

**CANBY CITY COUNCIL
CITY COUNCIL WORK SESSION
July 18, 2018**

Presiding: Mayor Brian Hodson.

Council Present: Traci Hensley, Tim Dale, Tracie Heidt, and Sarah Spoon. Councilors Tyler Smith and Greg Parker were absent.

Staff Present: Rick Robinson, City Administrator; Joseph Lindsay, City Attorney; Jamie Stickel, Main Street Manager; and Kim Scheafer, City Recorder.

Others Present: None.

Mayor Hodson called the Work Session to order at 6:00 p.m. in the Willow Creek Conference Room.

The Council met in a Work Session to discuss marketing the old library building located at 292 N Holly Street. Jamie Stickel, Main Street Manager, asked for Council direction on whether or not to reopen the Request for Expressions of Interest and continue marketing efforts for the former library building. This process began in the summer of 2017, and three proposals were received. The City chose to move forward with one proposal, but after the due diligence period the project did not move forward. The Dahlia project would be completed in August 2018 and provided opportunity for the redevelopment of the old library. If the Council wished to market the property, staff recommended marketing it aggressively for two months. She explained what the next steps would be.

Councilor Spoon said she had a client that was interested in the property when it was not on the market. She would not be representing them if they chose to submit a proposal and would not receive a commission. She asked where they were in the process for recruiting tenants for the Dahlia project.

Rick Robinson, City Administrator, shared the status of the possible tenants.

Councilor Hensley wanted to know if there was a lot of interest in the property and wanted to make sure they were not competing with the Dahlia project. She was in favor of finding out who was interested and what they wanted to do with the property.

Councilor Spoon did not think there would be the same interest because the old library was not the same size as any of the spaces in the Dahlia project. She asked what the cost of marketing it would be.

Mr. Robinson replied it would be staff's time and a nominal charge for advertising.

Councilor Heidt wasn't interested in opening it up until the Dahlia project was occupied.

Mr. Robinson said his preference would be to wait a while longer. He wanted to let the new Economic Development Director get comfortable in her position.

Councilor Spoon said her concern in waiting was that winter and the holidays was not the time to get the best investors and opportunities.

Mayor Hodson wanted the Dahlia project to be successful and was concerned about competing with it. He thought the process should start in the fall.

Mr. Robinson said they could make the issue date September 1 for the Request for Expressions of Interest and close the process the week before Thanksgiving. The Council could then make a decision on the proposals in January.

There was discussion regarding the best timing for the process taking into account the Dahlia project and the old Canby Utility building and competitive pricing. There was further discussion regarding the costs for insurance and maintenance of the old library building.

Councilor Dale did not think they needed to wait on the Dahlia project.

Ms. Stickel explained how she would market the property.

There was discussion regarding whether to rent or sell the property.

There was consensus to move forward as proposed by Mr. Robinson.

Mayor Hodson adjourned the Work Session at 6:40 p.m.

**CANBY CITY COUNCIL
REGULAR MEETING MINUTES
July 18, 2018**

PRESIDING: Mayor Brian Hodson.

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

STAFF PRESENT: Rick Robinson, City Administrator; Joseph Lindsay, City Attorney; Jennifer Cline, Public Works Director; Jeff Snyder, Parks Lead; and Kim Scheafer, City Recorder.

OTHERS PRESENT: Ross Day, Anton Newhold, Patsy Myers, Jonah Barber, Jacque Barber, Michael Myers, Marc Plew, Lisa Weygandt, Blaine Sessions, Jessica Morin, Walt Daniels, Mallory Gwynn, Carol Rosen, Chris Waffle, Bill and Karyn Fenton.

CALL TO ORDER: Mayor Hodson called the Regular Meeting to order at 7:00 p.m. in the Council Chambers followed by opening ceremonies.

COMMUNICATIONS: Rick Robinson, City Administrator, said an error was inadvertently made on Resolution 1290. He clarified the Assistant City Administrator had a \$50,000.00 signature authority.

CITIZEN INPUT & COMMUNITY ANNOUNCEMENTS: None.

MAYOR'S BUSINESS: Mayor Hodson announced Movies in the Park and Slice of Summer had returned. Beginning July 1 a new cell phone law went into effect and he explained the penalties for offenders. On August 9 there would be a grand opening for the Dahlia building. He visited TMK Creamery, attended the C4 Retreat, reported on the Independence Day Celebration and Harefest 8, and

announced he would be attending the Oregon Mayors Association Conference at the end of the month. He passed out the two month parks deferred maintenance report and noted the increase in service and maintenance. He listed what had been done since the City started collection of the Parks Maintenance Fee. The next steps were a parks tour and on August 1 recommendations from the Parks and Recreation Advisory Board would be on the Council meeting agenda for Council action.

COUNCILOR COMMENTS & LIAISON REPORTS:

Councilor Hensley reported on the Clackamas Cities Association Dinner and the Chamber luncheon. She thanked all the citizen volunteers and staff for their hard work to put on the Canby Independence Day celebration. The Traffic Safety Commission had received a complaint about 13th Avenue. The Commission recommended a four way stop on 2nd and Cedar and there would be crosswalk striping on 2nd and Douglas. There were openings on the Commission and she encouraged people to apply. The Suicide Prevention Task Force was putting up fliers in businesses and schools around town.

Councilor Dale said he was reporting on several items for Councilor Parker. There was an opening on the Heritage and Landmark Commission. He reported at the Bicycle and Pedestrian Committee meeting, the Public Works Director gave updates on construction projects. The Committee was following a grant the School District received for safe routes to schools. Canby Utility had renewed their IGA with Clackamas County to do emergency phone calling if necessary. Canby Utility's SDCs had been increased by 2.75%. The emergency water system was ready for deployment if there was ever an issue. The State had made a requirement that water systems test for algal toxins every other week and for the first year the State was paying for the tests.

Councilor Heidt had helped direct the Independence Day parade. She attended Harefest on Sunday. Slice of Summer was starting on July 22. Kathleen Myron was now the Chair of the Library Board. The STEAM summer camp went well. The Library would have a booth at the Farmers Market for more outreach. The Friends of the Library were giving a patio tour on August 4. Canby Area Transit was currently conducting a survey asking the community questions about expanded service.

Councilor Spoon said she and Mayor Hodson had met with the chair of the SW Canby Neighborhood Association. Bridging Cultures was having a picnic this Saturday at Wait Park. Movies in the Park had a free magic show prior to the movie. Canby Fire District did another amazing fireworks show. She encouraged people to stop by and make a donation for next year's fireworks. Harefest was a fundraiser for the Children's Cancer Association. She had made a statement at the last meeting regarding separating families at the border. She had met with Mayor Hodson and had a discussion about how it could be addressed in the future.

Mayor Hodson said there was an opening on the Parks and Recreation Advisory Board as well.

CONSENT AGENDA: **Councilor Dale moved to adopt the minutes of the June 20, 2018 City Council Regular Meeting and appointment of Sally Douglas to the City Budget Committee for a term to expire on June 30, 2021. Motion was seconded by Councilor Hensley and passed 4-0.

RESOLUTIONS & ORDINANCES:

Resolution 1294 – Mr. Robinson said as part of the Mulino pump station project, a gravity feed on 13th Avenue was needed which involved the creation of an Advanced Financing District. On the completion of the project, \$193,795 had been allocated for funding through the AFD and would be distributed to the

four benefitting property owners. The AFD would not require reimbursement to the City until the affected properties were improved and developed.

****Councilor Hensley moved to adopt Resolution 1294, A RESOLUTION DESIGNATING THE SE 13TH AVENUE SANITARY SEWER IMPROVEMENT PROJECT AS AN ADVANCE FINANCED PUBLIC IMPROVEMENT, AND PROVIDING FOR ADVANCE FINANCED REIMBURSEMENT FROM BENEFITTING PROPERTY OWNERS. Motion was seconded by Councilor Heidt and passed 4-0.**

Resolution 1295 – ****Councilor Heidt moved to adopt Resolution 1295, A RESOLUTION CODIFYING AND COMPILING CERTAIN EXISTING GENERAL ORDINANCES FOR THE CITY OF CANBY. Motion was seconded by Councilor Spoon and passed 4-0.**

Ordinance 1485 – Joseph Lindsay, City Attorney, said the time frame for parking on City streets was changed to 72 hours.

Mayor Hodson asked for confirmation that the 72 hour clock started when someone made a complaint.

Mr. Lindsay said that was correct.

****Councilor Hensley moved to adopt Ordinance 1485, AN ORDINANCE AMENDING CANBY MUNICIPAL CODE (CMC) CHAPTER 10.04.100 REGARDING STORAGE OR ABANDONING OF VEHICLES ON STREETS. Motion was seconded by Councilor Heidt and passed 4-0 by roll call vote.**

Ordinance 1488 – Mr. Lindsay said the Council had previously discussed amending the definition of marijuana. The original ordinance had a definition of marijuana that was very broad and encompassed all of the plant products. State and Federal law exempted industrial hemp. This was a case where both federal and state carved out industrial hemp as a different product. The language he brought forward was the safest approach, and stated that the City would only allow what the state and federal government allowed. The marijuana ban in the City was still in place.

Councilor Dale asked what the state and federal laws' position was on CBD derived from industrial hemp. Mr. Lindsay said there was still a legal question on the use of mixed marijuana products. The ordinance had been worded to allow for industrial hemp, and it was up to the business owners who were applying for business licenses to be in compliance with the definitions in the Farm Bill.

Councilor Hensley clarified CBD products derived from industrial hemp would not be governed under OLCC, whereas THC products from marijuana had to have an OLCC license.

Councilor Spoon asked if there was a conflict between the Farm Bill and the DEA scheduling CBD as Schedule 1 that the courts would have to figure out which one superseded. If it was found that the DEA schedule superseded, then anyone selling CBD in the City would not be reissued a business license.

Mr. Robinson responded there would have to be some other findings before a license would be rescinded. The federal government would need to intervene and make a determination that the business was making and selling an illegal product. CBD oil was still up for debate, but the language proposed was that any business coming into the City had to follow state and federal law.

There was discussion regarding inspections of marijuana businesses, the effect of the language change to the existing businesses in the City, and if the change circumvented the voters' intent to ban marijuana.

Jonah Barber, MRX Laboratory, gave a background on his family company. The company included the MRX Laboratory which was a quality controls and quality assurances business for marijuana products. Industrial hemp was used in a variety of products and industries, and was a growing market. Two years ago the company moved from Tigard to Canby, next to JV Northwest. JV Northwest manufactured equipment components for his company. He requested that his company become an agricultural hub and manufacturer of industrial hemp products. He wanted to continue to be a Canby company, manufacturer, and employer.

Patsy Myers, MRX Laboratory, said they wanted to be the agricultural hub in order to connect Oregon farmers with the highest quality hemp seeds that existed and to help with the outlets for their harvest. She encouraged people to come visit the facility to see what they did.

Ross Day, attorney in Portland, represented a lot of cannabis and industrial hemp businesses. The 2014 Farm Bill said the industrial hemp regulations were exempted from all of the prohibitions in federal law. He did not think there was a conflict between federal laws, with one exception, the transportation of CBD oil derived from industrial hemp across state lines if it was intended for human consumption. He thought the language that Mr. Lindsay drafted was spot on and addressed the issue. He thought state law preempted local ordinances regarding banning industrial hemp products. OLCC could inspect any businesses selling product derived from cannabis, including CBD. Everyone that was a handler of CBD received a certificate from the Department of Agriculture as well. He suggested that the City require proof of this certificate before business license issuance.

Mallory Gwynn, Gwynn's Coffeehouse, said the current ban included all cannabis products and industrial hemp which was in products at most retail stores. If they didn't make this change, all the business owners selling these products would have to be notified to keep it equitable. He explained what CBD was used for and how there was no drug to it. He thought it would be separated out and thought that they should be progressive in their regulations. He asked the Council not to include CBD in the ban.

Mr. Lindsay explained that CBD oil was still considered a Schedule 1 controlled substance and was still federally illegal. If it became legal, the language allowed it to become legal in the City as well.

Mr. Day said it was his legal opinion that if the CBD oil was derived exclusively from industrial hemp then you were fine under federal law. If it was mixed, that was a different issue.

Mr. Robinson clarified if the industrial hemp and its products were legal from a federal and state perspective and the business made the determination that they met federal and state guidelines, then the City would grant them a business license. The responsibility to make the final determination was on the business.

Mr. Day thought the language change would loosen the regulations to be consistent with federal and state law, and no further.

****Councilor Heidt moved to approve Ordinance 1488, AN ORDINANCE AMENDING ORDINANCE 1427 REGARDING THE DEFINITION OF MARIJUANA to come up for second reading on August 1, 2018. Motion was seconded by Councilor Hensley.**

Councilor Hensley asked for a copy of Ordinance 1427. The actual measure that the voters passed just mentioned banning marijuana businesses, not hemp or cannabis. She thought the ordinance went further than what the voters had looked at when they voted.

Councilor Spoon had no objection to the content of the ordinance, but she objected to the process. She thought the word marijuana as used on the ballot was ambiguous and now they were trying to interpret the intent and redefine the language. She was pro CBD and thought they should have dispensaries in town. She was in favor of letting the business owners interpret the state and federal law. By passing something like this, the moratorium was redundant. She was not in favor of the government telling a business owner what they could or could not do. She thought a repeal of the moratorium should be sent back to the voters to see if political opinion had changed.

Councilor Dale was concerned about where federal law was at. He was as comfortable as he could be that they were not giving permission to operate a business that was in violation of federal law. He thought given the context of the time, they were not violating voter intent. He did not think the moratorium was a government overreach as it was affirmed by a vote of the people. He thought overturning the moratorium would be a violation of the intent. If the voters wanted to get rid of the moratorium, it could be done through an initiative process.

Councilor Heidt thought the language change was in keeping with the voter intent. This was cleaning up the language and it would help open things up for the industrial hemp industry.

Mayor Hodson said a lot of research had gone into this decision. He also thought this met the intent of the voters and if the voters wanted to change it, there was an initiative process. It did not go as far as Mr. Gwynn wanted, but it was a step toward that direction.

Motion passed 4-0 on first reading.

Ordinance 1490 – Mr. Lindsay said this telecommunications applicant wanted to be treated like the rest of the City’s franchisees who wanted to do business in the public right-of-way. The agreement was similar to the other four non-exclusive franchise agreements.

There was discussion regarding what services this company provided, the franchise calculation, and making sure there was a level playing field with other telecommunications companies.

Mr. Lindsay clarified the company was being treated the same as other companies in the City and they would have to negotiate their own access to Canby Telcom or Wave conduit.

Anton Neuhold explained his experience with larger telecommunication companies. He asked if there were rules for only allowing local companies to serve Canby. He wanted to know why Comcast was not in Canby yet.

Mr. Lindsay said there were no rules like that in the City.

Mayor Hodson thought Comcast was not in Canby due to costs and the need to partner with another company for the infrastructure.

Mr. Neuhold was concerned that Verizon coming in under the guise of another company would use strong-arm tactics to get people to use them and might ruin what was currently going on in

Canby. He asked if Comcast or Verizon got aggressive with their advertising and strong-armed other companies out of town, was there anything to fight against that.

Mayor Hodson said there was nothing in place from the City to address that, it would be up to the competing businesses to file complaints or law suits.

Mr. Robinson said the City could not interfere with local commerce. He did not think any business would be successful in strong-arming the City or residents of the City into making decisions that were not in their best interest.

Jessica Morrin, Canby resident, said she had concerns regarding wireless radiation and what happened above ground. She had observed other technology being placed on power poles and evidence surrounding the smart meter issue. She was also concerned about the aesthetics of the towers. The United States did not have any safe levels of radio frequencies established and she referred to studies that had shown the effects from radio frequency.

Mr. Lindsay stated this franchise was only underground. The company had a 5G roll out process, but this was in regard to underground cable or internet. There was potential for above ground franchises in the future and he encouraged her to bring back this information.

****Councilor Dale moved to approve Ordinance 1490, AN ORDINANCE GRANTING TO MCIMETRO ACCESS TRANSMISSION SERVICES CORP. D/B/A VERIZON ACCESS TRANSMISSION SERVICES, A NONEXCLUSIVE FRANCHISE TO CONSTRUCT, OPERATE & MAINTAIN A TELECOMMUNICATIONS NETWORK AND PROVIDE TELECOMMUNICATIONS SERVICES WITHIN THE CITY OF CANBY OREGON to come up for second reading on August 1, 2018. Motion was seconded by Councilor Hensley and passed 4-0 on first reading.**

NEW BUSINESS: None.

ADMINISTRATOR'S BUSINESS & STAFF REPORTS: None.

CITIZEN INPUT: None.

ACTION REVIEW:

1. Approved the Consent Agenda.
2. Adopted Resolutions 1294 and 1295.
3. Adopted Ordinance 1485.
4. Approved Ordinances 1488 and 1490 to come up for second reading on August 1, 2018.

There was no Executive Session.

Mayor Hodson adjourned the Regular Meeting at 10:00 p.m.

Kimberly Scheafer, MMC
City Recorder

Brian Hodson
Mayor

Assisted with Preparation of Minutes - Susan Wood