

A regular meeting of the City Council of the City of Canby, Minnesota was held on April 5th, 2011 at 7:00 P.M.

Members: Gene Bies, Gene Eilers, Nancy Bormann, Denise Hanson

Absent: Rick Bueltel

Visitors: Nicholas Johnson, City Administrator
Gerald Boulton, City Attorney
Dean Helstrom, City Engineer
Ellie Beman, Canby News
Carmen Ronan, Canby News
Jennie Seidel
Jody Olson
John Meyer, Ph.D.
Pete Schmitz

The Pledge of Allegiance was recited.

The meeting was called to order at 7:00 P.M.

The minutes of March 15th were reviewed. A motion was made by Eilers and seconded by Bormann to approve the minutes. All voted in favor. None voted against. The motion was carried.

Nicholas Johnson presented information regarding a possible land sale to the Harkins. No action taken.

Dean Helstrom was present to give a project update and submit a bill from Bolton and Menk. The bill was for engineering services rendered as part of the Infrastructure Project in the amount of \$12,218.70. A motion was made by Hanson and seconded by Eilers to approve the Bolton and Menk bill. All voted in favor. None voted against. The motion was carried.

A motion was made by Bormann and seconded by Hanson to approve Resolution #2011-4-5. All voted in favor. None voted against. The motion was carried.

Resolution #2011-4-5

Allowing Elected Officials of the City of Canby to be Covered by Workmen's Compensation

WHEREAS, the law enables elected or appointed officials of the city to be covered, and

WHEREAS, the Mayor and Council Members intent is that they will be included as employees;

NOW, THEREFORE, BE IT RESOLVED THAT THE Mayor and Council Members of the City of Canby be covered by the Minnesota Worker's Compensation Law.

Dated this 5th day of April, 2011.

Eugene Bies, Mayor

Nicholas Johnson, Administrator

A motion was made by Eilers and seconded by Bormann to adopt Ordinance 302. All voted in favor. None voted against. The motion was carried.

Ordinance #302
Social Host Ordinance

Section 1. **Title and Authority.** The City of Canby desires to protect the health, safety and welfare of all persons living in and visiting the City of Canby. The use of alcohol by persons under the age of twenty-one (21) is prohibited by State statute. This ordinance prohibits, and establishes penalties for any person hosting an event or gathering where alcohol is present and being possessed or consumed by persons under twenty-one (21) years of age. This ordinance is enacted pursuant to Minn. Stat. §145A.05, subdivision 1.

Section 2. **Purpose and Findings.** The City of Canby intends to discourage underage possession and consumption of alcohol, even if done within the confines of a private residence, and intends to hold persons criminally responsible who host events or gatherings where persons under 21 years of age possess or consume alcohol regardless of whether the person hosting the event or gathering supplied the alcohol. The City of Canby finds that:

- (a) Events and gatherings held on private or public property where alcohol is possessed or consumed by persons under the age of twenty-one are harmful to those persons and constitute a potential threat to public health requiring prevention or abatement.
- (b) Prohibiting underage consumption acts to protect underage persons, as well as the general public, from injuries related to alcohol consumption, such as alcohol overdose or alcohol-related traffic collisions.
- (c) Alcohol is an addictive drug which, if used irresponsibly, could have drastic effects on those who use it as well as those who are affected by the actions of an irresponsible user.
- (d) Often, events or gatherings involving underage possession and consumption occur outside the presence of parents. However, there are times when the parent(s) is/are present and, condone the activity, and in some circumstances provide the alcohol.
- (e) Even though giving or furnishing alcohol to an underage person is a crime, it is difficult to prove, and an ordinance is necessary to help further combat underage consumption.

- (f) A deterrent effect will be created by holding a person criminally responsible for hosting an event or gathering where underage possession or consumption occurs.

Section 3. **Definitions.** For purposes of this ordinance, the following terms have the following meanings:

- (a) Alcohol. "Alcohol" means ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, whiskey, rum, brandy, gin, or any other distilled spirits including dilutions and mixtures thereof from whatever source or by whatever process produced.
- (b) Alcoholic Beverage. "Alcoholic beverage" means alcohol, spirits, liquor, wine, beer, and every liquid or solid containing alcohol, spirits, wine, or beer, and which contains one-half of one percent or more of alcohol by volume and which is fit for beverage purposes either alone or when diluted, mixed, or combined with other substances.
- (c) Event or Gathering. "Event or gathering" means any group of three or more persons who have assembled or gathered together for a social occasion or other activity.
- (d) Host. "Host" means to aid, conduct, allow, entertain, organize, supervise, control, or permit a gathering or event, whether that host is present or not.
- (e) Parent. "Parent" means any person having legal custody of a juvenile:
 - (1) As natural, adoptive parent, or step-parent;
 - (2) As a legal guardian; or
 - (3) As a person to whom legal custody has been given by order of the court.
- (f) Person. "Person" means any individual, partnership, co-partnership, corporation, or any association of one or more individuals.
- (g) Residence or Premises. "Residence" or "Premises" means any home, land, apartment, condominium, hotel or motel room, or other dwelling unit, or a hall or meeting room, or any other place of assembly, public or private, whether occupied as a dwelling or for any social function, and whether owned, leased, or rented.
- (h) Underage Person. "Underage person" is any individual under twenty-one (21) years of age.

Section 4. **Prohibited Acts.**

- (a) It is unlawful for any person(s) to;
 - (1) host or allow an event or gathering;
 - (2) at any residence, premises, or on any other private or public property;
 - (3) where alcohol or alcoholic beverages are present;
 - (4) when the person knows or reasonably should know that an underage person will or does
 - a) consume any alcohol or alcoholic beverage; or
 - b) (H) possess any alcohol or alcoholic beverage with the intent to consume it; and

- (5) the person fails to take reasonable steps to prevent possession or consumption by the underage person(s).
- (b) A person is criminally responsible for violating Section 4 of this ordinance if the person intentionally aids, advises, hires, counsels, or conspires with or otherwise procures another to commit the prohibited act.

Section 5. Exceptions.

- (a) This ordinance does not apply to conduct solely between an underage person and his or her parents while present in the parent's household.
- (b) This ordinance does not apply to legally protected religious observances.
- (c) This ordinance does not apply to retail intoxicating liquor or 3.2 percent malt liquor licensees, municipal liquor stores, or bottle club permit holders who are regulated by Minn. Stat. § 340A.503, subd. L (a)(1).
- (d) This ordinance does not apply to situations where underage persons are lawfully in possession of alcohol or alcoholic beverages during the course and scope of employment.

Section 6. Enforcement. This ordinance can be enforced by any police officer, sheriff's deputy, or certified peace officer in the City of Canby.

Section 7. Severability. If any section, subsection, sentence, clause, phrase, word, or other portion of this ordinance is, for any reason, held to be unconstitutional or invalid, in whole, or in part, by any court of competent jurisdiction, such portion shall be deemed severable, and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this law, which remaining portions shall continue in full force and effect.

Section 8. Penalty. Violation of Section 4 of this ordinance is a misdemeanor.

Section 9. Effective Date. This ordinance shall take effect thirty (30) days following its final passage and adoption.

Adopted by the City of Canby this 5th day of April, 2011.

Mayor

City Administrator

Pete Schmitz and John Meyer were present to give information regarding tax abatement for Farmers Co-op Association dry fertilizer plant expansion. A motion was made by Eilers and

seconded by Hanson to adopt the resolution for scheduling a hearing. All voted in favor. None voted against. The motion was carried.

RESOLUTION SCHEDULING A PUBLIC HEARING ON THE
ABATEMENT OF TAXES PURSUANT TO MINNESOTA STATUTES,
SECTION 469.1812 THROUGH 469.1815

BE IT RESOLVED, by the City Council (the "Council") of the City of Canby, Minnesota (the "City"), as follows:

Section 1. Recitals.

- a. Pursuant to Minnesota Statutes, Section 469.1812 through 469.1815 (the "Act"), the Council may grant an abatement of the taxes imposed by the City on a parcel of property, subject to certain conditions set forth in the Act.
- b. The City has been approached by Farmers Cooperative Association (the "Developer") regarding entering into an agreement with respect to an abatement of the taxes imposed by the City on a parcel of property (the "Abatement") on which the Developer intends to construct a project described as: Farmers Cooperative Association Expansion (the "Project").
- c. Pursuant to Section 469.1813 of the Act, the City may approve the Abatement only after holding a public hearing on the Abatement.

Section 2. Public Hearing Scheduled. The City Council will hold a public hearing on the abatement at a meeting of the City Council to be held in the City Hall in the City on _____, commencing at p.m. CDT.

Section 3. Notice of Public Hearing.

- a. The City Administrator or his designee is authorized and directed to publish the Notice of Public Hearing attached hereto as Exhibit A in accordance with this Resolution and the Act.
- b. Notice of the hearing must be published in a newspaper of general circulation in the City at least once more than ten days but less than 30 days before the hearing.
- c. The newspaper in which the notice will be published must be one of general interest and readership in the community, and not one of limited subject matter. The newspaper in which the notice will be published must be published at least once per week.

Adopted: _____

Mayor

Attest:

City Administrator

The motion of the adoption of the foregoing Resolution was duly seconded by Member _____ and, upon vote being taken, the following voted in favor thereof:

the following voted against the same:

the following were absent:

Whereupon, said Resolution was declared duly passed and adopted, and approved and signed by the Mayor and attested by the City Administrator.

Jerry Boulton presented Ordinance 244B.1 which amends Ordinance 244B. A motion was made by Eilers and seconded by Bormann to introduce Ordinance 244B.1. All voted in favor. None voted against. The motion was carried.

The vendor transactions for March were reviewed. A motion was made by Hanson and seconded by Eilers to approve the vendor transactions for March in the amount of \$160,922.31. All voted in favor. None voted against. The motion was carried.

A motion was made by Hanson and seconded by Eilers to approve a 3.2 On Sale Beer & 1 Day Consumption and Display for the Canby Jaycees and an Exempt Permit for St. Peter's Catholic Church. All voted in favor. None voted against. The motion was carried.

A motion was made by Bormann and seconded by Hanson to move the next Council meeting to April 18th to coincide with the County's Board of Review. All voted in favor. None voted against. The motion was carried.

The Planning Commission vacancy was discussed. No action taken.

Gene Eilers discussed open positions for employment at the community pool.

Gene Bies discussed opening a position for summer mowing.

A motion was made by Bormann and seconded by Hanson to adjourn. All voted in favor. None voted against. The motion was carried.

Attest:

City Administrator

Mayor