

CANBY CITY COUNCIL
REGULAR SESSION
SEPTEMBER 5, 2001

Mayor Terry Prince presiding. Council members present: Walt Daniels, Patrick Johnson, Shirley Strong, Randy Carson, and Teresa Blackwell.

Also present: City Administrator Mark Adcock, Planning Director John Williams, Marty Moretty, Library and Parks Director Beth Saul, Finance Director Chaunee Seifried, Lt. Greg Kroepelin, Chief Pagano, Donna and Leonard Walker, Curtis and Lila Gottman, Robi Kurth, Julia Schewanick of Dorman Mausoleum, Gwen Schweitzer, Kay Lewelling, Marlene Elmore, Public Works Supervisor Roy Hester, Linda Runyan-Finden, Jamie Johnk, Craig Finden, Ron Berg, Steven Amick, Lisa Weygandt, Gordon Winfree, Buzz Weygandt, David Howell, Phyllis Morris, Bev Doolittle, Wayne Scott, and Mike Swanson.

Mayor Prince called the regular session to order at 7:34 p.m., followed by the opening ceremonies.

PROCLAMATION: Constitution Week - Mayor Prince read the proclamation on the 214th anniversary of the drafting of the Constitution of the United States and then presented it to Gwen Schweitzer accepting on behalf of the Daughters of the American Revolution. Their group has been observing Constitution Day since 1956 and on September 17th at 4 p.m. she requested that everyone ring a bell in honor.

9-1-1 Awareness Week - Chief Pagano accepted the proclamation on behalf of the C-Com and the Canby Police Department. Chief Pagano stated that he would pass this on to the 9-1-1 dispatchers at Clackamas County Communications; they have one of the hardest jobs in law enforcement as the bridge for communications for police, fire and citizens.

He asked for a moment of silence for the two police officers killed in the line of duty last night on I-5 near Albany.

Domestic Violence Awareness Month - Chief Pagano also accepted this proclamation observing October as Domestic Violence Awareness Month telling the Council that there was a recent County-wide sweep of warrant arrests for suspects who had failed to appear on domestic violence cases; Canby alone arrested four or five offenders.

Mayor Prince invited the Family Violence Coordinating Council of Clackamas County to speak at an upcoming Council meeting.

CITIZEN INPUT ON NON-AGENDA ITEMS: Bike Rodeo Drawing - Robi Kurth of the Bike and Pedestrian Advisory Committee and Lila and Curtis Gottman had the Mayor draw the winner of the bike on behalf of the Bike Rodeo Committee. The raffle began at General Canby Day Celebration and was a week long effort at the Police booth at the Clackamas County Fair. The Gottmans donated the cycle and the money raised in the amount of \$429 will all go to the

Bike Rodeo for such things as helmets, prizes, and refreshments. The money was presented to Officer Tro who is in charge of the Bike Rodeo. Officer Tro on behalf of the Police Department thanked the Gottmans for their generous donation of the bike and to all those who bought the raffle tickets which allow the program to continue.

James Miller was announced to be the winner of the bicycle.

CONSENT AGENDA: **Councilor Strong moved to approve the Minutes of regular session and executive session of August 15, 2001 and Accounts Payable of \$155,606.08. Motion was seconded by Councilor Carson and passed 5-0.

COMMUNICATIONS: Fun Run Announcement - City Administrator Mark Adcock and John Williams gave details about the upcoming Fun Run 5k (3.2 mi.) and 10k (6.2 mi.) walk and run scheduled for September 22nd starting at 10:00 a.m. starting at Trost Elementary School. The entry fee is minimal and includes two cans of food towards the food bank. Mr. Williams has registration forms available.

NEW BUSINESS: Discussion re: Reorganization of Community Development Department - Administrator Mark Adcock referred to his agenda report of the proposed reorganization. This restructuring makes sense economically by eliminating one management position and adding one non-management technical position to bolster the planning activities. Mr. Adcock requested of Council to amend the staffing pattern in the organization to add the planning technician position. He intention is to promote John Williams to Community Development and Planning Director. Mr. Williams has proven himself to be an outstanding professional in his current position of Planning Director. He has shown the ability to manage and move along projects, deal with the public, and take complicated public policy issues and explain them in such a way as to make them understandable.

All of the development services activities will now be under a unified management so there will be better coordination between the development community and the planning process. In terms of responsibility, Mr. Williams will be directly responsible for the Planning Department, high profile planning projects, Building and Urban Renewal, and will supervise Wastewater, Streets, Sewer Collection, and administer the contract activities that go along with maintaining the Cemetery. Mr. Adcock will then take over the Technical Services and Motor Pool Departments that were formerly under Community Development.

This move makes good use of talent in-house; John has proven himself above and beyond. As with the Police Chief's position, it is always Mr. Adcock's preference to promote from within especially when the City has good, competent, viable candidates.

****Councilor Johnson moved to approve a Planning Technician position thereby enabling the reorganization of the Community Development Department and amending the City staffing pattern and Table of Organization. Motion was seconded by Councilor Strong.**

Councilor Johnson felt that this was a good move and has been impressed with the way Mr.

Williams has handled potentially hostile groups and defuse with logic in the neighborhood zoning meetings.

Mayor Prince has also been impressed with the way John has handled the Tri-Met withdrawal efforts; this will be a natural evolution to promote him.

Councilor Strong mentioned that this move will not take money away from the General Fund, but rather will gain a savings of over \$8,000.

Councilor Daniels complimented Mr. Adcock for the time spent in researching and developing this recommendation. Mr. Adcock, in turn, expressed that this was a collaborative effort on the part of the management team.

Councilor Johnson stated that he had some concerns with Mr. Adcock taking on more responsibilities. This was another case the showed Mr. Adcock's commitment to "keep the wheels on the cart".

****Motion passed 5-0.**

Mr. Williams expressed appreciation for all the nice things said about him; he has enjoyed his work here in Canby and is looking forward to working on a new range of issues. The bonus to this new reorganization is that it not only makes good sense, but also saves the City money.

Discussion re: House Bill 2142, Proposed City Projects for the Oregon Transportation Investment Act - City Engineer Curt McLeod handed out an updated memorandum after having further discussions with ODOT concerning his project recommendations for application of funding. The purpose of HB 2142 was to generate \$400 million for transportation improvements primarily geared towards ODOT facilities. The State will bond for this money for transportation improvements through the Year 2008. The League of Oregon Cities has been very instrumental in getting all the cities and communities involved in preparing applications so Canby reviewed its Transportation System Plan and had earlier identified three projects that seemed to fit the criteria. North Ivy Street was one of the projects identified which has been having work done on it for over the last four to five years having started at Territorial and worked up to 9th Street. The goal is to make it to the Highway. In the next few months, as part of the Canby Station Development, work will be done from the Highway to 2nd.

A second project identified was the redevelopment of the intersection at Ivy and 99E and the third project was the Berg Parkway bypass to complete the loop from 99E to S. 13th Avenue. After talking with ODOT in the last week, Canby has not qualified for any of the preservation projects. Of the \$400 million, \$200 million was earmarked for preservation and the other \$200 million towards modernization. Preservation will only be applicable to State facilities or local facilities that have a load limitation. Our projects would fall under the modernization category, which is adding capacity to existing facilities or adding new facilities that will free up capacity in the State system.

He intends to combine the two Ivy Street projects into one; his intention is to take Ivy all the way to 10th Avenue thereby completing the project including re-signalization at the Highway, and completion of curbs and sidewalks from S. 2nd to N. 10th. There is \$150,000 available in local match that comes from the ODOT fund exchange program that is earmarked only for Ivy Street and this is opportune to be able to use that as local match.

Berg Parkway would be an excellent project for relieving traffic loads on the Highway by routing traffic into the south residential area along 13th Avenue. In his memo, he speaks less favorably of the Berg project simply because there is no local match and the feedback from ODOT is that this will be a bid situation because of limited dollars and many requests. He is hesitant to go into this as being our only project without a local match.

ODOT also cautioned him about applying for several applications needing to diplomatically spread these projects around the entire state. In Region I which Canby falls under, there is \$70 million that would apply to the type of projects we would be requesting. The Ivy Street project request would be \$1 million and the Berg Parkway project would run at \$1.1 million of grant money. The total project costs will total \$1.135 million for Ivy and \$1.1 million for the Berg.

He was asking for consensus to apply for the combined Ivy Street project; the application is due the first week in October.

Councilor Corey Parks arrived at the Council meeting at 8:03 p.m.

Mayor Prince expressed disappointment that Berg Parkway would not be on the list because southeast and southwest Canby are developing fast and are putting pressure on Ivy and other intersections such as Elm. He was hoping for a more direct route to that part of town to take the pressure off the Highway.

Mr. McLeod said that the Berg project certainly did have more benefit to the State highway. He had the traffic counts that would show reduced use on the highway if it were in place. It might possibly deserve a better favor from ODOT and could certainly be applied for if the Council so wished. The only match money that the City would have for Berg Parkway would be if there were any SDC funds in excess of what was earmarked to be used on 2nd Avenue. Essentially, the balance of SDC funds were to be used on 2nd Avenue in the Spring so are limited in funds. But, there is no reason we have to apply with a local match. He appreciated the Mayor's perspective on the issue and would be more than willing to apply for both projects.

Councilor Carson was also in favor of applying for both projects. He pointed out that 2nd Avenue and Berg Parkway were also under the URD umbrella. Mr. McLeod felt that maybe it would be beneficial to try to find local match for Berg Parkway; 2nd Avenue will be covered with SDC's. Councilor Carson also asked about the match money on Ivy Street and Mr. McLeod stated that there is already match money earmarked for that project only and thought that if that portion of the project were incorporated into the application, that money could be used for leverage. Three years of exchange money has been accumulated and needs to be expended in the next year or the first year will drop off. Councilor Carson reiterated that the match money was only available for

the North Ivy portion only.

Councilor Johnson asked about county projects and would it help to send a letter of support for Territorial-99E intersection and also Arndt Road. Would there be in-town projects that would be hurt if support were shown for the two County ones mentioned. Mr. McLeod said that he had considered the Territorial project, but that it was too far out of Canby's core area but that certainly a letter of support for that one particularly would be of benefit to us because a lot of money for Territorial is earmarked to come out of our SDC funds. So, if grant money were given for that project, it would benefit the City also.

Councilor Daniels asked about the time line for notification of their award decisions. Mr. McLeod said they would be identifying the projects that would be funded by the first quarter of next year. We might want to start negotiating on the right-of-way issues now by using fund exchange monies.

Mr. Adcock clarified that a portion of SDCs was set aside several years ago for Territorial Road but with the current fiscal realities, all of the accumulated SDCs have been used and he didn't want to mislead anyone into thinking that those funds were still there. Mr. McLeod also clarified that there was an identified 20 year SDC program so over that period of years, the money would be collected to fund these projects. There is a SDC component in every project talked about tonight so receiving grant money will relieve some of the burden on the SDCs.

Mayor Prince concurred with Councilor Johnson about sending a letter of support for the Territorial Rd. intersection. Mr. McLeod stated that the letter should go directly to ODOT Region I District Manager since Canby does not have an area transportation commission.

****Councilor Carson moved to direct City Staff and Curran-McLeod Inc. to apply for monies available through the Transportation System Improvements Act for the Ivy Street Project and the South Berg Parkway Project. Motion was seconded by Councilor Daniels.**

There was consensus that staff should write a letter of support to ODOT Region I District Manager for funding of the Territorial Road - 99E intersection.

****Motion passed 6-0.**

UNFINISHED BUSINESS: Report on Enforcement of County Animal Control Ordinance on Logging Road and City Parks - Mr. Adcock framed this issue by stating that at the last meeting Ordinance 1077 passed on the first reading allowing Clackamas County to take over the animal control activities. Subsequent to that vote, Mrs. Donna Walker asked the question of staff as to how that would relate to the enforcement of the City's leash law specifically the enforcement in parks and on the Logging Road Pathway. Council then directed John Kelley to research the issue and that discussion is before them tonight.

City Attorney John Kelley stated the problem lies with the definition of "dog at large" and which definition the City wants to use. In the County's ordinance, the definition provides that a dog

owner commits the violation of "dog at large" by failing to prevent a dog from going off the dog owner's property unless it is *under the immediate control* of the person the dog is with. So, the dog does not have to be on a leash but needs to be under the immediate control of the person. Canby's ordinance provides a different definition stating that running at large off or outside the premise belonging to the owner or the person having control, custody or possession of the dog while the dog is not *under the complete control by adequate means of a leash*. So, in Canby's instance, if the dog is off-premise, it must be on a leash.

The question then becomes if we want to maintain our definition of "dog-at-large" or use the County's definition. Clackamas County will enforce our leash law provision provided that the City enters into an Intergovernmental Agreement with them. It will also necessitate some housekeeping measures with our current ordinances in order to create this as a choice.

What needs to be decided is whether a dog must be on a leash when off dog owner's property or whether the County's definition of under immediate control is adequate. If the County's interpretation is felt to be adequate, then continue with the 2nd reading tonight and pass Ordinance 1077 but if the definition should include that the dog be on a leash, then defeat Ordinance 1077 and direct Attorney Kelley to bring back a new resolution together with an intergovernmental agreement to provide for the continued enforcement of that provision by County.

He introduced Phyllis Morris, the Director of Clackamas County Animal Control and she was on hand to answer any questions from Council.

Councilor Carson asked if a dog under immediate control attacked or bothered a person, could they still be cited. Attorney Kelley responded that if they were displaying that behavior, it would not be considered as being in control and therefore, would qualify to be cited. Councilor Carson felt that the County's interpretation would be adequate and sometimes it was convenient to let your dog run across the park or school yard.

Councilor Johnson asked of Ms. Morris what the current County response time was for "dog-at-large" she interpreted that as a dog on the loose, without people around. Officers are on duty Monday through Saturday to pick them up and factor in other existing call-outs and where the dog is located. Any time this interferes with traffic, it would require a more immediate response; call-outs are graded from 1-10 depending upon urgency of the situation.

Mrs. Walker who lives bordering the logging road, questioned whether the County could respond timely enough to cite owners of dogs at large. She has had a bad experience and knows how fast a person can be attacked and there is no way that anyone could respond fast enough. She sees many dogs at large on the logging road. Ms. Morris responded that the County takes those incidents very seriously. Parks can have specific rules posted and the County will help assist if called upon to enforce. The Logging Road is considered a park within our city limits.

Ms. Morris stated that the intergovernmental agreement would allow County to enforce our leash law, would be easy to do and would only entail the overhead of an officer coming to a hearing.

Mayor Prince understands the concerns of citizens because he uses the logging road frequently and has encountered some incidences. He would be in favor of requiring a leash.

Councilor Parks referred to Chief Pagano's comments in the staff report to continue with the current leash law and ask County to help enforce. He concurred with the Chief's recommendation.

Councilor Johnson said that he had spoken with Lt. Kroeplin and had stated that from an operational standpoint, he preferred the rules in place currently.

Ordinance 1077 -

****Councilor Daniels moved to adopt Ordinance 1077, AN ORDINANCE CONSENTING TO CLACKAMAS COUNTY ADMINISTERING IT'S DOG CONTROL AND LICENSING ORDINANCE WITHIN THE CITY REPEALING CHAPTER 6.12 OF THE CANBY MUNICIPAL CODE; AND DECLARING AN EMERGENCY on second reading. Motion was seconded by Councilor Strong and failed 6-0 by roll call vote.**

****Councilor Johnson moved to direct staff to enter into an Intergovernmental Agreement with Clackamas County and the City of Canby to provide enforcement for Canby's current leash law and bring back a resolution consenting to the County administering it's dog control and licensing ordinance within the City. Motion was seconded by Councilor Carson and passed 6-0.**

ORDINANCES & RESOLUTIONS:

Resolution 762 -

City Administrator Mark Adcock stated that City County Insurance's by-laws require that each member adopt a resolution confirming acceptance of the coverage.

****Councilor Daniels moved to adopt Resolution 762, A RESOLUTION REGARDING MEMBERSHIP IN THE CITY COUNTY INSURANCE SERVICES TRUST. Motion was seconded by Councilor Strong and passed 6-0.**

Resolution 763 -

Mr. Adcock said that an official presentation would be made to Jerry Giger at his retirement dinner this coming Friday.

****Councilor Johnson moved to adopt Resolution 763, A RESOLUTION BESTOWING EMERITUS STATUS ON CHIEF GERALD D. GIGER. Motion was seconded by Councilor Blackwell.**

Mr. Adcock explained that this was an honorary title rarely bestowed, and was fitting for Jerry, appreciative of his hard work over the last eighteen years at Police Chief.

****Motion passed 6-0.**

Ordinance 1078 -

Mr. Adcock stated that this was the first reading of the ordinance approving the competitive bid for construction of the mausoleum addition at Zion Memorial Park. There were two bids received and Public Works Supervisor Roy Hester's staff report recommends awarding the bid to Dorman Mausoleum Co. in the amount of \$208,000 for a 154 unit mausoleum addition. Mr. Adcock also pointed out the memorandum from Finance Director Chaunee Seifried regarding the fiscal impact. In the current budget, \$200,000 was approved for this project and with the bid coming in at \$208,000, there needs to be an addition to the capital outlay line of \$8,000. At a later time, the proposal would be to amend the budget and add this difference to the capital line as a loan from the cemetery perpetual care fund which is where the original budgeted amount of \$200,000 was obtained.

Roy Hester, Public Works Supervisor, reported that the original mausoleum was built in 1989 and dedicated on Memorial Day 1990. It was a 145 space crypt unit with 465 niches and to date, 330 niches are remaining and only 31 casket spaces left. The new unit will not have any additional niches but will be built for additional casket spaces. The new unit will be attached to the present mausoleum; it will be a mirror image of the present one using the same design, same marble, and same color.

Councilor Daniels reflected on the difference in the bid prices and asked Mr. Hester if there had been any recommendations from other cities who had used Dorman Co. for contracting? Mr. Hester stated that he had not, but that the company's credentials and work experience came highly recommended.

Councilor Strong asked for clarification that the new structure was being built on the Walnut Street side of the present structure.

****Councilor Daniels moved to adopt Ordinance 1078, AN ORDINANCE AUTHORIZING THE MAYOR AND CITY RECORDER TO EXECUTE A CONTRACT WITH DORMAN MAUSOLEUM COMPANY FOR CONSTRUCTION OF THE ZION MEMORIAL PARK MAUSOLEUM ADDITION; AND DECLARING AN EMERGENCY to come up for second reading on September 19, 2001. Motion was seconded by Councilor Strong and passed 6-0.**

Julia Schewanick, a representative of Dorman Mausoleum was present and said that they were looking forward to beginning the project and working with the City.

MANAGERS' REPORT: Status Report on Canby Public Transportation System - Community Development and Planning Director John Williams updated the Council indicating that he was working with potential contractors, and with Tri-Met and staff. Tri-Met has another Board meeting scheduled for 8:00 a.m. on September 12 at the same location as the last meeting. It will be a continuation of the last meeting with an informal workshop. As presented to him, it will mostly be a discussion between the Board members and questions of their staff. Mr. Williams is planning on attending and invites any Councilors and citizens to go. He is not sure at this time if there will be time made available for any public statements or if it will be limited to just

answering questions.

Based on the directives that come out of the meeting on the 12th, they will hopefully act upon those at the official meeting of the month on September 26th at 9:00 a.m. in the Portland Building in the form of an ordinance approving or a resolution denying the withdrawal. At least on the meeting of the 26th, there will be an opportunity for testimony on the issue. Mr. Williams has notified people of that meeting and will be inviting more; it might be a better forum to make a formal statement. It is hoped that by that time, the Board would have made up its mind.

Mayor Prince asked if the Board had requested information about how Sandy and Wilsonville were doing? Mr. Williams said that Sandy had submitted a letter to Tri-Met stating details of how its service is going, he doesn't know if Tri-Met has yet contacted Wilsonville. All reports that Mr. Williams has heard, indicate that the Sandy bus service is going great which is good for Canby.

Since the last meeting, the Tri-Met hearings officer's report came out and it recommended approval as seen in the *Canby Herald*. This is certainly good for the application; the Board has no requirement to follow that recommendation but it does provide the staff-level and technical opinion that Canby is ready to go, capable to do it, and more people will ride transit under our system as a result. It all comes back to whether the Board wants to make a policy decision allowing cities to leave or not.

Mr. Williams has been working with some citizens and with the Tri-Met staff to come up with options to solve some of the negative issues raised at the public hearing including the loss of service at the end of South End Road and service on 99E between Canby and Oregon City, and provide dependable commuter service in the morning for those already using the existing service. Tri-Met staff is exploring possibilities such as Tri-Met continuing the morning service.

Mayor Prince indicated that our plan calls for Saturday and Sunday service which we currently don't have and more within-the-city pickups.

Councilor Parks stated that when attending the workshop, he got the distinct impression that the Board cares less about whether it will accomplish their mission to reduce vehicular traffic inside the city and metro area than the decision to even let cities withdraw. He felt strongly after attending, that would determine how they arrived at their decision. Mr. Parks said he would encourage staff to pull Tri-Met's charter or authorizing legislative document and find the mission statement and then hold them to it at the next meeting. To tie into Mr. Parks's statement, Mr. Williams reflected back to a statement that the Board had made at the last meeting, to paraphrase- what if every area who didn't get good transit service withdrew?

Mayor Prince said in defense of a Board member who stated that they were more interested in what we could do with the money, and "more bang for the buck". Looking at the present plan and Canby's proposed plan, ours certainly does have more bang.

On another matter, Mr. Williams also stated that U.S. Congress is back in session, and will start

working on the federal appropriations request that was made for our transit plan. Letters have been sent by us to our Congressmen as well as Oregon State Rep. Kurt Schrader personally sending a letter urging approval for our \$225,000 request for buying the transit vehicles. John will continue to update Council on this issue as information becomes available. The committee process can take a long time and we are just included along with everyone else's requests on the US Transportation Budget.

There is a tentative meeting scheduled on September 13th for a lunch meeting at Shimadzu to try to get some of the industrial community on board and write letters of support to Tri-Met. He would also like to get the Chamber of Commerce in attendance and will be finalizing and sending out invitations soon. Mayor Prince added that he had appreciated the Chamber's comments at the Tri-Met hearing in support.

Mr. Williams also made a brief report on residential zoning. Recalling that the Council had signed a letter of support for a grant application for a residential design project, he was just notified on Tuesday, that Canby has received the grant in the amount of \$20,000-\$40,000. This will be coming from DLCD and ODOT to help Canby hire consultants and do staff work here on the next leg of periodic review. They will be hearing more about it, and is hoped to start sometime in November.

Discussion re: Request from League of Oregon Cities for Financial Assistance in Litigation Expense - Mr. Adcock referred to a letter received from LOC in the agenda packet requesting that member cities assist in defraying litigation costs incurred in the Quest Communications vs. City of Portland lawsuit dealing with the ability of the City of Portland to continue to collect franchise fees from telecommunications providers. In another instance, this Council declined to give assistance money to the League in its' contemplated litigation related to Measure 7 given the fact that it was a voter-approved measure. In this case, it is a different scenario; LOC is asking cities to help defray legal costs as it could have potential impact on other cities, not just Portland. The question before them tonight is does Council want to participate and provide a portion of our telecommunication or telephone franchise fees; they are asking for 3% of our fees which amount to \$2,010.

Councilor Parks asked if this potential litigation matter was something that could be discussed in Executive Session? Attorney Kelley said that the requirement to enter into Executive Session discussion would be either anticipated or pending litigation. To date, pending litigation has been interpreted as anticipated litigation such as a demand letter or something indicating that the City was going to be sued. There needs to be some type of immediate threat of litigation to be able to discuss in Exec Session. Mr. Parks inclination would be to decline tonight until he has had a chance to independently talk with various Councilors about some of the issues as he sees will be forthcoming.

Mayor Prince asked Mr. Kelley to summarize the litigation. Mr. Kelley stated that this is a suit that Quest has brought, which challenges the right of the City of Portland to charge a franchise fee for the use of their public rights-of-way. It is based on the Ninth Circuit case in the federal court system in our area which held that cities do not have the right to charge for the use of their

right-of-ways because they are public. There are two other districts in the federal courts system in which this issue has been raised and those have stated that indeed the cities do have a right to charge for use of public right-of-ways to telecommunications companies. As a result, the issue is up in the air. When there is a split like this in the federal court, the Supreme Court eventually deals with the issue. This has not happened yet and Mr. Kelley does not know where these other two jurisdictions are or the Ninth Circuit in the process. What will happen is that there will be a decision out of this case at the lower or trial court level in Oregon, and then it will work its way through the appellate system. So this will not have an immediate impact but certainly there is the potential. The precedence is split across the country so it is difficult to forecast but obviously the best defense is to be prepared for any eventuality by contributing to the League. But, there are limited funds and are still in the middle of labor negotiations so to contribute to the lawsuit will be a difficult issue; it will probably be money well spent - it is always good to present the strongest possible defense at the earliest possible time rather than to come in later to something that has already been decided.

Mayor Prince asked if it were necessary to make a decision tonight or would it be something that could be held over to the next meeting. Mr. Kelley said that the correspondence didn't give a dead line date so that it would appear that the next meeting would be acceptable. Mr. Adcock said that he would be glad to pass on to the League to allow the Council to discuss and delay the decision until the 19th. Mayor Prince said that he would like to have a chance to review additional information and comments that Councilor Parks would have. The Mayor said that franchise fees are a source of income that the City receives and we are hard-pressed enough providing services without having to cut due to lack of funding. It is his understanding that Quest has withheld some of their fees and Attorney Kelley concurred that Quest has withheld paying their fees to the City of Portland.

Councilor Daniels asked Mr. Kelley if in a franchise situation there could be a restriction of the number of telecommunicators or companies that could service the City by franchise, if a company obtained the franchise would they have exclusive rights? Mr. Kelley stated that Canby did not do that, but some jurisdictions may do that. Canby does that with our garbage franchise, but not the telecommunication franchise. Mr. Daniels asked if Quest were successful with this, would it raise other issues? Mr. Kelley said if it were decided that the local government has no right to charge for the use of the public rights-of-way, then "yes", it will affect all telecommunication franchises that use public rights-of-way. The counter to that is why is it that telecommunicators have to pay when they have to go on private property to set up a cell tower but yet when they go onto city property, they don't have to pay.

Council consensus was to wait until September 19th meeting to discuss further and make a decision on assisting the League of Oregon Cities in litigation costs.

Mr. Adcock said that the last thing he had under Managers Report tonight regarded the formation of the Clackamas County Coordinating Committee. Their request is for Council to select an elected official to serve as a representative from the City of Canby on this committee. Suggestions for by-law changes had been made mostly from Special Districts and were noted as shaded areas in the report. As a Council, it is also being asked to adopt the by-laws by motion.

The first meeting of this Committee is September 26th, so there would be enough time to review and select a representative at the next meeting.

Council consensus was to move this issue to the September 19th meeting.

Mayor Prince recessed the meeting for a short break at 9:03 p.m. and reconvened back into regular session at 9:11 p.m.

CITIZEN INPUT: None.

COUNCILORS' ISSUES: Councilor Daniels reported that the Traffic Safety Committee would bring back their recommendation to the next meeting on an ordinance regarding bicycle and skateboard use in the downtown core area.

Councilor Johnson urged everyone to come to the Addison Room grand opening at the Library on Saturday, September 8th at 11:15 p.m. A clown will be there along with free ice cream for refreshments. This is a recently redesigned and painted area formerly the community room and now the children's library.

Councilor Daniels announced that the Budget meeting scheduled for September 9th has been moved to the City Shops conference room.

ACTION REVIEW:

1. Approving the Consent Agenda.
2. Approving Resolution 762.
3. Approving Resolution 763.
4. Defeating Ordinance 1077.
5. Directing staff to return with resolution and intergovernmental agreement with Clackamas County incorporating Canby's leash law provisions.
6. Approving Ordinance 1078 for second reading on September 19, 2001 and requesting that a representative from Dorman Mausoleum be on hand with drawings of structure.
7. Approved the reorganization of the Community Development Department.
8. Directed staff to apply for two projects under HB 2142 and to send a letter of support for Clackamas County's 99E and Territorial Road project to ODOT Region I District Manager.
9. Moving discussion of League of Oregon Cities request for financial assistance to defray litigation costs to meeting of September 19, 2001.
10. Moving discussion of Clackamas County Coordinating Committee and selection of representative to September 19, 2001.
11. Putting an ordinance on the September 19, 2001 agenda regarding the prohibition of use of bicycles and skateboards in the downtown core area.

Mayor Prince explained the procedure that would be followed tonight as the Council moved into Council Executive Session as well as an Urban Renewal Agency special meeting and Agency Executive Session.

****Councilor Strong moved to go into Executive Session under ORS 192.660 1(d) labor negotiations, and 192.660 1(h) pending litigation. Motion was seconded by Councilor Carson and passed 6-0.**

Mayor Prince read the executive session format and recessed the regular session at 9:18 p.m.

Mayor Prince reconvened the regular Council session and immediately adjourned at 11:16 p.m.

EXECUTIVE SESSION
SEPTEMBER 5, 2001

Present: Mayor Terry Prince, Councilors Corey Parks, Walt Daniels, Patrick Johnson, Shirley Strong, Randy Carson, and Teresa Blackwell, City Administrator Mark Adcock, City Attorney John Kelley, Finance Director Chauncey Seifried, and Community Development and Planning Director John Williams.

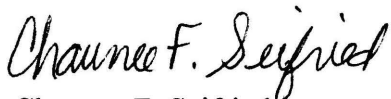
Mayor Prince called the session to order at 10:33 p.m.

ORS 192.660 1(h) - City Attorney John Kelley gave a briefing on current pending civil litigation.

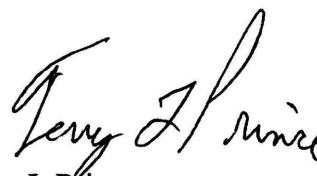
At 10:33 p.m., John Williams was excused from the meeting.

ORS 192.660 1(d) - The Council discussed labor negotiations.

Mayor Prince adjourned the session at 11:05 p.m.



Chauncey F. Seifried,
City Recorder pro tem



Terry L. Prince
Mayor



Prepared by Marty Moretti,
Office Specialist