived at 7:43 p.m.

**COUNCILOR COMMENTS & LIAISON REPORTS:** Councilor Spoon said that videos of the Planning Commission and City Council meetings were on the City's YouTube page. CTV5 was updating to HD and was getting equipment for live television. They had been promoting a community calendar and readerboard. They had also been working on a contract with Gordon Christianson to be the interim manager for CTV5. The first Bridging Cultures picnic would be held on May 19 at Locust Street Park. Volunteers and vendors were needed for the Fourth of July event and the Fire Department was collecting funds for the fireworks.

Councilor Hensley had attended the Mayor's Prayer Breakfast and First Friday. The Traffic Safety Commission had forwarded a recommendation for a four way stop at 2<sup>nd</sup> and Cedar to the City. She thanked Julie Collinson for serving on the Commission and announced there was an opening on the Commission. She also attended Senator Olson's Town Hall. On Sunday, May 20, from 4-6 p.m. the Mark Prairie School House was having an open house.

Councilor Parker encouraged people to drop by the Saturday Farmer's Market. The Heritage and Landmark Commission had 19 volunteers attend the headstone cleanup at Zion Memorial Cemetery last Saturday. Seventy five markers were cleaned.

Councilor Smith gave an update on the Planning Commission's recent meeting. They approved Northwoods Phase III, Clark Products site and design review, and a partition on Ivy near SW 8<sup>th</sup>.

**CONSENT AGENDA: \*\*Councilor Hensley moved to adopt the minutes of the April 25, 2018 City Council Work Session; minutes of the May 2, 2018 City Council Work Session and Regular Meeting; and appointment of Jennifer Trundy to the City Budget Committee for a term to end on June 30, 2019. Motion was seconded by Councilor Spoon and passed 5-0.**

Mayor Hodson said two of the three Budget Committee meetings had been held. The third would be held tomorrow night at 6 p.m.

**PUBLIC HEARINGS: Update to Master Fee Schedule** – Mayor Hodson read the public hearing script.

Julie Blums, Finance Director, reviewed the proposed changes to the Master Fee Schedule.

The Council asked clarifying questions regarding the fees.

Mayor Hodson opened the public hearing at 8:09 p.m.

Proponents: None.

Opponents: None.

Mayor Hodson closed the public hearing at 8:09 p.m.

Councilor Smith expressed his opposition to the Transient Room Tax.

ANN 18-01/ZC 18-01 DuPont – Mayor Hodson read the public hearing script.

#### **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 Spoon – No conflict, plan to participate.

Mayor Hodson – No conflict, plan to participate.

#### **Ex Parte Contact**

Councilor Smith – No contact other than attended the Planning Commission meeting.

Councilor Parker – No contact, drove by the site.

Councilor Hensley – No contact.

Councilor Dale – No contact.

Councilor Spoon – No contact, drove by the site.

Mayor Hodson – No contact.

**STAFF REPORT:** Bryan Brown, Planning Director, said this was a request for annexation of 2.64 acres and zone change to R-1. The Planning Commission recommended approval of the annexation and rezoning. The annexation included right-of-way on Territorial as well as Spitz Road. Spitz Road had been vacated by the County and belonged to the City. Property owners to the west of the annexation were not aware that the City owned Spitz Road and Territorial Place. He explained the conceptual

subdivision plan that would come back at a future date. The best location for access to the site was to align it directly across Vine Street and the internal public road would connect to Spitz Road and Spitz would be reconstructed to City standards. There would be a pedestrian connection only from Spitz to Territorial. The proposed zoning matched the Comprehensive Plan designation for the site. This was an area where a development agreement was required and the proposed development agreement would be recorded within seven days of annexation approval.

Councilor Smith said that they were only considering an annexation request and zone change and the subdivision proposal was not binding.

Mr. Brown clarified the difference between development concept plan and development agreement. The applicant satisfactorily demonstrated what was needed for the development agreement. He discussed how the City did not realize they were responsible for Spitz Road and Territorial Place and the neighbors had been maintaining them. Neighbors were also concerned about Spitz Road being used as access to the river and park and suggested it be dead ended so vehicles would not go through the surrounding area. These issues would be discussed further in the subdivision application. A traffic analysis was done for the site which showed the Transportation System Plan took into account the future land use of this area and the expected traffic. The City did have need for more buildable lots and adequate infrastructure would be available or would be built to adequately serve the development.

Mayor Hodson opened the public hearing at 8:00 p.m.

**Applicant:** Rick Givens, Icon Construction, was representing the applicants. The DuPonts were longtime residents of Canby and had a business in the City. They had owned this property for 15 years. An analysis was done of the three year supply of buildable land, and there was a real need for additional lots, especially with the way the City was growing. The property was at the edge of the Urban Growth Boundary and could be served with existing services in the streets abutting the property. Development of the property would provide for Spitz Road to be reconfigured to better provide for traffic. There was a lot of concern at the Planning Commission level about potential through traffic on Territorial Place, and the applicants agreed that an emergency vehicle gate that would close off through traffic was something that they would look into. There was also concern about the rural feel of the area and neighbors would prefer that the property not be developed. This property was in the Comprehensive Plan and was intended to be developed to meet the City's population growth.

**Proponents:** None.

**Opponents:** Greg Penner lived on the west side of the annexation. He was concerned about the amount of traffic from people who used the park. Spitz Road was the main road to it, and some people also used Territorial Place. He was also concerned about people parking on Spitz and Territorial Place, and Territorial Place was an undeveloped road. Another concern was the groundwater from the development flooding the neighbor's septic systems, wells, and pastures.

Jay Spillum lived on the west side also. He and his family had concerns about the increased traffic on Territorial. He suggested removing the truck traffic on Territorial. He thought the speed limit should be reduced from 30 mph to 25 mph. The entrance for this development might add to the confusion of traffic flow here. He was also concerned about the traffic on Territorial Place and agreed with the Planning Commission's recommendation to block it off. He thought a sign should be added that said resident parking only. The neighborhood had been maintaining the road for years as there was never an answer as to who owned it. His driveway was close to the proposed Vine Street entrance and he did not know if

he should be concerned about the distance since his driveway was there first. He was also concerned about the well water quality and viability of his septic drain field. If the wells or septic systems were determined to be compromised as a result of this development forcing the neighbors to hook up to City sewer or water, he would like it in writing that the hook-up fees were waived as a condition of the annexation approval. There would be an increase in activity, noise, and pollution and a decrease in privacy and aesthetically pleasing country views. He would like a six foot wooden fence built on the west side of the development to help retain a sense of privacy. The development should remain low density and the number of houses should not be more than 10 total including the one existing home. He asked if there was a way to bring back voter annexation.

Councilor Hensley explained the legislators changed the law so cities could not refer annexations to the voters.

Lauren Robertson lived on Territorial place and worked hard with the Garden Association. She leaned toward the greater good. This was a rural area and developing this property created a finger of urban development that was out of context. It was in third tier to the Urban Growth Boundary and none of the neighbors were in favor of the annexation. She did not think annexing this property was for the greater good at this time. The annexation would increase the burden on City services and there would be no benefit to adjoining properties. The neighbors were concerned about their well water, septic systems, and farm animals. It would look and function as urban sprawl and not proper planning. She requested that Territorial Place be blocked off and that it become an access road for the two properties.

**Rebuttal:** Mr. Givens said most of the things mentioned related to the future development of the property. He did not think the driveway near Vine Street would be a problem as there was enough site distance, however that would be decided at the subdivision application. The City had a standard about developments near wells and they would comply with the standard. The fencing could be discussed at the development phase. This area was designated as urban and at some point it would all be developed. There was no potential for sprawl because the Urban Growth Boundary set the limits. They had no objection to closing off Territorial Place.

Mayor Hodson closed the public hearing at 8:56 p.m.

Mayor Hodson asked if the questions about traffic and water runoff would be addressed when the property was developed.

Mr. Brown said yes. If the applicants wanted to treat the stormwater run-off through drywells, the drywells had to be 267 feet from any existing wells. If it did not meet that requirement, the applicants would have to use a different treatment. Professional traffic studies were being done for the different developments on Territorial. They could put in all way stops and reduce the speed limits if there was justification. There was a gray area with this application as to whether there were enough lots for a traffic study to be done.

Councilor Parker clarified approval of this annexation did not prejudice the City into approving the subdivision.

Mayor Hodson discussed how with the new legislation, if an annexation met the criteria there was not much discretion for the Council. Many of the issues raised by the neighbors would be dealt with at the subdivision application phase.

Councilor Hensley suggested updating the Comprehensive Plan to be consistent with the new legislation regarding annexations. Mr. Robinson said the voter annexation provision was in the Charter, not Comprehensive Plan. He did not think changing the Comprehensive Plan would address the issue at hand.

Councilor Smith said they should not be pushing toward a Comprehensive Plan update.

Councilor Spoon asked about a conflict with the Comprehensive Plan in allowing a finger of urbanization in this area. Mr. Robinson did not think this was a finger as the property was within the Urban Growth Boundary and was designated in the Comprehensive Plan as an appropriate property for future annexation and development. It was an extension of existing property that had already been developed.

There was further discussion regarding the definition of finger.

**\*\*Councilor Hensley moved to approve Annexation/Zone Change File ANN/ZC 18-01 pursuant to the recommendation forwarded by the Planning Commission. Motion was seconded by Councilor Smith and passed 5-0.**

**RESOLUTIONS & ORDINANCES: Ordinance 1475 – \*\*Councilor Hensley moved to adopt Ordinance 1475, AN ORDINANCE AUTHORIZING THE MAYOR AND CITY ADMINISTRATOR TO PURCHASE THREE (3) VEHICLES FOR CANBY AREA TRANSIT FROM CREATIVE BUS SALES OF CANBY, OREGON. Motion was seconded by Councilor Spoon and passed 5-0 by roll call vote.**

Ordinance 1476 – \*\*Councilor Hensley moved to adopt Ordinance 1476, AN ORDINANCE ESTABLISHING CRIMINAL HISTORY RECORD CHECK POLICIES CONCERNING APPLICANTS FOR EMPLOYMENT, APPOINTED VOLUNTEERS, CONTRACTORS AND THOSE EMPLOYED BY CONTRACTORS WITH THE CITY; AND REPEALING ORDINANCE 1224. Motion was seconded by Councilor Parker and passed 5-0 by roll call vote.

Ordinance 1477 – \*\*Councilor Parker moved to adopt Ordinance 1477, AN ORDINANCE ADDING CHAPTER 3.50 TO THE CANBY MUNICIPAL CODE THEREBY ESTABLISHING A TRANSIENT ROOM TAX. Motion was seconded by Councilor Dale and passed 4-1 by roll call vote with Councilor Smith opposed.

Ordinance 1478 – Mr. Robinson reviewed the map that showed the work that would be done for 2018.

**\*\*Councilor Parker moved to adopt Ordinance 1478, AN ORDINANCE AUTHORIZING THE MAYOR AND CITY ADMINISTRATOR TO EXECUTE A CONTRACT WITH EAGLE-ELSNER, INC. IN THE AMOUNT OF \$758,447.00 WITH AUTHORIZATION TO EXPAND THE WORK SCOPE TO AN AMOUNT NOT TO EXCEED \$850,000.00 FOR CONSTRUCTION OF SCHEDULE “A” OF THE 2018 STREET RESURFACING & SLURRY SEAL; AND DECLARING AN EMERGENCY. Motion was seconded by Councilor Smith and passed 5-0 by roll call vote.**

Ordinance 1479 – \*\*Councilor Hensley moved to adopt Ordinance 1479, AN ORDINANCE AMENDING CHAPTER 8.20 OF THE CANBY MUNICIPAL CODE PERTAINING TO

**ALARMS. Motion was seconded by Councilor Spoon and passed 5-0 by roll call vote.**

Ordinance 1480 – **\*\*Councilor Hensley moved to adopt Ordinance 1480, AN ORDINANCE AUTHORIZING THE CITY OF CANBY TO ENTER INTO A CONTRACT WITH PMAM CORPORATION OF TEXAS TO PROVIDE ALARM PROGRAM ADMINISTRATION AND COLLECTION SERVICES FOR THE CITY. Motion was seconded by Councilor Spoon and passed 5-0 by roll call vote.**

Ordinance 1481 – **\*\*Councilor Hensley moved to adopt Ordinance 1481, AN ORDINANCE AUTHORIZING THE MAYOR AND CITY ADMINISTRATOR TO EXECUTE A CONTRACT WITH INTERMOUNTAIN SLURRY SEAL, INC. IN THE AMOUNT OF \$141,185.00 WITH AUTHORIZATION TO EXPAND THE WORK SCOPE TO AN AMOUNT NOT TO EXCEED \$200,000.00 FOR CONSTRUCTION OF SCHEDULE “B” OF THE 2018 STREET RESURFACING & SLURRY SEAL. Motion was seconded by Councilor Spoon and passed 5-0 by roll call vote.**

Ordinance 1482 – **\*\*Councilor Spoon moved to adopt Ordinance 1482, AN ORDINANCE AUTHORIZING THE CITY OF CANBY TO ENTER INTO A CONTRACT WITH HEARD FARMS FOR WASTEWATER SEWAGE SLUDGE REMOVAL. Motion was seconded by Councilor Hensley and passed 6-0 by roll call vote.**

Ordinance 1483 – **\*\*Councilor Smith moved to approve Ordinance 1483, AN ORDINANCE, PROCLAIMING ANNEXATION INTO THE CITY OF CANBY, OREGON 2.64 ACRES INCLUDING 2.0 ACRES OF REAL PROPERTY DESCRIBED AS TAX LOTS 200 AND 201 OF PORTION OF SE ¼, SEC. 27, T.3S., R.1E., W.M. (TAX MAP 31E27DB); AND APPROX. 0.20 ACRES OF ADJACENT NE TERRITORIAL ROAD RIGHT-OF-WAY AND APPROX. 0.44 ACRES OF PART OF TAX LOT 1500 (TAX MAP 31E27AD) KNOWN AS SPITZ ROAD WHICH IS VACATED COUNTY ROADWAY NOW OWNED BY THE CITY OF CANBY; AND AMENDING THE EXISTING COUNTY ZONING FROM RURAL RESIDENTIAL FARM FOREST FIVE ACRE (RRFF-5) TO CITY LOW DENSITY RESIDENTIAL (R-1) FOR THE ENTIRE AREA; AND SETTING THE BOUNDARIES OF THE PROPERTY TO BE INCLUDED WITHIN THE CANBY CITY LIMITS to come up for second reading on June 6, 2018. Motion was seconded by Councilor Hensley and passed 5-0 on first reading.**

Ordinance 1485 – Mr. Lindsay said this was an approach to add the word “park” so that anyone trying to interpret the language would realize it was not just about storing or abandoning vehicles, but allowing parking for 72 hours on City streets. Enforcement would be complaint driven.

**\*\*Councilor Hensley moved to approve Ordinance 1485, AN ORDINANCE AMENDING CANBY MUNICIPAL CODE (CMC) CHAPTER 10.04.100 REGARDING STORAGE OR ABANDONING OF VEHICLES ON STREETS to come up for second reading on June 6, 2018. Motion was seconded by Councilor Spoon.**

Councilor Smith recommended that the ordinance be cleaned up. He did not think parking violations should be subject to the statute on abandoned vehicles. He also did not think personal property should be included in the parking and vehicle ordinance. The ordinance was meant to address storage and abandoning vehicles, which was different from parking a vehicle.

Mr. Lindsay explained the personal property meant the property within the vehicle. He then described the difference between parked and abandoned cars.

There was discussion regarding possible language changes. Mr. Lindsay clarified the intent was to get compliance and for people not to park their vehicles on the streets for long periods of time for livability and appearance of the City.

There was consensus to table the ordinance so the City Attorney could rewrite it and bring it back to the June 6 meeting.

Ordinance 1486 – Mr. Robinson said the City received four bids for this project and Canby Excavating was the lowest responsible bidder. This project would allow the City to abandon a pump station that was high maintenance and costly. The declaration of emergency was so the work could be completed prior to the adjacent paving contract which included NE 11<sup>th</sup> Place, NE 10<sup>th</sup> Ave, and three drywell locations.

**\*\*Councilor Hensley moved to approve Ordinance 1486, AN ORDINANCE AUTHORIZING THE MAYOR AND CITY ADMINISTRATOR TO EXECUTE A CONTRACT WITH CANBY EXCAVATING, INC. IN THE AMOUNT OF \$481,373.30 FOR CONSTRUCTION OF THE NE 11<sup>TH</sup> PLACE SANITARY SEWER REPLACEMENT & OFFSITE STORM DRAINAGE; AND DECLARING AN EMERGENCY to come up for second reading on June 6, 2018. Motion was seconded by Councilor Parker and passed 5-0 on first reading.**

Ordinance 1487 – **\*\*Councilor Dale moved to approve Ordinance 1487, AN ORDINANCE AUTHORIZING THE CITY OF CANBY TO ENTER INTO AN AMENDED CONTRACT WITH KINTECHNOLOGY, INC. TO CONTINUE TO PROVIDE COMPUTER TECHNICAL SERVICES FOR THE CITY to come up for second reading on June 6, 2018. Motion was seconded by Councilor Hensley and passed 5-0 on first reading.**

Resolution 1284 – **\*\*Councilor Spoon moved to adopt Resolution 1284, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CANBY, OREGON, SETTING FEES FOR SERVICES AND REPEALING RESOLUTION 1262 AND ALL PREVIOUS RESOLUTIONS ADOPTING A MASTER FEE SCHEDULE. Motion was seconded by Councilor Dale and passed 3-2 with Councilors Hensley and Smith opposed.**

Councilor Hensley stated she had voted no because she did not agree with the 6% transient room tax.

**NEW BUSINESS:** None.

**ADMINISTRATOR’S BUSINESS & STAFF REPORTS:** None.

**CITIZEN INPUT:** None.

**ACTION REVIEW:**

1. Approved the Consent Agenda.
2. Adopted Ordinances 1475, 1476, 1477, 1478, 1479, 1480, 1481, and 1482.
3. Approved Ordinances 1483, 1486, and 1487 to come up for second reading on June 6, 2018.
4. Ordinance 1485 would be rewritten and brought back on June 6.
5. Adopted Resolution 1284.

There was no Executive Session.

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

Kimberly Scheafer, MMC  
City Recorder

Brian Hodson  
Mayor

Assisted with Preparation of Minutes - Susan Wood