

**CANBY CITY COUNCIL  
REGULAR MEETING  
SEPTEMBER 6, 1995**

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

Mayor Taylor opened the session at 6:34 p.m. in the CUB board room.

Administrator Jordan called roll, a quorum was present.

CUB Chair Bob Westcott noted that all CUB members were present.

**\*\*Councilman Prince moved to go into Executive Session under ORS 192.660 (1)(f), to consider records that are exempt by law from public inspection. Motion was seconded by Councilman Harris and approved 6-0.**

Mayor Taylor recessed the regular session at 6:36 p.m. to go into Executive Session.

Mayor Taylor reconvened the regular session at 7:30 p.m., followed by the flag salute

Mayor Taylor and the entire Council were present.

Also present: Administrator Michael Jordan, Assistant to the Administrator Sarah Jo Chaplen, Assistant City Planner Jim Wheeler, Librarian Beth Saul, Police Chief Jerry Giger, Mark & Laura Crorey, Gertrude Glodoski, LaVerne Shelhamer, Richard Walker, Nate Bemis, Lane Neleker, Nick Walked and Bradley and Jerry Moss.

**ROLL CALL OF COUNCIL:** Ms. Chaplen called roll and a quorum was present.

**MINUTES OF PREVIOUS SESSION:** **\*\*Councilman Prince moved to approve as distributed the minutes of regular session August 16, 1995. Motion seconded by Councilwoman Strong and approved 6-0.**

**CITIZEN INPUT ON NON-AGENDA ITEMS:** None were presented.

**PROCLAMATION:** Constitution Week - Mayor Taylor proclaimed the week of September 17-23, 1995, as Constitution Week in the City of Canby.

Gertrude Glodoski accepted the Proclamation and noted that on September 17th, every bell in the City is requested to ring at "high noon." She also encouraged citizens to read the Constitution.

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**APPEAL: DR 95-09, Mark Crorey** - Mayor Taylor explained that this appeal had been continued from the August 16, 1995 meeting.

Mayor Taylor reviewed the public hearing criteria.

Mayor Taylor asked if any member of the hearing body had a conflict of interest.

Nolder - No conflict, plans to participate.  
Harris - No conflict, plans to participate.  
Prince - No conflict, plans to participate.  
Mayor - No conflict, plans to participate  
Stark - No conflict, plans to participate.  
Strong - No conflict, plans to participate.  
Daneils - No conflict, plans to participate.

Mayor Taylor asked if any member of the hearing body had any ex parte contact regarding the matter.

Daneils - None.

Strong - None.

Stark - Prior to the last Council meeting, she did ask her husband a questions regarding the issue. Mayor Taylor asked if anyone wished to question Councilor Stark regarding the contact. The applicant had no questions for Councilor Stark.

Mayor - None.

Prince - He had contact with the applicant at a growth meeting, but did not discuss the matter before the hearing body.

Harris - none.

Nolder - None.

**STAFF** - Jim Wheeler used a map to orientate the Council as to the site of the existing buildings on the subject property, on the corner of S. Ivy. He explained that the porch of the existing older house, on a separate tax lot to the west, abuts the property line of the proposed construction site, with the eaves overhanging the property line. Mr. Wheeler said the original plan for the proposed building was larger with access onto S. Ivy. Mr. Wheeler noted that comments received from other agencies did not concur with the access onto Ivy, so the access was changed to S.W. Second. The Planning Commission denied the application for a 2,400 square foot commercial/retail building on the northwest corner of the property because the existing house located to the west is on the Clackamas County list of historical structures and because of the location of the existing house on the property; because the entrance onto Second Avenue was too close to Ivy Street; and because they felt the parking and overall site was too compact for the development.

Mr. Wheeler stated that the applicant, Mark Crorey has appealed the Planning Commission decision, stating that the Commission erred in its deliberations and decision considerations.

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Councilman Nolder asked about significance of the Clackamas County list of historical structures. Mr. Wheeler said the City has only listed three historic designations within Canby and this house is not included. Mr. Prince pointed out that the "river rock foundation" of the house, was the reason for the subject house being listed on the County historic list. Mr. Wheeler cautioned that the specific features of the house were not discussed during the Commission meetings.

Councilman Nolder questioned the criteria regarding parking lot compaction. Mr. Wheeler noted that there is no specific use for the proposed business; therefore, staff asked the applicant to meet the maximum parking criteria, which is 5 per 1,000 square feet use and would apply for any commercial uses, except a restaurant. Mr. Wheeler said if the parking spaces are reduced, there will be less potential for businesses that can be located in the building.

Councilman Daniels asked if an application for a restaurant would trigger a parking question.. Mr. Wheeler said parking criteria is questioned when a building permit and business license application are applied for.

Mayor Taylor opened the public hearing at this time.

APPLICANT - Laura Crorey, stated that she wanted to cover some questions that were brought up in the audio tapes. Mrs. Crorey stated that she and her husband were not the owners of the property when the application was filed. However, they are owners at this time. In regard to traffic congestion, the reports were based on the original design with the access onto Ivy, and now access is onto S.W. Second. She also pointed out that the driveway is 50 feet from S. Ivy, and complies with the code. She added that the code was followed with regard to the number of parking spaces. Mrs. Crorey stated that in regards to the historic nature of the house, the entire criteria set forth in the Environmental Policy 6-R was not actually cited, and the subject property is "next to" the "historically" considered property. She also pointed out that the fire wall was required by law. Regarding the design of the building, she pointed out that the medical building to the south is of a similar design and was constructed during the last year, adding that it does conform with other buildings within the area. Mrs. Crorey pointed out that the current owner of the "historic" building to the west did not show up at the Planning Commission meeting or submit testimony.

Mayor Taylor asked if there were any opponents or proponents that wished to address the Council. No one came forward. Mayor Taylor closed the public testimony.

DELIBERATIONS - Councilman Prince asked if it were common to request a traffic study since the project was close to a major arterial. Mr. Wheeler said it usually was not done unless a specific request is made, and in this case there was no request.

Councilman Prince asked the location and height of the proposed fire wall. Mr. Wheeler said

the parapet wall is located on the west side, nearest the house and close to the property line, as required by building code. The proposed fire wall would only be located next to a "portion" of the existing house and would be 16 feet high.

Mrs. Crorey noted that there will still be access to the house.

Mark Crorey reiterated that Environmental Policy 6-R is inappropriate, because his property is adjacent property which is not cited in that Policy. He did note that although the view from Ivy would be obstructed, the three entrances to the house would not be obstructed.

Councilwoman Strong asked where the main entrance to the house was. Mr. Wheeler said he wasn't sure.

Councilman Nolder pointed out that the owner of the house is not present to contest the proposed development.

Councilman Nolder added that he had been in that house and would not consider it a house worth restoring.

Councilman Harris pointed out that the proposed development would block the view to Ivy from the existing house and, at this time, the future of the house is unknown..

Councilman Prince said his concern was about the traffic coming off Ivy and the only thing unique about the existing structure is the rock foundation.

Mayor Taylor stated this he is concerned about the traffic. However, he added, the ordinance requirements have all been met in regards to the proposed development. He also noted that all staff suggestions were acceptable to the applicants. Mayor Taylor suggested that the Planning Commission did not adequately consider all pertinent information.

Councilwoman Stark said that traffic all over Canby is a concern, however, she did feel the applicant met the necessary requirements.

Councilwoman Strong said she too was concerned about the traffic. However, with access coming out on Second, the issues is not quite as critical.

Attorney Kelley reminded the Council that if the Council reverses the Commission decision, they must make a finding and cite one of three criteria set forth in Code 16.99.140. He suggested that the Council review the Commission Findings to see if they have erred. He referred specifically to Finding #4, and stated that Canby has its own Historic Ordinance and the proposed historical site is not on that list, nor did he feel that this is relevant to the Site and Design Criteria.

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**\*\*Councilman Nolder moved to overturn the decision of the Planning Commission for denial of the application of Mark Crorey, DR 95-09, based upon the fact that the Planning Commission did not correctly interpret the requirements of the title, the Comprehensive Plan or other requirements of law, in that the 1 1/2 feet in front of the porch of the existing house to the west is acceptable and does not violate any code; that the parking lot meets the requirements for the proposed structure; and the parking lot entrance is within the 50 foot code requirement. Motion seconded by Councilman Harris.**

Councilman Prince expressed concern about the 1-1/2 foot space in front of the existing home, however, he did note that there was more than one entrance to the home.

Councilman Harris concurred with Mr. Prince.

Mayor Taylor expressed concern about using the word "eradicate" in the Commission's Finding #4.

**\*\*Motion was approved 6-0.**

Mrs. Crorey thanked the Council for the process.

Councilman Harris asked if we needed to address the issue of returning the \$600 appeal fee. Councilman Daniels noted that appeal application fee had never been returned before and was necessary to cover administrative costs.

Mark Crorey stated that there is a bill before the State Legislature that addresses this issue, although it has not been passed at this time. Mr. Crorey felt strongly that since the Commission made an inappropriate determination, he should not have to pay the appeal application fee. Mr. Crorey said it would be easier if a civil procedure would not become necessary to pursue the matter.

Mayor Taylor asked Mr. & Mrs. Crorey to take some time to consider their request regarding a reimbursement of the appeal fee, and if the issue is still important to them at a later date, they should address the matter in a letter to the Council.

**COMMUNICATIONS:** Letter from Chamber of Commerce - Administrator Jordan reviewed the letter from the Chamber of Commerce requesting the use of the SP Parking Lot between Grant and Fir Streets on Saturday, September 23rd, for a 50's Festival, and chili cook-off.

**\*\*Councilman Daniels moved to grant the request of the Canby Area Chamber of Commerce to use the SP Parking Lot between Grant and Fir Streets on September 23rd, and that they coordinate their activities with the Police and Public Works Departments. Motion seconded by Councilwoman Strong and approved 6-0.**

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**NEW BUSINESS:** Accounts Payable - \*\*Councilman Daniels moved to approve payment of accounts payable in the amount of \$190,247.40. Motion seconded by Councilman Prince and approved by roll call vote, 6-0.

ANN 95-01, Kolberg/Jones - Mr. Wheeler informed the Council that there has been a request from the owner to continue the annexation hearing until November 1, 1995. Mr. Wheeler noted that it is a de novo hearing and there will be new evidence and testimony allowed.

Mayor Taylor opened the public hearing on the Annexation 95-01, application of Kolberg/Jones.

\*\*Councilman Prince moved to continue the Annexation 95-01 hearing until November 1, 1995, by request of the property owner.

Councilman Daniels asked if the applicant would be allowed any further requests for continuing the hearing. Mr. Wheeler said the applicant has waived the time period for the continuance.

\*\*Motion seconded by Councilman Harris and approved 6-0.

**ORDINANCES & RESOLUTIONS:** Resolution No. 590 - Jim Wheeler stated that the owner/developer of Township Village Phase VII requested that a dedication of a 12 foot strip of land, for a walkway that will connect S. Pine Street with park land adjacent to Ackerman Junior High School, be dedicated to the City. Mr. Wheeler noted that all walkways have been centered on property lines and generally do not go to parks. He added that this dedication is on a subdivision boundary. He said the City park maintenance staff were in approval of the walkway for access and would not be adverse to maintaining the area.

Councilman Harris asked who paid for the paving and fence. Mr. Wheeler said the developer will pay for the paving, the fence and the center post.

\*\*Councilman Prince moved to adopt Resolution No. 590 DEDICATION OF LAND FOR A WALKWAY CONNECTING SOUTH PINE STREET AND THE DEDICATED PARK LAND ADJACENT TO ACKERMAN JUNIOR HIGH SCHOOL. Motion seconded by Councilman Daniels and approved 6-0.

**UNFINISHED BUSINESS:** DR 95-11, Findings - Jim Wheeler explained that the Findings and Conclusions and Order for DR 95-11, Canby Fire District No. 62, were drafted as per instruction of the Council.

Councilman Prince asked if the Fire District will still back their vehicles in at night. Mr. Wheeler said he thought that their offer was in lieu of having the wall built.

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Councilman Nolder said he felt the Fire Department would back in their vehicles if there appears to be a problem.

Councilman Daniels objected to the wording "reduction" on page 1, paragraph 1, sentence 3, in that there is no guarantee it will reduce the noise. On page 6, item 10, he pointed out that the Council only asked for the masonry wall not "sound barrier wall that includes baffling." Mayor Taylor said the latter concern is more definite regarding the type of masonry. Councilman Daniels reiterated that only a masonry wall was required. Councilman Daniels said the point is that the appellant can not come back to the City regarding any "sound" issues. The Council concurred, 4 to 1, to leave out the notations as to sound as Councilman Daniels requested.

**\*\*Councilman Nolder moved to accept the Findings, Conclusions & Order Site DR 95-11, Canby Fire District No. 62, as corrected by the Council. Motion seconded by Councilman Harris.**

Councilman Prince expressed a concern about deleting the baffling. Councilman Nolder pointed out that the attorney representing the group said they would be satisfied with a 6 foot wall, and baffling was not mentioned in the Council's discussion. Again, Councilman Daniels noted that a noise study was not made and only a 6 foot masonry wall was requested.

**\*\*Motion was approved 5-0, with Councilwoman Stark abstaining.**

**OTHER REPORTS OR ANNOUNCEMENTS:** Councilman Nolder said it was a memorable experience to ride in the World War parade specifically on the "tank."

Councilman Nolder noted that he and his wife rode their bikes by the S. Locust Street Park last week and the park was "packed" with kids. He added that he received a long demonstration on how to use some of the park equipment from the children.

Councilman Daniels reminded everyone to cast their vote on the ballots that were received in the mail.

Mayor Taylor said there was still time to enter the "pot-hole" contest.

Administrator Jordan reminded the Council that they received a notice from Susan McClain regarding a schedule of work sessions and meetings for METRO, over the next 2- 3 months. Mr. Jordan said staff will be tracking that process. The final 2040 report is complete and will be distributed when we receive it.

Administrator Jordan informed the Council that a Design/Review and Variance application for a piece of commercial property on 99E was submitted. The variance was approved and the Design/Review was denied. The Commission adopted the Findings on August 14, 1995, and

normally, an appeal can be filed within fifteen days after the Findings are adopted. The applicant went on vacation on the 15th and did not receive his mail until September 5th after the expiration of the appeal. Also, the City recently changed the address where he lives in Willamette Green, which could have resulted in a mail delivery delay.

Councilman Prince felt the Council would set a precedent if the time frame were extended, adding that the Planning Chair usually points out the appeal time frame at the end of each decision.

Mayor Taylor stated that due the other circumstances, the Council might want to reconsider accepting the appeal, since it was only a few days that are in question.

Councilman Prince asked if the applicant was advised at the meeting of the appeal period time line. Mr. Wheeler said he thought he was advised after the oral decision and was told he could not appeal until after the written decision was adopted. However, as a normal course of action, after a written decision, the appeal time frame is usually reviewed.

Councilman Daniels said this case seemed to have extenuating circumstances.

Mayor Taylor polled the Council and they agreed to allow this appeal to be filed after the initial deadline. Mr. Jordan said documentation will be prepared for the file regarding this decision.

Chief Giger reminded the Council about a concern regarding activities at the new S. Locust Street Park. He advised that the woman who initially expressed concern will be on the Park Committee that has been initiated regarding the park.

Beth Saul reminded the Council of the Five-Year Library Celebration on Saturday, September 9th.

Councilman Harris noted that last Spring he attended the Citizens Police Academy and another academy is forming. Mr. Harris highly recommended the academy.

Councilman Daniels said he attended the Clackamas County Roads meeting regarding the three cent gas tax, on August 22nd and it was very informative. He added that if our Street Serial Levy passes and the County Gas Tax passes, the City would only levy the DIFFERENCE between what we would get from the County and what the initial levy would present.

Mayor Taylor thanked Mike Breshears and the World War II Committee. The Mayor called it, an outstanding event. Mayor Taylor said Mr. Breshears coordinated the event because he "believes in what he was doing and he loves the community." Councilman Nolder added that OCTS will re-televis the World War II event.

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Mayor Taylor urged citizens to review the ballots they received in the mail, and vote.

Mayor Taylor also reminded citizens of the September 16th Telecommunication Classic Run/Walk. He urged people to sign up for the event.

**\*\*Councilman Prince moved to go into Executive Session under ORS 192.660 (1)(h), regarding pending litigation and (1)(i) regarding the performance of an executive officer or employee. Motion seconded by Councilman Harris and approved 6-0.**

Mayor Taylor recessed the regular session at 9:00 p.m., reconvening the regular session at 10:26 p.m.

Administrator Jordan informed the Council that the City had received 39 applications for the Planning Director Position. Mr. Jordan said he will be giving the Council some type of rating system when they review the applications. Also, he suggested that Planning Director of Wilsonville, Stephan Lashbrook, help rank the applications. Mayor Taylor asked that Kurt Schrader and Steve Miller be allowed to review and rank the applications, as well.

The Mayor adjourned the session at 10:27 p.m.

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EXECUTIVE SESSION  
SEPTEMBER 6, 1995

EXECUTIVE SESSION # 1 - 6:35 P.M. - Present: Mayor Taylor, Councilors Harris, Nolder, Prince, Stark, Strong and Nolder, Mr. Jordan, Mr. Borges, Ms. Chaplen, CUB members, John Lank, Robert Westcott, Georgia Newton, and Ron Berg, Jack Hammond and Cam Sivesind.

Mayor Taylor called the session to order at 6:35 p.m. in the CUB conference room.

ORS 192.66- (1)(f) - The Council discussed the Tualatin Valley Water Association system.

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

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EXECUTIVE SESSION #2 - 9:12 P.M. - Present, Mayor, all six Councilors, Mr. Jordan, John Kelley, Ms. Chaplen and Cam Sivesind. Chief Jerry Giger joined the session at 9:15 p.m.

Mayor Taylor called the session to order in the CUB conference room at 9:12 p.m.

ORS 192.660 (1)(h) - The Council reviewed two litigation cases, Rinkes and Police Department PERS.

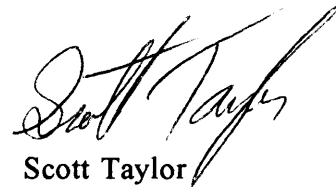
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ORS 192.660 (1)(i) - The Council discussed the incident of Officer Stelle firing a gun at a dog.

Mayor Taylor adjourned the session at 10:24 p.m.

A handwritten signature in cursive script, appearing to read "Marilyn K. Perkett".

Marilyn K. Perkett  
City Recorder

A handwritten signature in cursive script, appearing to read "Scott Taylor".

Scott Taylor  
Mayor

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# 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 eighth anniversary of the Signing of the Constitution provides a 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 freedoms guaranteed to American citizens, 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, Oregon, and urge all citizens to reflect during the 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 this 6th day of September in the year of our Lord One Thousand Nine Hundred and Ninety Five.

Scott Taylor, Mayor