

**CANBY CITY COUNCIL
REGULAR MEETING
MAY 17, 1995**

WORKSHOP: Present: Mayor Taylor, Councilors Prince, Harris, Nolder, Stark and Strong, Administrator Jordan, Assistant to Administrator Sarah Jo Chaplen, Charles Grantham and Gayle Henry.

Mayor Taylor opened the session at 6:00 p.m. in the board room at CUB.

The purpose of the session was to discuss the Telecommunity concept.

Mayor Taylor adjourned the workshop session at 7:25 p.m.

REGULAR MEETING: Mayor Scott Taylor presiding. Council members present: Dennis Nolder, Terry Prince, Roger Harris, Cheryl Stark and Shirley Strong.

Also present: Administrator Michael Jordan, Assistant to Administrator Sarah Jo Chaplen, City Attorney John Kelley, City Recorder Marilyn Perkett, Planning Director Bob Hoffman, Parks and Recreation Director Scott Nelson, Matt Hamstreet, Eric Longstreet, Jim Rourk, Ken Kuhns, Royce Hagelstend, Scott Taylor, Nan Olson, Paul Dupont, Richard Oathes, Dave Dalley, Phil Dalley, and Don Boekman..

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 showed a quorum to be present.

MINUTES OF PREVIOUS SESSION: **Councilman Prince moved to approve the minutes of May 3, 1995 as distributed. Motion seconded by Councilman Harris and approved 5-0.

CITIZEN INPUT ON NON-AGENDA ITEMS: None presented.

COMMUNICATIONS: Letter from Jim Rourk - Administrator Jordan stated that Mr. Rourk was interested in the formation of a Community Band and to use of Wait Park for concerts.

Jim Rourk informed the Council that the planning of a Community Band has been ongoing for three years.

Councilman Nolder said the Community Band would be a great asset to the community.

Councilman Prince agreed with Mr. Nolder and felt the proposal would be a good addition to the Slice of Summer music program.

Mr. Rourk implied that sometime in the future the group may request funding.

****Councilwoman Stark moved to authorize the request from Jim Rourk to make Wait Park available for a Community Band and to coordinate the activities with the City Administrator and other appropriate staff. Motion seconded by Councilman Nolder and approved 5-0.**

Letter from Tamara Maher - Mayor Taylor read a letter from Tamara Maher tendering her resignation from the Planning Commission, effective June 30, 1995. Mayor Taylor thanked Mrs. Maher for her service and requested that volunteers for the position contact City Hall.

Councilman Prince, liaison to the Planning Commission, stated that Tamara was "one of the best" and she will be missed on the Commission.

General Canby Day Coronation - Mayor Taylor read an invitation to the June 15th General Canby Day King and Queen Coronation of Dick and Diane Brown. Reservations should be made for the event at the Canby Adult Center.

PUBLIC HEARING: Appeal, Lot Line Adjustment, N. Baker/NW 9th - Mayor Taylor opened the public hearing at 7:43 p.m.

The criteria for the hearing was reviewed by the Mayor.

Mayor Taylor asked the hearing body if anyone had a conflict of interest. Councilors Nolder, Harris, Prince, Stark and Strong all declared no conflict.

Mayor Taylor asked the hearing body if anyone had any ex-parte' contact. Councilors Nolder, Harris, Prince, Stark and Strong all declared no ex-parte' contact.

STAFF REPORT - Bob Hoffman, City Planner, explained that this was an appeal of an administrative decision for a lot line adjustment application from Matt Hamstreet and Don Nurenberg, who jointly own the subject property known as Tax Lot"316, which is property located behind the applicant's property. Mr. Hoffman pointed out that the Planning Commission discussed this matter at the April 10, 1995 meeting.

A lot line adjustment had previously been approved ; however, it was never recorded with Clackamas County and the current application is different from the first application that was approved, but not recorded.

Previous to the first lot line adjustment, another lot line adjustment had been filed earlier by Ron Tatone to join the small triangle section, adjacent to Mr. Longstreet's property, with a four foot attachment to another lot located to the north. Ultimately, this lot line adjustment was denied, as recommended by the Planning Director.

Notice regarding the subject application for lot line adjustment was mailed to property owners within 100 feet of the subject property.

An administrative decision to approve the lot line adjustment was made by Mr. Hoffman and confirmed by the Planning Commission. It was appealed by Eric Longstreet on the following basis::

"My reason for appealing this decision are based on the fact that under Applicable Criteria, letter A, the lot created by adding part of Tax Lot 316 to Tax Lot 303 will result in a lot that is non-conforming to any of the other lots established in the project known as Lillian Meadows."

Mr. Hoffman stated that the Planning and Development Ordinance defines nonconforming in Section 16.04.440:

NONCONFORMING STRUCTURE, LOT OR USE. "Nonconforming structure, lot or use" means a structure, lot or use which lawfully existed prior to the adoption of zoning requirements for the zone in which it is located and with which it does not comply.

Questions - Councilman Nolder asked whether the shape of the lot was considered nonconforming. Mr. Hoffman replied that shape alone does not make it nonconforming; it must be a functionable and useable lot, and must be a minimum of 7,000 square feet, with 65 feet of road frontage unless the Commission finds access from another means, and in this case made an access point from the end of Baker.

Councilman Prince asked if the road kept going straight, it there would be a buildable lot that "mirrors" the subject lot. Mr Hoffman explained that there would be buildable lots; however the shapes would be different than what the City of Canby is used to seeing.

APPLICANT - Matt Hamstreet, 1003 N. Ash, said the purpose in originally acquiring Tax Lot 316 was to prevent someone from building behind them, and to maintain the nice rural view that exists. In 1993, the three neighbors, Longstreet, Nurenberg and himself, decided to purchase the portion of the Tax Lot which was behind each of their lots. They agreed to pay \$2.72 per square feet, after dividing the 14,661 square foot parcel into lots to mirror their own property. The lot line adjustment for the parcels had been approved. However, Mr. Longstreet backed out of the agreement because his realtor did not feel his small triangle portion was worth that kind of money.

Mr. Tatone then tried to incorporate Mr. Longstreet's portion of Tax Lot 316 with the lot north of Longstreet's property. That proposal failed.

Thereafter, Mr. Nurenberg and himself jointly purchased Tax Lot 316 two years ago. Their current proposal is for Mr. Nurenberg to own the portion of Tax Lot 316 adjoining his property (Tax Lot 304), and Mr. Hamstreet would own the portion of Tax lot 316 adjoining his property (Tax Lot 303), along with the small triangle piece of Tax Lot 316 that abutts Mr. Longstreet's Tax Lot 309.

Mr. Boekman owns the lot adjacent to Tax lot 316, which currently has an easement that cuts

across his front yard to access Tax Lot 316. Mr. Boekman does not want to see a home built on Tax Lot 316 either.

Mr. Hamstreet said that since he owned the lot jointly, a swimming pool has been built in the portion of lot of subject property. All the proper permits have been issued and the project is 2/3 complete. When he asked for an inspection prior to building a changing house, Mr. Godon said this was a separate lot, which is why the present lot line adjustment was applied for. Mr. Hamstreet said he currently has over \$40,000 invested in the proposed pool.

Mr. Hamstreet said that Mr. Longstreet expressed concern about some trees on the property line behind his house which could cause a potential hazard in a wind storm, and usually causes a lot of debris, which he removes. Mr. Hamstreet said he has a "tree person" that will remove the trees, which will eliminate that concern.

PROPOSERS - Loren Boekman, 952 N. Baker, encouraged the Council to approve the lot line adjustment as approved by staff. He said if the subject property were to have a home developed on it, their driveway would be in his front yard.

OPPOSERS - Eric Longstreet, 1023 N. Ash, handed out a document containing a memo from him, and documents from previous Planning records.

He pointed out that the first hearing on November 10, 1992 was approved. At that time, Mr. Tatone requested adding portions of Tax Lot 316 to each of the three lots to the south. He added that Mr. Hoffman cited Section 16.58.040 in recommending approval since it would not alter the design and appropriate development of the property.

The minutes of the minutes of June 14, 1993 reflect that Mr. Hoffman used the same criteria, however he determined that the lot adjustment "will significantly alter the design and appropriate development of the subdivision and of other nearby property because the shape would not be similar to other lots and the four foot connection between the two portions of Tax Lot 310, as proposed, will not be sufficient for residential use." Therefore, he recommended denial of the request.

The April 5, 1995 staff report by Mr. Hoffman again cites section 16.58.040, in regards to the lot line adjustment and recommends approval saying, "the lot line adjustment will not significantly alter the design and appropriate development of the subdivision known as Lillian Meadow, nor other nearby property."

Mr. Longstreet maintained, you cannot have it both ways, it is either appropriate or not appropriate to create a lot unlike lots in the neighborhood. Mr. Longstreet said he believed Mr. Hoffman's decision of June 14, 1993 was correct.

Mr. Longstreet said his real estate agent assured him that price for the piece of Tax Lot 316 behind his lot was way out of line, and he appealed to the Council to help resolve this issue.

He added that the odd shaped piece of property is not buildable and not worth the money requested.

Mr. Longstreet submitted a tape recording of the June 14, 1993 Planning Commission meeting.

Mayor Taylor asked if there were any further proponents or opponents. None were voiced.

REBUTTAL - Nothing was voiced.

QUESTIONS - Councilman Prince asked about the permits that were allowed for the pool and the subsequent request for a permit for a changing room. Mr. Hoffman said the pool was to be located on lot 303; however the pool is on Tax Lot 316 which triggered this lot line adjustment application.

Councilman Prince asked if the pool would be allowed on Tax Lot 316 as it is now. Mr. Hoffman said it would be, if it were approved as part of a Conditional Use Process, because it is an accessory use.

Councilman Prince asked Mr. Hoffman to address the two different statements in regards to approving one lot line adjustment and then denying the lot line adjustment that was to be added, with a four foot connection to the lot north of Mr. Longstreet's. Mr. Hoffman said the first line adjustment was recommended for approval in November 10, 1992, and the same language was used in April 5, 1995. However, in the "middle case" in June 14, 1993, the lot line adjustment was different and would affect the surrounding areas.

Councilman Prince asked if the present adjustment would adversely affect the development of the mirror-image of a proposed lot adjacent to it. Mr. Hoffman said it would not affect the development.

Councilman Harris questioned whether the portion connected to Tax Lot 304 would be buildable in the event a future request was made to make it a separate lot, if this request was approved. Mr. Hoffman said it would be buildable, if he applied for another line adjustment. Mr. Hoffman added that if the present easement was eliminated, then there would be no access to a proposed future lot there.

Mayor Taylor asked if both lots could be buildable in the future with a road extensions. Mr. Hoffman said it could happen.

Councilman Prince expressed concern about future subdivisions being limited on the development of the mirror-image lot below subject property.

Councilman Harris noted that if the Dupont property is developed there will be a lot of factors to consider in lot divisions and this should not really be an unusual problem.

Councilman Prince said we would be limiting the buildable lots from three to only two if we approve the proposal.

Mayor Taylor pointed out that even though the two gentleman own that lot, the only consideration should be whether this meets the basic criteria. Future construction will need to be negotiated between the landowners.

Councilman Prince asked why we didn't create a cul de sac, noting that at a latter date the road that will access that development must be addressed. He added that the City allowed the development of the entire subdivision as an irregular design to begin with..

****Councilman Nolder moved to uphold the decision of the Planning Director for the Lot Line Adjustment by applicants Hamstreet/Nurenberg dated April 11, 1995, and denying the appeal by Eric Longstreet. Motion seconded by Councilwoman Stark.**

Discussion - Councilman Harris wanted to be sure that this motion would, in fact, deny the appeal. He was informed that was correct.

****Motion was approved 4-1, with Councilman Prince voting nay.**

Attorney Kelley pointed out that the Final Order will need to be prepared by staff and brought to the next meeting for approval.

Mayor Taylor closed the public hearing at 8:35 p.m.

NEW BUSINESS: Accounts Payable - **Councilman Prince moved to approve payment of accounts payable in the amount of \$108,563.09. Motion seconded by Councilwoman Stark and approved by roll call vote, 5-0.

Selection of Auditor - Administrator Jordan explained that seven responses were received to our RFP for auditing services for the City and Canby Utility Board. Three firms were interviewed and after a rating system the committee choose the firm of Kenneth Kuhns & Company.

****Councilwoman Strong moved to accept the recommendation of the committee to enter into a contract with Kenneth Kuhns & Company for auditing services for the City of Canby and Utility Board. Motion seconded by Councilwoman Stark.**

Discussion - Councilman Nolder asked why the lowest bidder was not selected. Mrs. Strong, member of the interview committee, said that they considered not only the experience but the expertise of the firm selected in the field of utilities..

****Motion to select Kuhns & Company as auditor was approved 5-0.**

Ken Kuhns addressed the Council and introduced Royce Hagelsted, a member of firm, who will be handling our account.

Councilman Prince asked Mr. Kuhns to try to explain the transfer that appears to explode the budget to inflated values.

Mr. Kuhns said he will be happy to work with the Council regarding this concern, or any other concerns it has.

ORDINANCES & RESOLUTIONS: Ordinance No 938 - **Councilman Harris moved to adopt Ordinance No. 938, AN ORDINANCE AUTHORIZING THE CITY OF CANBY TO ENTER INTO A CONTRACT FOR THE EXPENDITURE OF FUNDS FOR A BUILDING EXPANSION AND A NEW ROOF TO THE CANBY ADULT CENTER; AND DECLARING AN EMERGENCY. Motion seconded by Councilwoman Stark and approved by roll call vote, 5-0.

Ordinance No. 939 - **Councilman Harris moved to adopt Ordinance No. 939, AN ORDINANCE AUTHORIZING THE CITY OF CANBY TO ENTER INTO A CONTRACT WITH PHIL DALLEY, DBA PD MAINTENANCE TO PROVIDE SERVICES AT THE CITY OWNED ZION MEMORIAL CEMETERY; AND DECLARING AN EMERGENCY. Motion seconded by Councilman Prince.

Discussion - Mayor Taylor asked the duration of the contract. Mr. Jordan said it is a year to year contract with a 90 day "out" clause.

Mayor Taylor expressed concern about Section 4, (B) regarding the term "gross," which means the income before all expenses are taken out.

Dave Dalley, said there is no net, every sale of all services or commodities are turned into the City in the full amount.

Mayor Taylor suggested that perhaps the word "gross" was not necessary in the contract.

Councilman Nolder suggested it was the "gross annual revenues."

Mr. Dalley reiterated that the gross revenues were generated by four or five various commodities that are all turned over to the City.

Attorney Kelley suggest that this be reviewed the next time the contract is up for consideration.

**Motion to approve Ordinance No. 939 was approval, 5-0 by roll call vote.

Resolution No. 582 - Attorney Kelley said as a result of a 1995 revision of the Attorney General's Contracting Manual we are adopting the new rules by resolution as criteria set forth

in our ordinance.

Resolution No. 582 - **Councilman Prince moved to adopt Resolution No. 582, A RESOLUTION BY THE CANBY CITY COUNCIL, ACTING IN ITS CAPACITY AS CONTRACT REVIEW BOARD TO ADOPT BY REFERENCE UPDATED MODEL PUBLIC CONTRACTING RULES. Motion seconded by Councilman Harris and approved 5-0.

Resolution No. 584 - Administrator Jordan explained that this was a housekeeping ordinance in the annual budgeting process, verifying that we provided at least five of the required six services necessary to receive cigarette, gas and liquor taxes.

**Councilman Nolder moved to adopt Resolution Nol 584, A RESOLUTION VERIFYING THAT THE CITY OF CANBY HAS MET THE REQUIREMENTS TO RECEIVE REVENUES FROM CIGARETTE, GAS AND LIQUOR TAXES. Motion seconded by Councilman Harris.

Discussion - Councilman Prince asked if the City allows CUB to run the water system. Mr. Jordan stated that the City owns the water system and we contract with CUB to operate the system.

**Resolution No. 584 was approved, 5-0.

Resolution No. 585 - Administrator Jordan explained that transfers were needed to balance certain line items in the 94-95 budget and they were proposed as follows:

\$15,000 transferred from the Forfeiture Fund, Capital Outlay Equipment to the Materials and Services for Supplies in the amount of \$8,500 and for Intra Agency Sharing \$6,500.

Police Department Materials & Service Training \$6,000 transferred to Personal Services for Overtime.

Capital Reserve Capital Outlay Infrastructure Maintenance, \$26,000 was to be transferred to Materials and Services for Telecommunity and Computer Consultant expenses.

Mr. Jordan suggested this Resolution be tabled until later since the workshop discussion tonight, there might be a difference the last part of the proposed transfers.

Councilman Prince and Councilman Harris both expressed concerns about the transfer from training to overtime.

The Resolution will be delayed to another meeting.

UNFINISHED BUSINESS: None presented.

OTHER REPORTS OR ANNOUNCEMENTS: Meetings - Administrator Jordan reminded the Council of the May 25th Clackamas County Cities meeting, notice should be forthcoming.

A METRO meeting will be held May 23 at Forest Grove.

Jazz Festival - Mayor Taylor reminded everyone of the Whiskey Hill Jazz Festival on Saturday, May 20th at Wait Park.

Auction - The Chamber of Commerce will hold a benefit auction at the Fairgrounds on May 20th.

ACTION REVIEW:

1. Work with Jim Rourk for the street closures for the May 20th Jazz Festival.
2. Send thank you letter to Tamara Maher for her service on the Planning Commission.
3. Prepare Final Order for the Hamstreet/Nurenborg lot line adjustment.
4. Enter into a contract for auditing service with Kenneth Kuhns & Company.
5. Ordinance 938, implements for the Adult Center Expansion Project.
6. Ordinance 939, implements a contract with PD Maintenance for Cemetery services.
7. Resolution 582, adopts state contracting rules and procedures.
8. Resolution 584, verifies that City can receive state revenues.
9. Returning with more explanation on budget transfers as per Resolution 585.

Councilman Prince asked about an expenditure on page 7 of the payable, for \$1600 for - going.

Mr. Jordan said it was for legal and will not be ongoing.

Councilman Prince said he would appreciate discussions prior to such expenditures.

Mr. Jordan said perhaps it should be discussed that it is his discretion to make a \$1600 expenditure. He stated that he makes decision on those types of expenditures all the time.

****Councilman Prince moved to go into Executive Session under ORS 192.660 (h), regarding pending litigation and (1)(e), to negotiate real property. Motion seconded by Councilman Harris and approved 5-0.**

Mayor Taylor recessed the regular session at 9:00 p.m. to go into Executive Session. The

regular meeting was reconvened at 9:20 p.m.

****Councilman Prince moved to approve the purchase of City property on S.E. Third Avenue , in the amount of \$42,500 and subject to an ordinance to declare it surplus property. Motion seconded by Councilman Nolder and approved 5-0.**

Mayor Taylor adjourned the regular session at 9:21 p.m.

EXECUTIVE SESSION
MAY 17, 1994

Mayor Taylor called the Executive Session to order at 9:00 p.m. in the board room at CUB

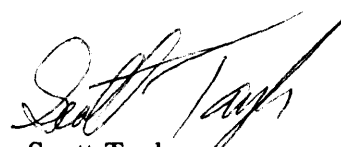
PRESENT: Mayor Taylor, Councilors, Nolder, Harris, Prince, Stark and Strong,
Administrator Jordan, Attorney Kelley and Sarah Jo Chaplen.

ORS 192.660 (1)(h) - The Council discussed the Rinkes litigation and the Kahut Transfer Station litigation.

ORS 192.660 (1)(e) - The Council discussed the possible sale of real property.

Mayor Taylor adjourned the session at 9:08 p.m.


Marilyn K. Perkett
City Recorder


Scott Taylor
Mayor