

**CANBY CITY COUNCIL
REGULAR SESSION
JULY 2, 1997**

WORKSHOP SESSION: A workshop session was held at 6:00 p.m. in the CUB Conference room to discuss voter annexation possibilities for the City.

Present: Mayor Taylor, Councilors Nolder, Harris, Gerber, Daniels, Strong and Lucas, Mr. Jordan, Ms. Chaplen, Jim Wheeler, Cam Sivesind and Attorney Kelley.

The session was adjourned at 7:25 p.m.

REGULAR SESSION: Mayor Scott Taylor presiding. Councilors present: Dennis Nolder, Brad Gerber, Roger Harris, Shirley Strong, Walt Daniels and Barry Lucas.

Also present: Administrator Michael Jordan, Finance & Administrative Director Sarah Jo Chaplen, Library & Recreation Director Beth Saul, Police Chief Jerry Giger, Planning Director Jim Wheeler, City Attorney John Kelley, Ron Yarbrough, Edna Miller, Harold Knittle, Karen Cederquist, Morris Cederquist, Calvin Ott, Howard Blessing, Chris Pendleton, Keith Morrey, Ron Berg, Louis Mar, Robert Coons, Derek Bliss and Mr. Kauffmann. (NOTE: No sign-in sheet was available for this author to record those present.)

Mayor Taylor called the session to order at 7:30 p.m., followed by the flag salute and a moment of silence.

ROLL CALL OF THE COUNCIL: A quorum was present.

MINUTES OF PREVIOUS SESSION: **Councilman Daniels moved to approve as distributed the minutes of regular session, June 18, 1997. Motion seconded by Councilman Harris and approved 5-0.

CITIZEN INPUT ON NON-AGENDA ITEMS: None presented.

COMMUNICATIONS: Letter from Scott Wiesehan - Administrator Jordan noted that Mr. Wiesehan has made this request in years past for a street closure to have an annual block party on NE 14th.

Councilman Harris asked if the entire street would be blocked off. Mr. Jordan said he did not believe the entire street was involved, however, it was not a problem if it was

entirely blocked off.

****Councilman Harris moved to approve the request from Scott Wiesehan to block off N.E. 14th Avenue on July 4th, for an annual block party; and to coordinate with the Public Works and Police Departments. Motion seconded by Councilwoman Strong and approved 6-0.**

Mayor Taylor read a letter from CUB Manager, Dirk Borges, explaining the power outage that occurred that morning. Essentially it was caused by the failure of an electrical insulation near the Twilight Substation. Also, meetings have been scheduled with CUB and PGE to discuss the continuing problems with this specific substation.

Mr. Blessing from 751 N. Baker Drive, said he was at the intersection of 99E and Elm Street at the time of the electrical failure. He said the lights were out completely and it created a situation of a near-accident for him personally.

NEW BUSINESS: Accounts Payable - **Councilman Harris moved to approved the close-out of the 1996-97 fiscal year accounts payable in the amount of \$427,412.16. Motion seconded by Councilman Daniels and approved by roll call vote, 6-0.

Open Burning Prohibited - Attorney Kelley said that after a May meeting the Council directed him to prepare an ordinance to ban future open outdoor burning. Mr. Kelley said he reviewed ordinances from Junction City, Eugene, Heppner and Athena, all which have various degrees of burning schedules. He noted that DEQ controls the Portland area. The proposed ordinance is based on the Eugene code. The proposed ordinance prohibits outdoor burning of rubbish, as well as yard debris and trimmings.

Councilman Harris reported that the survey he solicited from the public on the issues was 26 against the burning ban and 20 in approval of the ban.

Councilman Lucas noted that permits and fines had never been discussed. He did note that the local Fire Department did not have the funds to enforce barrel burning. He suggested that the Council might want to consider waiting for one season to assess the yard debris pick-up prior to implementing this ban. Mr. Lucas was of the opinion that grass and yard debris were particularly offensive when burned and perhaps the problem might solve itself with the yard debris program.

Ron Yarbrough, Canby Fire Marshal, stated that the fire district has not discussed burning permits; the district does not have the funds or manpower to train citizens to use a burn barrel; many times there is not proper management of an open burn; and safety measures are not always considered.

Councilman Harris asked about the current regulations for open burning. He questioned violations and enforcement.

Mr. Yarbrough said that garbage, plastic, petroleum products and tires cannot be burned, organic material and small amounts of newspaper can be burned. The Fire Marshal said this year a complaint system has been established and after the second complaint on one citizen has been filed, the district will then file it with DEQ for their enforcement. He noted that several are currently pending. DEQ first sends a letter with appropriate training criteria and the legal ramifications; a second report to DEQ could result in fines.

Councilman Nolder asked if past records have been maintained on the violations and how many occur within the City. Mr. Yarbrough said records are kept on the flagrant violations and codified by address. He noted that calls are rarely received from outside the City.

Councilman Nolder asked if 50 complaints a year was a fair assessment. Mr. Yarbrough said that might be a little high, and noted it was only during the burning season.

Mayor Taylor informed the audience that a limit of three minutes would be allotted to each speaker addressing this matter.

Edna Miller, 191 NE 14th, was in favor of the burning ban. She expressed concern about the smoke from neighbors. She added that recycling could be a resolution.

Harold Knittle, 1560 N. Locust, suggested allowing burning in a barrel that emits only one-tenth the smoke and contains the fire.

Karen Cederquist, 280 SW 10th, approved of the burning ban. She said the smoke was offensive and was often a health concern for individuals.

Calvin Ott, NE 10th, stated that approximately 25 years ago it was established that burning be done in a barrel. He questioned what he should do with his large amounts of various yard debris if he was not allowed to burn. He suggested establishing 2-3 days a month, state-wide, for burning yard debris, when it is dry. He added that the odor from a burning fireplace, with creosol, was much more offensive.

Morris Cederquist, 1156 N. Juniper, said he was in favor of the burning ban. He said he has had to take his wife out of town due to the smoke from neighbors burning. He suggested that current rules and regulations should be published to make more citizens aware. Mr. Cederquest said the yard debris collections should help the matter.

Howard Blessing, 751 N. Baker Drive, said he uses a barrel with a netting over the

opening and composts much of his yard debris. He agreed with the suggestion of three days per month for burning.

Chris Pendleton, 686 NW 13th, spoke against backyard burning due to the smoke; offensive odor; gasoline odors when it is used as a fire starter; burning creates medical problems; and it is dangerous because it can activate area fire alarms and sometimes makes neighbors homes shake. She said they haul their yard debris away. She turned in a petition with signatures of people in favor of the burning ban.

Keith Morrey, SW 3rd Avenue, was in favor of burning and asked if it is a safety issue or unpleasant neighborhood occurrence. He asked if there are statistics for fires caused by backyard burning. He said he burns in a barrel and does not understand why this is being addressed and felt Canby could be "over regulating."

Mayor Taylor said it was both a safety issue and a concern between neighbors.

Edith Pavlichek, N. Juniper, is opposed to the burning. She cited smoke as a concern and said it was not healthy. Mrs. Pavlichek said the yard debris plan is a good idea.

Ron Berg, 203 SW 3rd, said he felt the complaints were generated from fires that were not burning the appropriate materials; he suggested composting; and use of the yard debris pick-up. He encouraged waiting until the yard debris program has been tested before implementing the burning ban.

Louis Mar (last name not entirely audible on the tape), 27942 S. Barlow, stated that even though he lives out of town, his children attend Canby schools and he patronizes the community. He spoke in favor of the ban. He agreed that the appropriate materials are not what is being burned; the odor is a problem; and yard debris recycling is effective and most nearby communities have initiated such programs, and he suggested Canby do likewise.

Robert Coons, NE 13th Avenue, expressed a concern on a burning ban because bigger yard debris (such as tree limbs) are best eliminated by burning. He added that the additional cost to senior citizens for the yard debris program is a concern.

Derek Bliss, N. Ivy, asked that burning days be allowed. He presented a petition of 35 residents and business owners who wanted to continue the burning. He said the burning allows people to maintain the care of their yards with this method. He stated that the people who are responsible should not be punished for those who are responsible. He said that he met with Jack Stark, Fire Chief, and the fire department does not endorse the ban of burn days.

Howard Blessing said if three days a month is too often, then only one day a month could be negotiated.

Calvin Ott, reiterated that three days a month statewide, evenly divided, to burn "dry" material, is very desirable.

Harold Knittle, noted that most objections are often due to burning of illegal materials. He expressed concern about the expense of the proposed yard debris pick-up.

(Speaker did not identify himself on the tape). He asked that the "freedom to breath clean air" be considered. Again, he noted that mostly improper material is being burned. The goal is to have clean air and a clean Canby.

Chief Jerry Giger, said he made some calls to DEQ and Eugene, regarding enforcement. The suggestions were to "phase in the restrictions;" Eugene has an air inversion problem which sets the criteria for their ban on burning; DEQ has stated that the air flow moves 340 days a year in this area; and other areas that have adopted this are "dry" year around. Chief Giger said the materials that are burned is the greatest concern among those he contacted. He said he was neither in favor or against the issue, but urged consideration regarding an immediate adoption of the proposal.

Councilman Nolder said he appreciated the citizen input on the issue. He added that his major concern is the illegal burns, and he is opposed to the proposed ordinance.

Councilman Gerber reiterated Councilman Nolder's comments. He urged compliance with the yard debris recycling program, emphasis on burning appropriate material and to phase-in the burn program.

Councilman Harris noted that in the near future the Canby area could become a part of the METRO DEQ regulations area which has adopted a ban on burning. He reiterated his approval of the phase-in suggestion and to wait and assess the use of the proposed yard debris recycling to see if it solves the burning problem.

Councilman Daniels noted that other areas use the yard debris recycling and he was in favor of gradually implementing the program. Again, he suggested waiting until next year to assess the problem.

Councilman Lucas said he felt the yard debris program would be successful and urged a year to assess the program. He was in favor of a burn barrel with a grate on the top; revisiting the issue next year; and urged that citizens think of their neighbors when burning. He said complaints should continue to be filed with the City on violators.

Councilwoman Strong supported revisiting this issue next year after the yard debris recycling program is implemented.

Mayor Taylor asked if Canby had many problems within the City that got out of control during a yard burn. Fire Marshal Yarbrough replied that it depends on what is meant

by "out of control" because the department stops the fire before that happens.

Councilman Harris expressed concern about enforcement by both the Fire and Police Departments as becoming a nuisance, and time consuming for them.

Mayor Taylor reviewed the materials that can and cannot be burned and noted that if an ordinance were specific then citations could be issued for violations.

Councilman Gerber said he favored the Heppner Ordinance over the Eugene Ordinance. The Heppner Ordinance provided enforcement; collecting fines used for education and enforcement; prohibited conducted and specific nuisances; it gives the Fire Chief control of designation of burning days; and is specific in the enforcement.

Mayor Taylor said his analysis was that the Council is not in favor of the proposed ordinance that sets forth criteria for a full ban on burning.

MAYOR TAYLOR CALLED FOR A FIVE MINUTE RECESS AT THIS TIME.

Mayor Taylor posed the question of a burn barrel to the Council.

The Council responded no, except for one yes by Councilman Lucas.

Councilman Harris noted that if a barrel is used, this does not solve the problem of a neighbor experiencing smoke.

Councilman Gerber suggested that Attorney Kelley and Fire Marshal Yarbrough draft an appropriate ordinance using the Heppner Ordinance as a model.

Mayor Taylor posed the following analysis, since the yard debris recycling is proposed, a stricter enforcement could be placed on violators.

Attorney Kelley said the enforcement will be a concern, specifically, trying to assess what type of material someone is burning.

Councilman Lucas noted that the Fire Marshal suggested a burn barrel as being safer for those wishing to burn. However, the Council is reluctant to discuss the use of a barrel. He added there are two issues, a nuisance issue of allowing burning; and the safety issue which is not being addressed if burning is allowed openly in a yard. He said without barrels, none of the issues are being addressed.

Mayor Taylor said most of the testimony referred to conditions resulting from smoke, which may come from illegal material being burned; and at this time, safety should be considered as prevention methods.

Attorney Kelley asked for clarification on what can be burned.

Mayor Taylor suggested that the basic concepts be in the ordinance and keep it simple.

Attorney Kelley said the reason for being specific is a matter of enforcement. He asked if a permit process could be considered.

Councilman Gerber explained his feelings of a permit process. However, when polled, the permitting process was not one the majority of the Council favored.

Councilman Harris suggested following the current fire code, as explained by the Fire Marshal, and add grass as a non-burnable material, the next year, if necessary, the list could be altered.

Councilman Nolder said when the citizens start utilizing the yard debris recycling, an ordinance will probably not be necessary. He reiterated revisiting this issue next year.

Mayor Taylor polled the Council as to whether they wanted to put the matter on hold for a year, or initiate a simple ordinance. The vote was a 3-3 tie, Mayor Taylor broke the tie by requesting a simple ordinance.

Administrator Jordan reviewed the Council request: prepare a simple ordinance that prohibits some materials which may not be burned, no permit process, enforcement standards and a penalty clause.

Attorney Kelley reviewed the Heppner Ordinance, with the addition of adding grass, and said that is what he would prepare for Council consideration.

The ordinance will be scheduled for the August 6, 1997 agenda.

HOPE Village Exemptions from SDC's - Jim Wheeler explained that HOPE Village is requesting an SDC exemption for a 50 unit apartment complex. Mr. Wheeler said there is a clause in the SDC ordinance regarding low income exemption for SDC's by Council authority; as well an exemption for the construction excise tax based on a decision by the City Administrator. Mr. Wheeler pointed out that attached documentation supported the request and low income status. Staff recommended an 82% exemption for SDC fees.

Mr. Kauffman, 1441 S. Ivy, spoke on behalf of the board of directors for HOPE Village, and expressed his appreciation to the Council for supporting the project. He said the low income housing meets a great need in the area.

Mayor Taylor asked if "wealthy" people could move into the village. Mr. Kauffman replied that they could not discriminate against age, religion, or color. However, for the

apartments in question, the apartment applicants must meet the income level set forth in the low income program.

Councilman Gerber asked if the SDC's and construction excise tax were the same thing, Mr. Wheeler replied no, and an 82% reduction for both is being recommended as set forth in the ordinance. He noted that because these are low income units, very little income will be realized.

Councilman Nolder asked if SDC's were to reimburse the City for costs expended by the taxpayer. Mr. Jordan said it depended whether it was an improvement fee, which is to collect money for future improvements for the infrastructure to accommodate the unit; or if it is a reimbursement fee which is to reimburse the community for excess capacity that has been built in the past to accommodate the unit. Mr. Jordan said the sewer SDC has both components, and the parks, transportation and storm water SDC's are all only improvement components.

Councilman Nolder asked if the taxpayers are actually subsidizing this part of HOPE Village. Mr. Jordan replied yes.

Councilman Lucas asked if other low income apartments would be developed at HOPE and was informed nothing else has been planned.

****Councilman Gerber moved to authorize the City Administrator to exempt 82% of the City of Canby SDC fees and construction excise taxes for phase 3 of HOPE Village. Motion seconded by Councilman Harris and approved 6-0.**

ORDINANCES & RESOLUTIONS: Ordinance No. 974 - Mr. Jordan noted this is a second reading on a housekeeping budgetary matter. **Councilman Daniels moved to adopt on final reading, Ordinance No. 947, AN ORDINANCE DECLARING THE CITY'S ELECTION TO RECEIVE STATE REVENUE FOR 1997-98 FISCAL YEAR. Motion seconded by Councilman Harris and approved by roll call vote, 6-0.

UNFINISHED BUSINESS: None presented.

MANAGER'S REPORT: Legislative Issues - The transportation package will probably be 2-2-2, to be implemented in a two year cycle, and an increase of \$10 annually for registration fees with an additional \$10 registration fee increase in Clackamas County and other urban counties.

Intangible property, Mr. Jordan explained that this is like an FCC licenses for telecommunication companies. Until this time, utilities have been taxed at their assessed value as a company and this bill will remove it from the tax roll. It amounts to \$8 million dollars, but because of Measure 50 the revenue will be re-apportioned and

shifted.

Assessment and Taxation, a \$20 real estate transfer tax was the former fee plus a late fee, the counties have asked for an increase in late fees. This will cost local governments approximately \$3 million statewide.

Electric deregulation and franchise fees, failed to submit a final bill. Mr. Jordan reported that PGE has selected four communities, on a pilot program, to allow them to buy their power from somebody other than PGE. The net affect is that PGE revenues will go down, thus franchise fees down.

LOC Board met in Baker City last year, and the league has decided to take an active roll in tax reform or re-authorization of home rule.

ODOT has agreed to allow the City to continue with banners on our overpass, with a master permit.

Access Management, it was suggested that Canby look at an "out-come based management theme," to give the City more authority on agreed out-comes. At this time, it is a possibility that this will be a pilot project for our community.

Associate Planner position had 32 applications submitted, 7 will be interviewed. Early August is the target date to fill the position.

Industrial Park Plan, Mr. Jordan reminded the Council he was authorized to sign a contract with OTAK for the Industrial Park Master Plan, provided funding is available. He said it is likely that OEDD funds will be made available in August.

COUNCILORS' ISSUES: Councilman Nolder reported that he and Sarah Jo will meet with DEQ personnel regarding the test station to review options on maintaining our local test station.

Councilman Daniels said he attended the Traffic Safety meeting, and parking time limits from Ivy to Cutsforths' is being reviewed. The downtown parking has been running more smoothly.

Mayor Taylor thanked everyone who participated in the park clean-up day, and particularly the Key Club members. He said he hoped this would become a regular activity.

Administrator Jordan reported that the Safety Policy is completed, except for one aspect that is being negotiated with AFSCME.

Mayor Taylor requested a report on how local representatives voted during the

legislative session.

OTHER REPORTS OR ANNOUNCEMENTS: Attorney Kelley informed the Council that a case involving people that had sued the City for false arrest, malicious prosecuting and defamation has been resolved in court by a summary judgement motion, which means there was no "real issue." The City insurance company was successful and the case was dismissed.

Jim Wheeler reported that the Planning Commission requested a joint meeting with the Council to discuss ordinance revisions. Mr. Wheeler said the one urgent revision is regarding siting of cell towers. Another revision of concern is one regarding gasoline station canopy locations. Mr. Wheeler said the two items of concern for Council input are the siting of cell towers and specific requirements for application submittal.

The Council set September 15, 1997, as the joint workshop session with the Planning Commission.

ACTION REVIEW:	1. Authorizing closure of NE 14th for July 4th. 2. Drafting an ordinance for burning in the City. 3. Authorizing reduced SDC and excise taxes for HOPE Village. 4. Approving Ordinance 974 to receive state revenues.
-----------------------	---

****Councilman Daniels moved to go into Executive Session under ORS 192.660 (1)(d) regarding labor negotiations. Motion seconded by Councilman Harris and approved 6-0.**

Mayor Taylor recessed the regular session at 10:12 p.m. The regular session was reconvened at 10:35 p.m. and immediately adjourned.

EXECUTIVE SESSION
JULY 2, 1997

Present: Mayor Taylor, Councilors Nolder, Harris, Gerber, Strong, Lucas and Daniels, Mr. Jordan, Ms. Chaplen, Beth Saul, Jerry Giger, Cam Sivesind and Attorney Kelley.

The Council met at 10:13 p.m. in the CUB conference room

ORS 192.660 (1)(d) - The Council discussed the AFSCME salary schedule.

CDL testing was discussed as a negotiation item.

The Associate Planner position was discussed.

Management salaries were reviewed.

Mayor Taylor adjourned the session at 10:34 p.m.

A handwritten signature in cursive script, reading "Marilyn K. Perkett". The signature is fluid and somewhat stylized, with a large loop at the end of the last name.

Marilyn K. Perkett, City Recorder

A handwritten signature in cursive script, reading "Scott Taylor". The signature is more compact and angular than the one above, with a prominent loop at the end of the last name.

Scott Taylor, Mayor

Proclamation

WHEREAS, CANBY IS RICH IN NATURAL RESOURCES AND BEAUTY; AND

WHEREAS, THE CITIZENS OF CANBY BELIEVE IN WORKING TOGETHER TO PRESERVE THE NATURAL BEAUTY OF THEIR SURROUNDINGS THROUGH NEIGHBORHOOD CLEANUPS, LITTER CONTROL, GRAFFITI CLEANUP, FLOWER PLANTING, AND PUBLIC AWARENESS PROGRAMS THAT ENCOURAGE RECYCLING, ETC.; AND

WHEREAS, THE KEY CLUB, SPONSORED BY KIWANIS, COORDINATES, PUBLICIZES, SUPPORTS, AND RECOGNIZES SUCH EFFORTS THROUGHOUT THE AREA; AND

WHEREAS, THE CITY-WIDE CLEAN-UP DAY HAS BEEN SET FOR JUNE 28 AND WILL INCLUDE LITTER PICK-UP, FLOWER PLANTING, GRAFFITI CLEAN-UP, AND WEEDING OF CITY PARKS; AND

WHEREAS, THE SUCCESS OF SUCH COMMUNITY-WIDE EVENTS IS DUE TO THE SUPPORT AND PARTICIPATION OF THE BUSINESS COMMUNITY AND CITIZEN VOLUNTEERS;

NOW, THEREFORE, I, SCOTT TAYLOR, MAYOR OF THE CITY OF CANBY, OREGON, DO

HEREBY PROCLAIM JUNE 28, 1997 TO BE

CITY-WIDE CLEAN-UP DAY

IN THE CITY OF CANBY, AND CALL UPON THE PEOPLE OF CANBY TO RECOGNIZE AND PARTICIPATE IN THIS PUBLIC STEWARDSHIP EFFORT TO PRESERVE THE NATURAL BEAUTY OF OUR CITY NOW AND THROUGHOUT THE YEAR.

MAYOR SCOTT TAYLOR _____ DATE _____

CITY RECORDER _____ SEAL: _____

PROCLAMATION

WHEREAS, Our Founding Fathers, in order to secure the blessings of liberty for themselves and their posterity, did ordain and establish a constitution for the United States of America; and

WHEREAS, it is of the greatest importance that all citizens fully understand the provisions and principles contained in the Constitution in order to effectively support, preserve and defend it against all enemies; and

WHEREAS, the two hundred tenth anniversary of the Signing of the Constitution provides an historic opportunity for all Americans to remember the achievements of the Framers of the Constitution and the rights, privileges, and responsibilities they afforded us in this unique document; and

WHEREAS, the independence guaranteed to American citizens, whether by birth or naturalization, should be celebrated by appropriate ceremonies and activities during Constitution Week, September 17 through 23, as designated by proclamation of the President of the United States of America in accordance with Public Law 915, now

THEREFORE, I Scott Taylor, by virtue of the authority vested in me as Mayor of the City of Canby do hereby proclaim the week of September 17 through 23 as

CONSTITUTION WEEK

In the City of Canby, and urge all citizens to reflect during that week on the many benefits of our Federal Constitution and the privileges and responsibilities of American Citizenship.

In Witness Whereof, I have hereunto set my hand and caused the Seal of the City of Canby to be affixed on this 20th day of August in the year of our Lord one thousand nine hundred and ninety seven.

Signed Honorable Mayor Taylor,

Attest:

Sarah Jo Chaplen, Director of Finance and Administration