

A regular meeting of the City Council of the City of Canby, Minnesota was held on Tuesday, August 3, 2010 at 7:00 p.m.

The following members were present: Jack Winter, Vice-Chairman, Eugene Eilers, Alderman, Denise Hanson, Alderman and Jennie Wittrock-Seidel, Alderman.

Absent: Eugene Bies, Mayor

Visitors: Gerald Boulton, City Attorney
Nicholas Johnson, City Administrator
Jody Olson
Dick Birk
Gerald Beckius
Dean Helstrom, Bolton & Menk
Jullie Fairchild
Ellie Beman

Jack Winter, Vice-Chairman, called the regular meeting to order at 7:00 p.m.

A motion was made by Hanson and seconded by Wittrock-Seidel to approve the minutes of the July 20 council meeting. Winter, Eilers, Hanson and Wittrock-Seidel voted in favor. None voted against. The motion was carried.

A motion was made by Eilers and seconded by Hanson to approve the minutes of the July 23 council meeting. Winter, Eilers, Hanson and Wittrock-Seidel voted in favor. None voted against. The motion was carried.

A motion was made by Wittrock-Seidel and seconded by Eilers to approve the minutes of the July 26 council meeting. Winter, Eilers, Hanson and Wittrock-Seidel voted in favor. None voted against. The motion was carried.

Ted Boys from Boys Contracting was not able to be present at this meeting. He will attend the later meeting in August.

A motion was made by Hanson and seconded by Wittrock-Seidel to approve the Planning Commission's recommendation to approve a variance from the set-back requirements for Canby Inn and Suites. Winter, Eilers, Hanson and Wittrock-Seidel voted in favor. None voted against. The motion was carried.

A motion was made by Eilers and seconded by Hanson to approve the Planning Commission's recommendation to approve the sign request from the Subway restaurant. Winter, Eilers, Hanson and Wittrock-Seidel voted in favor. None voted against. The motion was carried.

A motion was made by Eilers and seconded by Wittrock-Seidel to adopt Resolution #8-3-2010A which is a Resolution Calling for Public Hearing – Business Subsidy Policy. Winter, Eilers, Hanson and Wittrock-Seidel voted in favor. None voted against. The motion was carried.

RESOLUTION #8-3-2010A
CITY OF CANBY

RESOLUTION CALLING FOR A PUBLIC HEARING ON THE PROPOSED REVISIONS TO THE CITY'S BUSINESS SUBSIDY POLICY AND CRITERIA

WHEREAS, the State Legislature adopted Minnesota Statutes Sections 116J.993 through 116J.995 (the "Statute") governing business subsidies granted by cities; and

WHEREAS, the City of Canby (the "City") is considered as "grantor" as defined in the Statute and the grantor is required to adopt a policy and a set of criteria for awarding business subsidies; and

WHEREAS, the City adopted a business subsidy policy and criteria which has subsequently been amended; and

WHEREAS, subsequent legislation has been adopted concerning business subsidy policies and criteria, and it is necessary that the City revise its business subsidy policy and criteria in accordance with this legislation.

NOW, THEREFORE, BE IT RESOLVED by the City Council for the City of Canby, Minnesota, as follows:

1. Preparation. City Staff is authorized to work with Ehlers & Associates, Inc. and on the preparation of a modified business subsidy policy and criteria in accordance with the Statute.
2. Public Hearing. A public hearing on the proposed revisions to the City's business subsidy policy and criteria shall be held on September 7, 2010 in the Canby City Hall Council Chambers during the regular City Council Meeting which begins at 7:00 p.m.
3. Notice of Public Hearing. The City Administrator is authorized and directed to cause notice of the hearing to be published once in the official newspaper of the City at least 10 days, but not more than 30 days, prior to September 7, 2010. The City Administrator is further authorized and directed to place a copy of the proposed revisions to the business subsidy policy and criteria on file in the Office of the City Administrator at City Hall and to make such copy available for inspection by the public.

Adopted this 3rd day of August, 2010.

Mayor

ATTEST: _____
City Administrator

A motion was made by Hanson and seconded by Eilers to adopt Resolution #8-3-2010B which is a Resolution Calling for a Public Hearing – Tax Abatement Program. Winter, Eilers, Hanson and Wittrock-Seidel voted in favor. None voted against. The motion was carried.

RESOLUTION #8-3-2010B

CITY OF CANBY

**RESOLUTION CALLING FOR A PUBLIC HEARING ON THE
ESTABLISHMENT OF A TAX ABATEMENT PROGRAM
AND THE AWARDING OF A BUSINESS SUBSIDY**

WHEREAS, the City of Canby (the "City") has received a request from Canby Inn and Suites and Subway (the "Company") for the establishment of a Tax Abatement Program, pursuant to Minnesota Statutes Sections 469.1812 through 469.1815, concerning property located at 1st Street West and Highway 75 North Street; and

WHEREAS, the proposed tax abatement program would grant an abatement of the increase in property taxes caused by new development on the land, and this tax abatement would correspond with eligible costs pursuant to Minnesota Statutes; and

WHEREAS, the granting of an abatement is also subject to business subsidy laws as set forth in Minnesota Statutes Sections 116J.993 through 116J.995, inclusive as amended; and

WHEREAS, it is necessary to hold a public hearing on the proposed tax abatement program and the awarding of a business subsidy.

NOW, THEREFORE, BE IT RESOLVED by the City Council for the City of Canby, Minnesota, as follows:

1. Public Hearing. A public hearing to consider the proposed adoption of a Tax Abatement Program for Canby Inn and Suites and Subway and the awarding of a business subsidy shall be held on September 7, 2010 in the Canby City Hall Council Chambers during the regular City Council Meeting which begins at 7:00 p.m.
2. Notice of Public Hearing. The City Administrator is authorized and directed to cause notice of the hearing to be published once in the official newspaper of the City at least 10 days, but not more than 30 days, prior to September 7, 2010. The City Administrator is further authorized and directed to place a copy of the proposed tax abatement program and supporting documentation

on file in the Office of the City Administrator at City Hall and to make such copy available for inspection by the public.

Adopted this 3rd day of August, 2010.

Mayor

ATTEST: _____
City Administrator

A motion was made by Wittrock-Seidel and seconded by Hanson to approve the renewal of a 3 year land lease with Wayne Monke. Winter, Eilers, Hanson and Wittrock-Seidel voted in favor. None voted against. The motion was carried.

A motion was made by Eilers and seconded by Hanson to approve the vendor transactions which total \$311,725.95. Winter, Eilers, Hanson and Wittrock-Seidel voted in favor. None voted against. The motion was carried.

A motion was made by Wittrock-Seidel and seconded by Hanson to introduce the Midcontinent Franchise Ordinance. Winter, Eilers, Hanson and Wittrock-Seidel voted in favor. None voted against. The motion was carried.

A motion was made by Eilers and seconded by Wittrock-Seidel to adopt Ordinance 231.1 – Golf Cart. Winter, Eilers, Hanson and Wittrock-Seidel voted in favor. None voted against. The motion was carried.

ORDINANCE NO. 231.1

AN ORDINANCE REGULATING THE USE OF GOLF CARTS ON CITY STREETS

The City Council of the City of Canby does hereby ordain:

DEFINITIONS: Except as otherwise defined in the City Code, the words and terms defined in Minnesota Statutes, Chapter 169 shall be applicable to this Ordinance.

MOTORIZED GOLF CART USE:

Subd. 1. Driving, Operating or Control of Motorized Golf Carts.

A motorized golf cart may be driven, operated or controlled on the roadways or shoulders of roadways under the jurisdiction of the City of Canby (not those under the jurisdiction of Yellow Medicine County or the State of Minnesota), except such roadways prohibited by resolution of the City Council and only in strict compliance with this ordinance.

Subd. 2. Permits.

No motorized golf cart shall be driven, operated or controlled on the roadways or shoulders of roadways under the jurisdiction of the City of Canby unless the driver, operator or person in control has in his or her actual physical possession a valid, current and unrevoked permit of the City of Canby for such driving, operation or control of a motorized golf cart.

Subd. 3. Permit Issuance.

Permits shall be issued by the City Administrator, or authorized designee, upon compliance with this section.

1) Individual Permit.

Permits may be issued:

1. To persons currently validly licensed to drive motor vehicles as defined by Minnesota Statutes, Chapter 169. No person whose license to drive is revoked, suspended, or canceled may be issued an individual permit.

2. To persons age 16 or older with no valid license for reasons other than revoked, suspended, or canceled if competency and ability can be demonstrated.

Application for an individual permit shall include the full name and address of the applicant; the state of issuance of the applicant's current driver's license; the number of such driver's license; applicant's representation that such driver's license is not suspended, revoked, or canceled. Or in the case of no current Driver's license proof of residency and ID and a statement of reason for no current driver's license acceptable to the Chief of Police, or authorized designee; the date of application and applicant's signature; the name of applicant's insurance company; the number of the applicant's insurance policy; and the date of expiration of insurance coverage for such vehicle. As a condition to obtaining an individual permit, the Chief of Police or his designee may require an applicant to submit a certificate signed by a physician to the effect that the applicant is able to safely operate a motorized golf cart on the roadways or shoulders under the jurisdiction of the City of Canby

2) Liability.

The operation of golf carts under this Ordinance shall be totally the risk and responsibility of the operator. The City, by passing this Ordinance of permission and designation under state law, assumes no responsibility for the operation of the golf carts and shall be held harmless in any action arising from the operation of golf carts on or off any public way within the City.

3) Revocation of Permit.

An individual permit may be revoked by the Chief of Police if there is any material misrepresentation made in the permit application, liability insurance is no longer in effect, or there is evidence that the permittee cannot safely operate the motorized golf cart. The Chief of Police shall issue a notice of revocation of a permit in writing and either hand deliver the notice to the permit holder or send the notice by certified mail to the address on the application. The revocation shall be in effect immediately after personal service or three days after the mailing.

4) Permit Expiration.

Permits shall be issued for the calendar year. Any permit issued during the year will expire on December 31 with no credit for partial year.

Subd. 4. Fees.

An annual permit fee shall be established from time to time by adoption in the fee schedule of the City by the City Council.

Subd. 5. Unlawful Acts.

No motorized golf cart shall be driven, operated or controlled on the roadways or shoulders of roadways under the jurisdiction of the City of Canby.

- 1) Between sunset and sunrise;
- 2) In inclement weather, when visibility is reduced or impaired by weather, smoke, fog or other conditions or at any time when there is insufficient light clearly to see a person or vehicle on a roadway at a distance of 500 feet;
- 3) Without prominent display of a slow-moving vehicle emblem provided in Minnesota Statutes, Section 169.522, on the rear of such vehicle;
- 4) Without a mirror so located as to reflect to the driver, operator or controller, a view of the roadway for a distance of at least 200 feet to the rear of such vehicle;
- 5) Without liability insurance coverage;
- 6) Contrary to any traffic law of the City of Canby or the State of Minnesota, except those which cannot reasonably be applied to motorized golf carts, or are not applied, by reason of Minnesota Statutes, Section 169.045, Subd. 7;

- 7) Contrary to any provisions of the City Code;
- 8) Without a current valid Individual Permit.

Subd. 6 Penalty.

Any person violating any provisions of this ordinance shall be guilty of a petty misdemeanor.

Subd. 7 Repealer. Ordinance No. 231.1 is hereby repealed.

Subd. 8 Effective Date.

This Ordinance shall take effect and be in full force from and after its passage and publication.

Passed and adopted this ___ day of _____, 2010 by the City Council of Canby, Minnesota.

Eugene Bies, Mayor

Attest:

Nicholas Johnson, City Administrator

A motion was made by Eilers and seconded by Hanson to appoint Cliff Sillerud as an election judge. Winter, Eilers, Hanson and Wittrock-Seidel voted in favor. None voted against. The motion was carried.

Election judge pay was tabled.

A motion was made by Wittrock-Seidel and seconded by Hanson to approve the Supervisor contract. Winter, Eilers, Hanson and Wittrock-Seidel voted in favor. None voted against. The motion was carried.

The council tabled the VEBA contribution and the 2011 preliminary budget.

A motion was made by Hanson and seconded by Eilers to approve a 3.2 on sale beer license and a 1 day consumption and display permit for the Canby Jaycees for September 25 at the old Schotts building. Winter, Eilers, Hanson and Wittrock-Seidel voted in favor. None voted against. The motion was carried.

A motion was made by Wittrock-Seidel and seconded by Hanson to adopt Resolution #8-3-2010C which is a City Authorization Resolution. Winter, Eilers, Hanson and Wittrock-Seidel voted in favor. None voted against. The motion was carried.

CITY AUTHORIZATION RESOLUTION 8-3-10

By:

First Security Bank Canby

City of Canby

Referred to in this document as "Financial Institution"
as "City"

Referred to in this document

Nicholas Johnson, certify that I am City Administrator, of the named city organized under the laws of the City of Canby, Federal Employer I.D. number #41-600-5031, engaged in business under the trade name of City of Canby, and that the resolutions on this document are a correct copy of the resolutions adopted at the meeting of the City Council duly and properly called and held on August 3, 2010. These resolutions appear in the minutes of this meeting and have not been rescinded or modified.

AGENTS any agent listed below, subject to any written limitations, is authorized to exercise the powers granted as indicated below:

Name and Title of Position	Signature
A. Eugene Bies, Mayor	_____
B. Jack Winter, Alderman	_____
C. Eugene Eilers, Alderman	_____
D. Nicholas Johnson, City Administrator	_____
E. Bonnie Merritt, Account Clerk	_____
F. Linda Blackwelder, Administrative Secretary	_____

POWERS GRANTED:

Indicate A, B, C, D, E or F	Description of Power	Indicate number of Signatures required
A,B,C,D	(1) Exercise all of the powers listed in this resolution	2
D	(2) Open any deposit or share account(s) in the name of the City	1
A,B,C,D,E,F	(3) Endorse checks and orders for the payment of money or otherwise withdraw or transfer funds on deposit with this Financial Institution	2
A,B,C,D	(4) Borrow money on behalf and in the name of the City, sign, execute and deliver promissory notes or other evidences of indebtedness.	2
A,B,C,D	(5) Endorse, assign, transfer, mortgage or pledge bills receivables, stocks, bonds, real estate, or other property now owned or hereafter owned or acquired by the City as security for sums borrowed, and to discount the same, unconditionally guaranteed payment of all bills received, negotiated or discounted and to waive demand, presentment, and protest, notice of protest and notice of non-payment.	2
A,B,C,D	(6) Enter into a written lease for the purpose of sending, maintaining, accessing and terminating a Safe Deposit Box in this Financial Institution.	2
A,B,C,D,E,F	(7) Access Safe Deposit Box in this Financial Institution	1

LIMITATIONS ON POWERS: The following are the City's express limitations on the powers under this resolution.

CERTIFICATION OF AUTHORITY

This is to certify that the City Council of the City of Canby has, and at the time of adoption of this resolution had, full power, and lawful authority to adopt the preceding resolutions and to confer the powers granted to the persons named who have full power and lawful authority to exercise the same.

In WITNESS WHEREOF, I have subscribed my name and to this document and affixed the seal of the City of Canby on August 3, 2010.

 Nicholas Johnson
 City Administrator

 Eugene Bies
 Mayor

RESOLUTION 08-03-2010-2

The City of Canby resolves that,

- (1) The Financial Institution is designated as a depository for the funds of the City of Canby and to provide other financial accommodations indicated in the resolution.
- (2) The resolution shall continue to have effect until express written notice of its rescission or modification has been resolved by the Financial Institution. Any and all prior resolutions adopted by the City Council and certified to the Financial Institution as governing the operation of this city's account(s) are in full force and effect until the Financial Institution receives and acknowledges an express written notice of its revocation, modification or replacement. Any revocation, modification or replacement of a resolution must be accompanied by documentation, satisfactory to the Financial Institution, establishing the authority for the changes.
- (3) The signature of an Agent on this resolution is conclusive evidence of their authority to act on behalf of the City of Canby. Any Agent, so long as they act in a representative capacity as agents of the City, is authorized to make any and all other contracts, agreements, stipulations and orders which they may deem advisable for the effective exercise of the powers indicated on page one, from time to time with the Financial Institution, subject to any restrictions on this resolution or otherwise agreed to in writing.
- (4) All transactions, if any, with respect to any deposits, withdrawals, rediscounts and borrowings by or on behalf of the City of Canby with the Financial Institution prior to the application of this resolution hereby ratified, approved and confirmed.
- (5) The City agrees to the terms and conditions of any account agreement, properly opened by any Agent of the City. The City authorizes the Financial Institution, at any time, to charge the City for all checks, drafts, or other orders, for the payment of money, that are drawn on the Financial Institution, so long as they contain the required number of signatures for this purpose.

The council received information on a proposed HRA rezone.

A motion was made by Wittrock-Seidel and seconded by Eilers to approve a contractor pay request on the infrastructure project in the amount of \$452,774.54. Winter, Eilers, Hanson and Wittrock-Seidel voted in favor. None voted against. The motion was carried. Payment will be held until funding is in place.

The council adjourned to a closed session.

The meeting was re-opened and a motion was made by Hanson and seconded by Eilers to adjourn the meeting. Winter, Eilers, Hanson and Wittrock-Seidel voted in favor. None voted against. The motion was carried.

Jack Winter, Vice-Chairman

Nicholas Johnson, City Administrator