

RESOLUTION NO. 457

A RESOLUTION DECLARING A PUBLIC NEED TO CONDEMN AND ACQUIRE PROPERTY KNOWN AS TAX LOT 401, SECTION 5, T.4S., R1E OF APPROXIMATELY 29.21 ACRES LOCATED AT N.W. THIRD AVENUE AND NORTH CEDAR STREET IN CANBY, OREGON.

WHEREAS, the City of Canby, under a prior lease agreement dated August 1, 1963 with the previous owner of real property known as Tax Lot 401, Section 5, T.4S., R1E, was given a license to construct and maintain a storm sewer outfall to dispose of its storm sewer wastewater on said property; and

WHEREAS, the previous owner sold said property to the present owners in August of 1989, and thereafter the present owner terminated the license agreement with the City and demanded the City cease further use of said property for disposal of storm sewer wastewater; and

WHEREAS, under and by virtue of the laws of the State of Oregon, the City of Canby is duly authorized and empowered to locate, acquire, construct, alter, enlarge, operate and maintain a storm sewer collection and disposal system, public parks and extensions of public streets as in the judgment of the City Council are necessary and proper for the residents of the City of Canby; and

WHEREAS, under and by virtue of the laws of the State of Oregon, the City of Canby may acquire by purchase, gift, devise, condemnation proceedings or otherwise, such real property interest therein and rights-of-way, within the corporate limits of the City as in the judgment of the City Council are necessary or proper to exercise its power, and

WHEREAS, for the purpose of providing a storm sewer collection and disposal system, a public park and extensions of public streets for the health, safety, benefit and general welfare of the public, the City of Canby plans to locate, construct, operate, maintain and repair a storm sewer collection and disposal system, a public park and extensions to public streets located near N.W. Third Avenue and N. Cedar Streets in the City of Canby, Clackamas County, Oregon, now therefore,

IT IS HEREBY RESOLVED AS FOLLOWS:

1. The City of Canby Council does hereby find and declare that there is immediately needed and required for the continued location, construction, operation, maintenance, repair and improvement of the City storm water collection system and facilities, the real property and interest, therein more particularly described as Tax Lot 401, Section 5, T. 4S., R1E, consisting of approximately 29.21 acres located near the corner of N.W. Third Avenue and N. Cedar Streets within the corporate limits of the City of Canby, Clackamas County, Oregon.

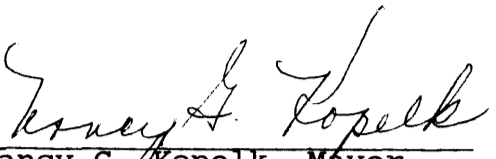
2. The real property referred to above is immediately required and being taken as necessary in the public interest for the continued use as a storm sewer collection disposal system site, for the proposed use as a public park, and for possible street extensions connecting N. Cedar Street and N. Baker Drive with Hwy 99E to the south and said uses will be constructed and established in such a manner that will be most compatible with the greatest public benefit and the least private injury or damage.

3. The Canby City Council, its Administrator and Attorney be and are hereby authorized to attempt to agree with the owners and other persons in interest in the real property as to the compensation to be paid for the appropriation of the property, and in the event no satisfactory agreement can be reached, then the City Attorney is hereby authorized to commence and prosecute to final determination such proceedings as may be necessary to acquire the real property and interest therein and that upon the filing of such proceedings, seek immediate possession of the real property and interest therein.


4. Upon the trial of any suit or action instituted to acquire the real property or any interest therein, the City Attorney, acting for and on behalf of the City of Canby, is hereby authorized to make such stipulation, agreement or admission as in his judgment may be for the best interest of the City.

5. In order to protect the health, safety and welfare of the citizens of the City, an emergency is declared to exist, and it is necessary that no undue delay be encountered in obtaining access to and possession of the real property described above in order to protect the continued use of said storm sewer collection system, to develop the area for park use, and to extend N. Cedar and N. Baker Drive, and therefore this resolution shall be in force and effect from and after its passage by the City Council.

ADOPTED this 1st day of August, 1990, by the Canby City Council.


Nancy G. Kopelk, Mayor

ATTEST:


Marilyn K. Perkett, City Recorder