

**CANBY CITY COUNCIL
REGULAR MEETING MINUTES
June 3, 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; Amanda Zeiber, Asst. City Administrator/HR Director; Joseph Lindsay, City Attorney; and Kim Scheafer, City Recorder.

Others Present: Bob Cornelius, Bob Tice, Jeanne Schroeder, Fire Chief Jim Davis, Steve Hess, Don Burton, Curt Christiansen, Kevin Starrett, Susan Chavez, Jim Burrows, John Savory, Winnie Savory, Chuck Kocher, Matt Powlison, Judy Grantski, Ed Grantski, Steve Turner, Dean Searle, Chad Robedean, Jason Heisler, Janie Malloy, Randal Beyers, Brodey Nolte, David Schnickels, Daniel Pearson, Bob Backstrom, Scott Taylor, Rick Roggenach, Tyler Smith, Pete Kosky, Chuck McLaugherty, Dwight Bond, Jennifer Nicholson, Steven Shirley, Jim Burdett, Leland Breedlove, Vance Nartueu, and Jason Padden.

CALL TO ORDER: Mayor Hodson called the Regular Meeting to order at 6:06 p.m. in the City Hall Conference Room.

****Councilor Dale moved to go into Executive Session pursuant to ORS 192.660(2)(i) Performance Evaluation of Public Officer. Motion was seconded by Councilor Hensley and passed 6-0.**

OPENING CEREMONIES: Mayor Hodson reconvened the Regular Meeting at 7:30 p.m. in the Council Chambers, followed by the invocation and the flag salute.

Canby Livability Day Proclamation – Mayor Hodson read a proclamation proclaiming June 28, 2015, as Canby Livability Day and presented it to Bob Tice. Mr. Tice said this was an effort to cleanup town before the General Canby Day celebration. He encouraged everyone to participate.

COMMUNICATIONS: Rick Robinson, City Administrator, discussed a letter he received from ISO, Insurance Service Organization, saying they had done a review of the building codes adopted by the County on behalf of the City and had assigned a Class 2 designation for both commercial and residential. This would result in insurance savings for residents and commercial businesses.

CITIZEN INPUT & COMMUNITY ANNOUNCEMENTS: None.

MAYOR'S BUSINESS: Mayor Hodson attended the Jr. Achievement BizTown at Trost Elementary, Blue Heron reception, Area Commission on Transportation Region 1 meeting, and a Memorial Day service. The Clackamas County Coordinating Committee Retreat would be held next week. He also attended the Chamber Luncheon and Clackamas Cities Association Dinner.

COUNCILOR COMMENTS & LIAISON REPORTS: Councilor Rocha asked Fire Chief Jim Davis to talk about the insurance standards rating.

Chief Davis said they were trying to reduce the insurance standards rating for the City of Canby as well as the entire Fire District. The ISO helped determine what the standards should be for insurance. Class 1 was the best they could get and Class 10 was the worst. There were no Class 1 designations in the State of Oregon. Currently the Fire District was a Class 5 in the City, in rural areas a Class 8b, and in the remote rural areas a Class 10. The goal was to make Class 4 or Class 3 which could reduce insurance rates for residents and businesses. One of the requirements was to purchase a 100 foot ladder truck, but they had a 60 foot ladder and wanted to see if they could get credit for that first before any purchase was made. The Volunteer Firefighters Association had taken on this year's fireworks display for General Canby Day and were soliciting for donations. The fireworks would be happening at Trost Elementary.

Councilor Parker attended the Blue Heron reception and Clackamas Cities Association Dinner. He reminded everyone Friday was graduation for Canby High School.

Councilor Hensley attended the Chamber Luncheon, Clackamas Cities Association Dinner, Blue Heron reception, and Memorial Day service. CTV5 was interviewing potential board members.

Councilor Dale attended the Memorial Day service. Canby Utility was still having some issues on the water taste and smell problems. They were making progress in identifying the cause. The new General Manager Dan Murphy would be starting work the middle of June.

Councilor Heidt said Jon Dragt's term on the Canby Library Board would be ending June 30. She met with School District officials to talk about better service for the Hispanic population, and one item was lack of affordable housing. New bus signs were going up on Highway 99E between Oregon City and Woodburn. The Historic Review Board was working on a national registry nomination for the City Hall building and had an application in for the Lee Tree and were looking into plaque placement on historic buildings in town. She also attended the Clackamas Cities Association Dinner. The Summer Reading program at the Library would begin on June 8. The Bridging Cultures group would hold several picnics in the park during the summer. Some of the proceeds from Get a Clue Scavenger Hunt would be donated to the youth running group.

Councilor Coleman thanked Ray Huey for his years of service at the *Canby Herald* and welcomed Daniel Pearson, his replacement. He thanked all of the Planning Commissioners for their work. He explained what the Commission would be discussing at their June 8 meeting. He would be attending the upcoming Clackamas County Elected Official Emergency Management Training and Traffic Safety Commission meeting. He invited everyone to attend First Friday.

CONSENT AGENDA: **Councilor Dale moved to adopt the minutes of the May 20, 2015 City Council Work Session and Regular Meeting; reappointment of Jacqueline Jones to the Parks and Recreation Advisory Board for a term to expire on June 30, 2018; and reappointment of Jack Pendleton to the City Budget Committee for a term to expire on June 30, 2018. Motion was seconded by Councilor Hensley and passed 6-0.

RESOLUTIONS & ORDINANCES:

Resolution 1217 – Mayor Hodson said several months ago a desire for this resolution came about in response to legislation regarding the 2nd Amendment. The City Attorney looked into what other jurisdictions had done and drafted this resolution. The Council held a Work Session to discuss the

wording. Both the City Administrator and City Attorney said this was a statement the Council had a legal authority to make, but it was not binding or making a law. A smaller group of the Council continued to work on the language of the resolution. This resolution was a statement that the Council did not support the erosion of individual rights as provided in the 2nd Amendment. SB 941 was the law of Oregon and the Council could not change that in their capacity.

Mr. Robinson said the Council had the legal authority to take action on this resolution and the resolution was not in conflict with the oath the Council had taken and did not conflict with existing State or Federal law. While the resolution did not attempt to make law, it spoke to subject matter not specifically in the jurisdiction of the Council. This would be a political statement and not a statement of public policy. He recommended not taking action on the resolution or on any resolution that addressed interpretation of an amendment to the Constitution as it did not lie within the subject matter jurisdiction of the Council. He thought the referendum and initiative process should be used instead.

Joseph Lindsay, City Attorney, reiterated the Council was not violating their Oath of Office by taking action on this resolution. They had the legal right to take action.

John Savory, Canby resident, read the 2nd Amendment. There were some people who wished the 2nd Amendment did not exist. It did exist and was still the law of the land. Gun control advocates thought more gun control would result in less gun violence, but statistics and daily review of the news proved otherwise. The government was supposed to protect people's rights. People had the right to self-defense and that meant to protect themselves, their families, and homes. The people were individuals and not the State. The language of the 2nd Amendment prohibited government from infringing on this basic right of the people. Gun control was meant to disarm the average law abiding citizen and did nothing to prevent people with evil intent. He thought they should support the resolution which supported the Constitution and the right of the people to defend themselves, their families, and their property without being persecuted and prosecuted.

Bob Backstrom, Canby resident, said he went to bed every night grateful that he had a gun. He did not know what others might do, and felt fortunate he had alarms, locks, and to be a gun owner. He had never had a problem, but was prepared if he ever did. This resolution was a brave undertaking and it would affect how he voted and selected City Councilors in the future.

Steve Turner, Canby Rod and Gun Club President, said several police agencies trained at the Gun Club at no cost. They had activities at the Gun Club often concurrent with the police training, and under current law if they were doing safety education or training where they were placing a firearm in a student's hands that became a violation of law. He wanted to see the resolution pass.

Kevin Starrett, Canby resident, said they did not have the option of responding to SB 941 in a referendum as there was an emergency clause and that right was taken away. Counties and Sheriffs across the State opposed this bill. Sheriffs had said they could not enforce it. Its own sponsors admitted it would not stop crime. Statistics proved background checks almost never stopped criminals. This bill put citizens at risk for attempting to safeguard a firearm for a friend or neighbor. The bill also required most sales go through firearm dealers which would create so many complications and unanswered questions that many dealers would not consider handling one of these transactions and not at a reasonable cost. Changes were being made in Salem that allowed a person to be criminally prosecuted if he transferred a firearm after successfully

conducting a background check. This bill was dangerous and he asked that the resolution was passed on behalf of residents and police.

Randal Beyers, Canby resident, said most of the responsibility for enforcement of the bill fell to local authorities, which would be costly. The bill would not do what it said it would do and would possibly place financial burdens on local communities.

Jannie Malloy, Canby resident, said she owned a historic bed and breakfast in the WH Bair house. Half of her guests were from foreign countries, some of which were concerned about their safety in this country. These guests brought dollars into town. She asked the Council what they were advertising, was it a safe community and great place to live or not? She did not think Council should be debating this and should be representing her and many others in the community by passing the resolution.

Susan Chavez, Canby resident, wrote the Council that this resolution was not a good use of Council time. She received a response from Councilor Hensley who said the resolution was a reaffirmation of their Oath of Office and came at the request of many constituents. She did not think many constituents thought it was urgent to reaffirm their Oath. The resolution made no mention of the senate bill and did not seek to cease background checks for firearm purchases. She was concerned this kind of resolution opened the door for political grandstanding. It was not a good use of Council time.

Jim Burrows, Canby resident, said the City Administrator stated his recommendation was that they not proceed with this, but clearly the Council was proceeding with it. He thought that kind of conflict should be resolved before they proceeded.

Mayor Hodson said staff came to the Council with a recommendation and they could take that recommendation or not. That was part of the process.

Mr. Burrows was concerned about the City Council veering off the City's business.

Pete Kosky, Canby resident, said he shared information about this bill to his customers and employees in Portland and the response was overwhelmingly in favor of this resolution.

Scott Taylor, Canby resident, said he was Mayor and on City Council for 18 years and had also served on the Canby Utility Board. Having sat 8 years in the Mayor's Chair, he knew the divisiveness people were talking about. There was a better time and place to have the conversation, such as the Mayors Association or League of Oregon Cities as the bill was coming up. That would have been a better time to make a case. At this time it was too late as the bill had been passed and it could start a divide when there were important things coming up on the agenda. He was concerned that if the resolution passed, it would advertise that this was a safer place to exchange weapons which put citizens at risk. This would not change the law and would set an image they did not want.

Jason Padden, Canby resident, said he was once a Councilor, and it was concerning for him as a citizen that some on the Council would be in agreement and others would not as citizens were still reeling from that realization from a year ago and the fences still had not been completely mended. He thought it would leave a further bad taste in the citizens' mouths whether they were for or

against the resolution. He asked that they consider what they were doing and how it represented the City as a whole. He cautioned that the Council find out what the community really thought, because last year the plan that supposedly was not supported by the citizens actually was.

Tyler Smith, Canby resident and Oregon Republican Party Vice Chair, had given the Council a letter (Exhibit "A"). Protecting the 2nd Amendment was a very popular position. There were dozens of County sheriffs and commissioners as well as City Councils around the State that decided they must make a statement that they were going to protect 2nd Amendment rights. This was what Council was attempting to do that night. The Republican Party thanked and applauded them for that. This was a local issue and something the City Council had jurisdiction over, especially in making policy decisions. The bill had passed because former administrations did not take a stand when they should have. He encouraged them to pass the resolution.

Chuck McClaugherty, Canby resident, was a past president of Canby Rod and Gun Club and currently the president of the Western Regional Independent Trap Association. A lot of events were held in Canby where firearms were traded or borrowed and he would hate to think they would be breaking the law at those events. He asked the Council to support the resolution.

****Councilor Hensley moved to adopt Resolution 1217, A RESOLUTION IN OPPOSITION TO ANY FURTHER INFRINGEMENT OF SECOND AMENDMENT RIGHTS. Motion was seconded by Councilor Rocha.**

Councilor Coleman was reluctant to move in a direction where they had no power of influence. He believed in the 2nd Amendment and did not want to see any further erosion to it. People had to be able to protect and defend themselves. Background checks would not stop criminals. The Council did not agree on everything and the citizens should know where they stood on this issue.

Councilor Heidt supported the Constitution and 2nd Amendment. They could support the 2nd Amendment and support universal background checks. She was not in favor of the resolution as it was already State law and what they did that night would not change it. They had been derailed from the work they needed to do by taking on this controversial issue. They should not waste staff time and tax payer dollars on this. She did not feel comfortable making political statements as they were policy makers. She feared it would cause a rift when they were going in a positive direction. Background checks were simple and effective and saved lives. She thought the senate bill was a step in the right direction and would be voting no on the resolution.

Councilor Dale felt the resolution was not about the senate bill or background checks. It was a statement of concern that the State was going in a direction that was erosive to one of the foundations that made America. He would be in support of the resolution.

Councilor Hensley said people were coming to her with this issue even before it was on a Council agenda. She thought the issue was worthy of her time. About 70% of the people who responded to this were in favor of the resolution. There were other counties and cities that had taken similar action, so they were not setting a precedent. She did not see a problem making a political statement on an issue that the community had requested.

Councilor Rocha said the Council had passed resolutions that were political statements before. It was never a waste of time to defend a constitutional right. He would be voting yes.

Mayor Hodson said going forward this statement said to the legislature to pay attention. It took a lot of leadership courage, both for those who were for and against this resolution. He thanked everyone for the conversation.

Motion passed 4-1-1 with Councilor Heidt opposed and Councilor Parker abstaining.

Mayor Hodson recessed the meeting at 8:58 p.m. and reconvened at 9:08 p.m.

Resolution 1215 – Mr. Robinson said this was a resolution that was done annually. Reserve officers were also included in the coverage. Staff recommended approval.

****Councilor Heidt moved to adopt Resolution 1215, A RESOLUTION EXTENDING THE CITY OF CANBY'S WORKERS' COMPENSATION COVERAGE TO VOLUNTEERS OF THE CITY OF CANBY AND REPEALING RESOLUTION 1189. Motion was seconded by Councilor Parker and passed 6-0.**

Ordinance 1416 – Mr. Robinson said this was a three year contract with an opportunity to extend for two additional years.

****Councilor Coleman moved to adopt Ordinance 1416, AN ORDINANCE AUTHORIZING THE CITY OF CANBY TO ENTER INTO A CONTRACT WITH GROVE, MUELLER & SWANK, P.C. FOR AUDIT SERVICES; AND DECLARING AN EMERGENCY. Motion was seconded by Councilor Hensley and passed 5-1 by roll call vote with Councilor Parker opposed.**

Ordinance 1418 – ****Councilor Heidt moved to adopt Ordinance 1418, AN ORDINANCE AUTHORIZING THE MAYOR AND CITY ADMINISTRATOR TO EXECUTE A CONTRACT WITH EAGLE-ELSNER, INC. IN THE AMOUNT OF \$210,530.98 WITH AUTHORIZATION TO EXPAND THE WORK SCOPE TO AN AMOUNT NOT TO EXCEED \$225,000.00 FOR CONSTRUCTION OF THE 2015 STREET MAINTENANCE PROGRAM; AND DECLARING AN EMERGENCY. Motion was seconded by Councilor Coleman passed 6-0 by roll call vote.**

Ordinance 1419 – Mr. Lindsay said the current Code was at odds with the way District Attorneys were going to be handling the possession of marijuana moving forward with Measure 91. As of July 1, it would no longer be a violation to possess recreational marijuana and to possess the paraphernalia for the recreational use of marijuana for someone over the age of 21. He explained if there was a violation, it would be treated like a Class A misdemeanor. If the paraphernalia was used for other drugs, it would be confiscated.

Dean Searle, business owner, owned a vapor shop in town which was used as an alternative to get people to stop smoking. He had been trying to find a way to provide the hardware for medical marijuana for those who needed it. There was no place in town supplying it and he had to send people to Portland. He did not want to be a dispensary, but would like to help those people.

Mayor Hodson said based on the changes in this ordinance, on July 1, the paraphernalia could be sold as long as customers were over the age of 21 and it was only for marijuana.

****Councilor Heidt moved to approve Ordinance 1419, AN ORDINANCE AMENDING CANBY MUNICIPAL CODE CHAPTER 9.32 DRUG PARAPHERNALIA SECTION 9.32.040 OFFENSES AND PENALTIES AND SECTION 9.32.060 NUISANCE to come up for second reading on June 17, 2015. Motion was seconded by Councilor Coleman and passed 6-0 on first reading.**

NEW BUSINESS: None.

ADMINISTRATOR'S BUSINESS & STAFF REPORTS: Mr. Robinson said Juniper Street by the new Library/Civic Building would be closed permanently on June 10. Staff was moving forward with a schematic design and estimate for the project.

CITIZEN INPUT: None.

ACTION REVIEW:

1. Approved the Consent Agenda.
2. Adopted Resolution 1217.
3. Adopted Resolution 1215.
4. Adopted Ordinance 1416.
5. Adopted Ordinance 1418.
6. Approved Ordinance 1419 to come up for second reading on June 17, 2015.

Councilor Parker asked that the performance evaluation of the City Attorney be moved to another date due to the late hour.

Mayor Hodson adjourned the meeting at 9:35 p.m.



Kimberly Scheafer, MMC
City Recorder



Brian Hodson
Mayor

Assisted with Preparation of Minutes - Susan Wood