

**CANBY CITY COUNCIL
REGULAR MEETING
DECEMBER 21, 1994**

WORKSHOP: Present: Mayor Taylor, Councilors Prince, Daniels, Stark, Strong and Nolder, Administrator Jordan, Assistant to Administrator Chaplen, Recorder Perkett and Cam Sivesind.

The session was held in the board room at CUB.

Ms. Chaplen reviewed the process of the visioning sessions that started in February 1995, brining the Council up to date.

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

Also present: City Administrator Michael Jordan, Lt. Jim Scharmota, Assistant to Administrator Sarah Jo Chaplen, City Recorder Marilyn Perkett, Library Director Beth Saul, Dave Conner, Todd Gary, Jerome Witt, Nathan Clayton, Roy Hester, Karen Rider, Marty Moretty, Dan Mickelsen, Cary Bates, Darvin Trammel, Jim Wheeler and Cam Sivesind.

Mayor Taylor called the regular 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 as distributed the minutes of regular session December 7, 1994. Motion seconded by Councilwoman Stark and approved 6-0.

CITIZEN INPUT ON NON-AGENDA ITEMS: Measure 8 - Jim Wheeler addressed the City Council regarding his feelings on the recently passed Measure 8 and the affects it will have on City employees wages. He stated that the effects of Measure 8 on City employees, while a difficult decision for the Council not to take any action to alleviate the pay decrease, has morale impacts. Mr. Wheeler said the message to the employees from the citizens, through the actions of the Council, is that "the work they (the employees) have been doing is not worth the pay they have been receiving."

COMMUNICATIONS: AFSCME Letter - Mayor Taylor read a letter signed by members of the local AFSCME group which lent support to the City management group, who are not covered by a contract, and will experience the affects of Measure 8 on January 1, 1995. The letter stated that "all employees" should be treated equally.

Letter from Pony Soldier Motor Inns - Mayor Taylor read a letter from the Pony Soldier Motor Inns that stated they took no position on Measure 8, nor funded the support of the measure.

Memo from Mayor Taylor to City Employees - The memo was a letter explaining the position of the Council as one being responsible to the voting citizens. However, the letter did state the decision was not easy for the Council and they were aware of the excellent City employees.

Councilman Nolder added that the decision was difficult for the Council. He said he respected the employees and the excellent job they perform.

(Mayor Taylor adjusted the agenda to act upon the Resolutions regarding Measure 8.)

ORDINANCES & RESOLUTIONS: Attorney Kelley briefly explained the three resolutions that were drafted due to passage of Measure 8:

Resolution No. 575 - was drafted to rescind past practice of the City paying for the PERS membership contribution;

Resolution No. 577 - creates a reserve fund for PERS contributions; and

Resolution No. 578 - provides that the PERS contribution of 6% will be tax exempt in accordance with Internal Revenue Code (26 USC), Section 414(h)(2).

****Councilman Prince moved to approve Resolution No. 575, A RESOLUTION RESCINDING THE CITY OF CANBY PICK-UP OF PERS MEMBER CONTRIBUTIONS.** Motion seconded by Councilman Harris and approved 5-0, with Councilwoman Stark abstaining.

****Councilman Daniels moved to approve Resolution No. 577, A RESOLUTION CREATING ACCOUNTS FOR THE RESERVE FUND FOR PERS CONTRIBUTIONS.** Motion seconded by Councilwoman Strong and approved 5-1, with Councilwoman Stark voting no.

****Councilman Nolder moved to approve Resolution No. 578, A RESOLUTION PROVIDING THAT THE REQUIRED PERS CONTRIBUTION OF SIX PERCENT (6%) OF SALARY IS DEEMED TO BE "PICKED-UP" FOR PURPOSES OF INTERNAL REVENUE CODE (26 USC), SECTION 414 (h)(2).** Motion seconded by Councilman Harris.

DISCUSSION - Councilwoman Stark asked if the option was mandatory for the tax exempt status on the PERS contribution; and if the employees have a "say" in the issue. Attorney Kelley stated it was not an option, all employees have to do it in order to qualify. Also, Mr. Jordan noted that January 1, 1995 is the deadline for taking the tax exempt option, or wait until the following year.

Administrator Jordan explained that there is a potential for impact on employee wages for those involved in the voluntary Deferred Compensation program. The current Deferred Comp plan allows for employees to defer up to 25% of their wages or \$7,500, whichever figure is lower. He added that the proposed resolution will lower their gross pay by 6% and could impact their donation to the Deferred Comp program.

Mayor Taylor reminded everyone that sooner or later taxes will be paid, either now or later when the PERS is issued at retirement.

Councilwoman Strong asked how many employees would be affected regarding the Deferred Comp. Mr. Jordan said probably 6-8 employees.

Mayor Taylor pointed out that about a third of City employees will not be affected by this issue since their contract does not expire until July 1996. Mr. Jordan added that another third, the Police Association contract expires in July 1995 and about a third, the management, will be impacted immediately.

Councilwoman Strong asked why 6% was the figure and why it was mandatory. Mr. Jordan said each group, not individuals, could make a decision. Mr. Kelley stated that Ballot Measure 8 set the 6% criteria and that is why the tax exempt portion was set at 6%.

Mayor Taylor asked if public employees were required to have a retirement program. Mr. Jordan said we were members of the PERS program. However, if we opted out of PERS we would not be required to give the retirement benefit to the employees, except for the union contracts.

Mayor Taylor asked for a show of hands of management members that would be affected on January 1995. (About 7 hands were raised.) Mr. Taylor then asked for a show of hands for the 6% pre-tax and then a show of hands for those against the pre-tax issue. He noted that there was a split show of hands.

Jim Wheeler noted that take home pay would be reduced, however, if it is pre-taxed it will not reduce the take home pay as dramatically.

Councilman Harris commented that he felt the tax exempt status should have been an advantage to employees, and asked why it was not. Mr. Jordan said it is actually an individual decision for each person and some of the factors are how much employees are contributing to Deferred Comp, how close they are to retirement and how much "catch-up" in PERS is being done.

Beth Saul commented that the tax exempt provision would benefit the lower paid employees and part time employees.

Jim Scharmota stated that the pre-tax issue would actually benefit him. However, he knew that this would affect those close to retirement significantly. Mr. Scharmota added that one of the members of the police department said the pre-tax status will cost him approximately \$35,000, based on potential earnings, between now and the time he retires.

Jack Martin, Vice-president of the AFSME group, stated that the lower paid positions and part time employees in the organization will benefit from the pre-tax status.

Councilman Harris stated that the Council's effort to "make things better" actually is opening a can of worms.

Councilman Nolder said he felt the Council had to consider the majority of employees. Also, future negotiations on this issue may help affect those planning to retire.

Councilman Prince asked if the tax exempt issue could be changed by the Council next year. Mr. Jordan said it could be changed on an annual basis.

Mayor Taylor suggested that the group of employees that Measure 8 will immediately impact should join with others to examine the entire City retirement package.

QUESTIONS: **The motion on the floor to approve Resolution No. 578, was approved 4-1, with Councilwoman Stark voting nay and Councilman Harris abstaining.

NEW BUSINESS: Accounts Payable - **Councilman Daniels moved to approve payment of accounts payable in the amount of \$145,052.67. Motion seconded by Councilwoman Stark and approved by roll call vote, 6-0.

Change Order Request for Locust Street Park - Jack Martin, Parks Department, informed the Council that an unanticipated telephone easement was discovered during the construction of S. Locust Street Park. CTA gave the City permission to build over it and they will replace the conduit and cable.

Mr. Martin requested permission to authorize the City to pay \$550 for the City share of the

proposed work.

****Councilman Daniels moved to approve the change order request for the S. Locust Street Park project in the amount of \$550. Motion seconded by Councilwoman Stark and approved 6-0.**

Jack Martin noted that the contractor was now using "flood lights" to pour cement.

Request to Purchase Three (3) Patrol Cars - Jim Scharmota, pointed out that in September there were four marked patrol cars for uniform use and one unmarked. At this time two cars were relatively new, and two cars were older, 1987 and 1989, with one vehicle having 64,000 miles and the other 100,000 +. Lt. Scharmota said one of the older cars is now "sidelined" since it was not reliable or safe, which now makes the department down to three cars. If three cars are ordered now, they will not come until April and the current cars will have an additional 25% mileage. Lt. Scharmota pointed out that by next fall it will be time to order another car. He said if we delay longer it will be "digging a bigger hole."

Mayor Taylor asked if ordering through the state bid process gives us a lower bid.

Lt. Scharmota said that first of all Chevrolet was on strike and the state did not have the bids process ready until December 1st and the deadline for ordering is December 31, 1994 and the cost is a competitive bid.

Councilman Daniels asked the cost for retro-fitting the special police equipment per vehicle. Lt. Scharmota said it would be between \$2,000 and \$2,500 per unit.

Councilman Harris asked if the \$58,000 was in the Police budget. Mr. Jordan said no, it was Capital Reserve Funds under a collective line item for all departments to use.

Mayor Taylor asked if any of the reserve fund was money the police had put aside for purchase of the cars. Mr. Jordan said a few thousand dollars was put in both last fiscal year and this year, however, it is not close to the \$58,000 needed.

Councilman Daniels asked if this could be a loan. Mr. Jordan said this was not discussed on a loan basis, and the department is making payments on another vehicle they have purchased.

Councilwoman Stark said she supported the request for the three vehicles.

Councilwoman Strong asked if the budget committee needed to make a decision on the request. Mr. Jordan said the money is budgeted to be spent for this type of request and does not have to go to the budget committee.

Mr. Jordan stated that one police car was purchased in the last fiscal year on a pay-back basis, and one is scheduled to be purchased this fiscal year on a pay-back basis. Therefore, the three car request is in addition to the current purchase.

Mayor Taylor asked how the Council knew the cars were actually needed. The Mayor then reviewed the scenario of how many cars were in operation. Lt. Scharmota said three cars are in need of replacement. The Lieutenant said the 92 vehicle would normally be replaced in two years and by April it will have about 80,000 miles; in addition to that there are two other cars that should have been replaced three years ago.

Mayor Taylor said when a department comes to the Council asking to be "bailed out" in managing their budget, staff should be able to answer questions.

Lt. Scharmota stated that about five years ago a proposal was drafted to "plan" to buy cars on an alternating basis of one car one year, and two cars the next year. He said to his knowledge the proposal has never be implemented; and, based on conversation with the Chief, the approval of those funds never happened.

Mayor Taylor asked if the department would park one vehicle for a year because a few years from now the three vehicles will all need to be replaced at the same time. Lt. Scharmota said if all three are put on line, the current vehicle with 60,000 would be used as a "spare," used only as necessary. He also pointed out that even if these three cars are purchased we still need another vehicle next year, and in 96-97 the police will ask for two more cars.

Mayor Taylor said he would like to get onto a purchasing cycle that is held in place.

Councilman Prince said he could not remember a time when the budget committee has turned down a request for cars. He further added, if the cars were taken out of the budget, it was done by staff.

Councilman Harris supported the request for three vehicles.

****Councilman Harris moved to approve the request of the Police Department to purchase three patrol cars in the amount of \$58,000. Motion seconded by Councilman Nolder.**

DISCUSSION - Councilman Prince said he objected to having the Council put into a "box" in this matter. He felt the canine program took away a vehicle from patrol.

Councilwoman Stark stated that the canine program was implemented with an older vehicle. Lt. Scharmota said it was a 1989 car with 97,000 miles.

Councilman Daniels suggested that the department purchase two vehicles now, two in the fall and gradually get back into the planned purchasing cycle.

Councilwoman Strong said she felt they should repay the money to the reserve fund and make the department more accountable.

Councilwoman Stark reminded the Council that the department is currently paying back on one vehicle now. She stated, "Do we want the police cars sitting at the police station or do we want them out on the road?"

Mayor Taylor said it is up to the management of the police department and the City Administrator to not put this situation in front of the Council. He said the mileage on vehicles should be anticipated and staff should know when they need replaced. He further added, that someday the funds will not be there and we keep rewarding people who are not doing proper budget management, and he felt it was time for this to stop. He stated that he preferred a phased in concept for purchase of the cars.

****Councilman Daniels moved to amend the motion by striking out the words "three cars," and inserting the words "two cars." Motion seconded by Councilwoman Strong.**

DISCUSSION - Councilman Harris asked how the purchase of only two cars would affect the department. Lt. Scharmota said we would not be able to replace the third car until November or December 1995, and we would be one behind.

Lt. Scharmota noted that the Chief was not present to defend himself, he emphasized that a proposal had been submitted for the purchasing cycle and he added that he didn't know

where the fault was for the problems, but it was personally frustrating for him to defend the department regarding the purchase.

The Lieutenant also stated that perhaps one car could sit for six months, however, he felt it was better to be a little ahead of schedule than behind.

Councilman Prince asked if the City would be saving money by purchasing three vehicles now. Lt. Scharmota said one could speculate that we would save in the manner of repairs, and perhaps the bid next year might be x% higher.

Councilman Prince asked if buying two cars verses three cars would affect the police service. Lt. Scharmota said yes, it would insure that we have patrol vehicles out on the road and officers on duty will be able to drive a marked car.

Question - **The amendment to buy two vehicles was the motion on the floor. The motion failed 2-4, with Councilors Prince and Daniels in favor of the motion.

Question - **The motion for three vehicles was approved 4-2, with Councilman Prince and Daniels voting nay.

Mayor Taylor called for a short recess at 8:55 p.m. and reconvened the session at 8:58 p.m.

UNFINISHED BUSINESS: Planning Commission Appointments - Councilman Prince said there was a committee of Walt Daniels, Tamra Mahar, Kurt Schrader and himself to interview five candidates for the Planning Commission.

**Councilman Prince moved to appoint the following to three year terms on the Planning Commission: Carlin Jackson, Linda Mihata and Stan Elliot. Motion seconded by Councilman Harris.

DISCUSSION - Councilwoman Strong asked if Planning Commission members had to live in the City or have a business in the City. She was told no, it didn't matter where they lived. However, the current nominees all live in the City.

Councilwoman Strong urged that the Council consider, for the future, that all Planning Commission members live in the City. She further added that all City boards might consider having their members live within the City limits.

**The motion was approved 6-0.

Attorney Kelley suggested that a criteria the Council might consider for Planning Commission members is that they live within the Urban Growth Boundary, because the Commission plans for the UGB.

Mayor Taylor recommended that a joint workshop between the Council and Planning Commission regarding the membership be scheduled. Council concurred with the Mayor's suggestion.

Councilman Nolder asked that we get input from other cities our size regarding their boards and commissions.

OTHER REPORTS OR ANNOUNCEMENTS: Attorney Kelley reported that he has contacted Sandy Arp with the League of Oregon Cities for more input on a proposed graffiti ordinance.

Mayor Taylor asked that the graffiti ordinance come before the Council in February.

ACTION REVIEW: 1. Implement Resolutions No. 575, 577 & 578, all regarding Measure 8 impacts.
2. Purchase three new patrol cars.
3. Notify Carlin Jackson, Stan Elliot and Linda Mihata of their appointment to the Planning Commission.
4. Set a workshop with Planning Commission to discuss membership on the Commission.

****Councilman Prince moved to go into Executive Session under ORS 192.660(1)(d) regarding labor negotiations, (1)(e) to negotiation real property and (1)(h) regarding pending litigation. Motion seconded by Councilman Nolder and approved 6-0.**

Mayor Taylor recognized the current Council members, noting this is the end of the terms of office and the new Council (looking very familiar) will be sworn in at the next meeting. He thanked the members for the sacrifices and dedication to the community.

Mayor Taylor recessed the regular session at 9:07 p.m. The regular session was reconvened at 11:29 p.m.

****Councilman Daniels moved to adjust the salary schedule for the 94-95 fiscal year at a 2% market adjustment and the merit as outlined by Administrator Jordan, retroactive to July 1, 1994. Motion seconded by Councilman Nolder**

Councilman Prince noted that during this time when some public agencies are freezing employee incomes, like Clackamas County, and because of upcoming budget cuts next year, he felt the proposed raises were "ill advised" and is sending the wrong message to the public.

****Motion was approved 5-1, with Councilman Prince voting no.**

Mayor Taylor adjourned the regular session at 11:35 p.m.

**EXECUTIVE SESSION
DECEMBER 21, 1994**

Present: Mayor Taylor, Councilors Prince, Nolder, Harris, Stark, Strong and Daniels, Administrator Jordan, Attorney Kelley, Assistant to Administrator Chaplen and Cam Sivesind of the Herald.

Mayor Taylor called the session to order at 9:17 p.m.

ORS 192.660 (h) - The Council discussed the Rinkes vs. City of Canby case.

Attorney Kelley discussed the petitions turned in by the Homebuilders Association and a possible litigation.

A business not in compliance with the building code was discussed by the Council.

ORS 192.660 (1)(e) - The Council discussed a purchase of property and the sale of a piece of City property.

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

Marilyn K. Perkett, City Recorder
p.7 

December 21, 1994

Scott Taylor, Mayor

