

**CANBY CITY COUNCIL
REGULAR MEETING
JANUARY 5, 1994**

Mayor Scott Taylor presiding. Council members present: Terry Prince, Dennis Nolder, Cheryl Stark and Walt Daniels.

Also present: Administrator Michael Jordan, City Attorney John Kelley, Police Chief Jerry Giger, City Planner Bob Hoffman, City Recorder Marilyn Perkett, Librarian Beth Saul, John Watson, Jerry VanTassel, Vern Keller, Larry & Betty Faist, Leona Sandsness, Paul Bell, Morris Holum, Gertrude Thompson, David Anderson, Lon Burdge, Curt McLeod, Pete Kelley, Martha Schrader, Peggy Sigler, Dave Eby, Joan Jones, Charles Nagel, Dan Stoller, Cam Sivesind, Lee Wiegand and others.

Mayor Taylor called the session to order at 7:30 p.m., followed by the flag salute.

Mayor Taylor informed the audience that Fred Stefani, former City Mayor and County Commissioner, had passed away. He stated that Mr. Stefani was "always a gentleman, scholar and a pleasure to work with," and asked those present to observe a moment of silence in his memory.

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 15, 1993. Motion seconded by Councilman Nolder and approved 4-0.

CITIZEN INPUT ON NON-AGENDA ITEMS: None presented.

PUBLIC HEARINGS: Advanced Financing, Willow Creek - Mayor Taylor announced that this item would be removed from the agenda at this time.

Advanced Financing, Logging Road Industrial Park - Mayor Taylor opened the hearing at 7:33 p.m. The Mayor explained the hearing process to the audience.

Mayor Taylor asked the hearing body to declare any conflict of interest. None was declared.

The Mayor asked each Councilor to declare any exparte contact. None of the Council had any exparte contact.

STAFF - Curt McLeod, the City's engineer of record, explained that the City is forming an Advanced Financing District for the Logging Road Industrial Park area. It is located in the southeast quadrant of Canby with borders of Township Road, Highway 99E, Logging Road and railroad. The western boundary follows the developed areas where S. Pine Street might normally be located, and then the UGB to SE 13th. The project improvements include construction of a collector street from the intersection of Pine and 99E through to Redwood at Township, tying in at SE 13th; construction of sewer from the Redwood interceptor, noting the first phase was constructed last summer for the Trost School; a twelve-inch water main to be extended through the industrial area; and new streets, curbs sidewalks, storm drains, street lights and a new electrical feeder. Mr. McLeod said the total estimated project cost is \$1,206,300.

Mr. McLeod explained the funding process. The Federal Highway will pay \$139,000, ODOT will pay \$100,000, SDC's will be \$20,000, the OEDD grant is for \$79,900 which leaves a net for reimbursement of \$867,400.

The area is divided into three zones:

Zone 1 will have frontage on most of the infrastructure improvements and will benefit immediately from the project. It is located north of Township to the highway and is zoned light industrial. Proposed assessment in this zone will be six cents (6) a square foot.

Zone 2 will develop over a longer period of time and require off-site improvements. It is both inside and outside the City limits and nearly exclusively residential. Both Valley Farms and Trost School were dependent on the sewer construction and will have an immediate payback due. This zone will pay four cents (4) a square foot.

Zone 3 will have reduced benefits from the project and will be the last area to develop. It is south of the UGB and west past Ivy Street. The assessment for this area will be two cents (2) per square foot.

Mr. McLeod explained that the allocated costs to the properties are pro-rated share for the cost of improvements that are due when the property is developed. The cost is escalated by a 9% interest rate over the collection period of 20 years. He said when the project is completed we can re-evaluate whether the allocations need to be increased or decreased, depending upon the actual construction cost and bond sales.

Councilwoman Stark asked when the project would be completed. Mr. McLeod said the completion date should be in August of this year.

Councilman Nolder said he felt the 9% interest rate appeared to be high. Administrator Jordan noted that the ordinance requires that interest rate and an amendment would be necessary to change it. Attorney Kelley said that is the current legal interest rate on judgments.

Councilman Daniels asked what would happen if someone does not develop in the 20 year period. Mr. McLeod said he was not sure if the City would collect the fee if it is developed after 20 years.

Councilman Prince and Mayor Taylor both asked if the interest rate could be adjusted at a later time. They were informed that once a rate is implemented, changes would be difficult

Mayor Taylor asked if the assessment could be extended over the twenty years. Mr. McLeod said when they wanted to develop the fee was due. However, later in the meeting he cited Municipal Code 4.12.080, (2), ..."for the voluntary imposition of a lien upon a parcel for the full amount of the advance financed reimbursement and payment of that lien in twenty equal semiannual installments including interest." Mr. McLeod also noted that costs are allocated on raw land square footage prior to dedications.

Mr. McLeod reiterated that fees are payable when you use the benefits or apply for a permit that would lead to the use of the infrastructures.

Prior to hearing further testimony, Attorney Kelley read Municipal Code 4.12.050, which stated that this was an "informational hearing" and the Council has the sole discretion on the decision of passing a resolution.

TESTIMONY - John Watson, 6 Othello, Lake Oswego, noted that he owned eleven acres in Zone 1. Mr. Watson said he knew of a similar situation in Clark County. They used an "index" according to the economy to set the interest. He commended the staff on the proposed plan saying it was equitable and benefited the entire area.

Charles Nagel, 23112 S. Bland, owns property fronting Highway 99E and said he will be giving up the most land as the "gateway" to this development. He stated his property is long and narrow and he would be giving up approximately 800 feet. He felt he should not be assessed the Zone 1 criteria of six cents since he would not actually benefit from the infrastructure. Mr. Nagel felt he should pay nothing since he would not benefit from the project and would be giving up a great deal of property.

Mr. Nagel asked if the proposed assessment was for the entire project, or if more assessments would be forthcoming. He was told this one time assessment was for the project in its entirety. Mr. Nagel suggested his assessment be reduced to 2 or 3 cents.

Bob Hoffman added a clarification that this project does not require dedication of the Pine Street frontage, however, the partition that Nagel submitted does require the dedication. Mr. McLeod noted that a condition of approval for Nagel's development, or any land use application, would be to develop the entire street and give the additional 20 feet. He said the alignment needs at this time are about 4600 square feet, and we would try to satisfy his requirements for that.

Pete Kelley, 302 NW First, asked if the new school and Valley Farms in Zone 2 will be paying the same amount. He was told they would pay the 4 cents per square foot. He asked when those people that have made application prior to the advanced financing would need to pay. Mr. McLeod said the allocation becomes payable when the developer connects to the system. Mr. Kelley pointed out that the Clackamas County Fair would benefit directly and immediately from the proposed signal at Pine Street and asked if they had been approached about participating in the project. Mr. McLeod said that the state is willing to pay for 50% of the signalization because of the need at the site.

Lon Burdge, property owner of Zone 1, asked the project time schedule. Mr. McLeod said the City plans to receive bids in April, begin construction in May or June and complete it by August. Mr. Burdge asked when the original alignment of Pine Street was changed. Mr. McLeod replied that in the first application did not have any street improvements and was not sure it was ever intended to be an improved street, that was in November 1992. Mr. Burdge asked when the payments start. Mr. McLeod said when there is an application to improve the property or connect to the system, the payments would start. Mr. Burdge asked when they would need to improve the half street of Pine. Mr. Hoffman replied that his recommendation was to have that street improved before Mr. Burdge builds phase three.

David Anderson, 641 Baker Drive, noted that he was also in Zone 1. Mr. Anderson asked Mr. Watson what index rate he was referring too. Mr. Watson said he thought they were using a consumer price index on the interest rate. Mr. Anderson said the 9% is extremely high. Mr. Jordan said at the time of bond sales the fixed rate will be determined. Mr. Jordan added that staff would research amending the ordinance regarding the interest rate. Mr. Anderson asked what would happen if only one acre of a 100 acre parcel were developed. Mr. Jordan said the intent of the ordinance is to collect when there is a benefit from the infrastructure. He felt only the one acre would be assessed in the proposed scenario.

Bob Hoffman reported that he had received a number of phone calls regarding the UGB area. Mr. Hoffman informed them that first annexation would be necessary and then development.

Mayor Taylor closed the hearing at 8:20 p.m.

Concern was expressed by the Council regarding the proposed 9% interest rate.

Mayor Taylor suggested that the Resolution implementing the Advanced Financing of the Logging Road Industrial Park be modified in regards to the interest rate and be brought to the next session.

COMMUNICATIONS: Eagle Scout Project - Mayor Taylor commended Chris Etzel for completing his Eagle Scout Project of a stage in the amphitheater in Canby Community Park. He said it was an enhancement to our park system.

Council/Committee Vacancies - Mayor Taylor urged prospective applicants to submit their applications for the Council, Utility Board or Planning Commission. Interviews will begin next week.

NEW BUSINESS: Accounts Payable - **Councilman Daniels moved to approve payment of accounts payable in the amount of \$273,345.44. Motion seconded by Councilwoman Stark and approved by roll call vote, 4-0.

South Side Park - Mayor Taylor said he was appointing Maureen Miltenberger to chair a task force committee comprised of citizens and staff to review and develop plans for the recently purchased property on S. Locust for a park. The Council concurred with his appointment.

ORDINANCES & RESOLUTIONS: Ordinance 905 - Bob Hoffman said he had received no additional input since the first reading on the proposed "Historical Ordinance."

Pete Kelley, 302 NW First, expressed his reservation about the ordinance and said some citizens were frustrated because they "were not being heard" by the Council. He said the Council said they would do one thing and did something entirely different. Mr. Kelley suggested a thirty day (30) moratorium before taking final action on the ordinance so those concerned can review it again with staff, Martha Schrader and others. He said many of the concerned citizens prefer "owner property rights" over "government rights."

Councilman Daniels asked if they wanted an entirely new ordinance. Mr. Kelley replied that they just wanted some wording changed.

Councilman Prince commented that the Council had removed the section which allowed 20 signature to allow for a designation. Mr. Kelley said he wanted language in the ordinance that would give owners property rights and not allow Council members to have the right to designate.

Councilwoman Stark said she had no problem with allowing them an additional 30 days for review. However, she did take exception to the implication that the Council doesn't "listen."

**Councilman Daniels moved to adopt Ordinance No. 905 AN ORDINANCE FOR THE CITY OF CANBY, COUNTY OF CLACKAMAS, OREGON, AMENDING TITLE 16 OF THE PLANNING AND DEVELOPMENT CODE, BY ADDING A NEW HISTORIC PRESERVATION DIVISION, DIVISION X AND AMENDING SECTION 16.38. Motion seconded by Councilman Prince.

Mayor Taylor pointed out that this ordinance has been discussed for quite some time. He said having an ordinance that is unenforceable is "ridiculous," therefore, he expressed a concern about making this a meaningful document.

Councilman Daniels said that due to the holidays he would give the opponents the requested additional time, but did believe the concerns should have been settled long ago.

Councilman Nolder added that he was willing to give the citizens "one last time" to discuss this topic.

****Councilman Nolder moved to TABLE the motion on the floor and to reschedule Ordinance No. 905 for the February 2, 1994 meeting.**

Councilman Prince reiterated his frustration on the time spent on this document but stated he was willing to extend the time frame.

****Motion seconded by Councilman Daniels and approved 4-0.**

Mayor Taylor set Thursday, January 20, 1994, 7:00 P.M. as the workshop session to discuss Ordinance No. 905 and requested that notices be mailed to interested parties and published.

UNFINISHED BUSINESS: Liquor License Review - Attorney Kelley reminded the Council that in October 1992, the Council discussed the issue of implementing an ordinance to govern recommendations to the OLCC for liquor licensing purposes. Mr. Kelley noted that he had provided sample ordinances from Tualatin, Beaverton, Milwaukie and Gladstone. He asked for council direction on drafting an ordinance.

Councilwoman Stark stated that she liked the Beaverton ordinance, however, felt ours could be shortened. She also said she felt the Police Chief should do the background check and make the recommendation to the Council. Ms. Stark was not in favor of increased fees.

Mayor Taylor said he preferred the Tualatin ordinance and also felt the Police Chief should be responsible for the investigation.

Councilman Prince stated that he preferred the sample ordinance from Tualatin.

Attorney Kelley said the two primary issues are: who do you want to do the investigation; and who do you want to be able to challenge a license. He agreed that the Tualatin ordinance appears to be more current.

The Council consensus was to have the Police Chief be responsible for investigations and to allow the public a chance to comment on licensing with the Council deciding if a public hearing is necessary.

Mayor Taylor asked Chief Giger to prepare a cost analysis on what it would cost his department to process a liquor license. Attorney Kelley cautioned that costs would be increased if a public hearing were necessary. Mr. Kelley noted that an ORS provision allows for fees of a maximum fee of \$100 for a new application, \$75 for a change of owner or use, and \$35 for renewals.

Administrator Jordan informed the Council that the next cycle of license renewals would soon be due and normally would be scheduled for the first meeting in February. Mayor Taylor said the Council should move forward with the proposed ordinance, however, it would not be in place for this renewal period.

Sewer Project Update - Curt McLeod informed the Council that the sewer project is 87% completed and they are now waiting for major equipment. He said toward the end of the month there will be a four week period when the plant will have a lesser degree of DEQ sanctioned treatment as they begin the change over in equipment.

Mr. McLeod said he will be bringing back a two issues to the Council, a few site changes for approximately \$15,000 and the building demotion of the abandoned digester and existing chlorine building for about \$12,700. Mr. McLeod said he solicited addition quotes for demolition and they were higher than the one he had.

Chief Giger informed the Council that they had inspected the building in question. There are moisture problems and the building would not meet their needs. He advised demoolition.

Mr. McLeod said he would return with the necessary change orders at the first meeting in February.

Meetings - Administrator Jordan reviewed a list of several meetings scheduled for the month:

January 26, budget meeting at 7:00 p.m.

January 20, FOCUS group will meet.

January 29, leadership seminar for elected officials by the FOCUS group.

January 20, workshop on Historical Ordinance.

Councilman Nolder noted that he would be the new FOCUS representative for the City.

OTHER REPORTS OR ANNOUNCEMENTS: Request for Canine Program - Chief Giger passed out additional information on the forfeiture funds, from which they wish to use to implement the canine program. Mr. Giger said no expenditures will come out of the regular budget for this program. He stated that the dogs are used for narcotics investigations, and a demonstration could be arranged. Chief Giger informed the Council that a three week training session will be held in February, and he would like Office Tim Skipper to attend.

Officer Skipper informed the Council that he had selected a Labrador Retriever from a trainer. He stated that the dog alerts by scratching at the source of the concealed narcotics and they also alert to tainted money. Officer Skipper reported that in 1990 the State Police seized over one million dollars due to their canine program.

Mayor Taylor asked if the dog could be loaned for others to use. Officer Skipper said they "bond" with only the handler and he would be the handler.

Mayor Taylor inquired about veterinary costs. Tim Skipper said he has made arrangements with a veterinarian who has offered to help out.

Officer Skipper pointed out that this dog would also be used in the schools with the DARE program.

Mayor Taylor asked about the vehicle modification. Officer Skipper said a cage would be constructed from material on hand and it would be able to be transferred to other units.

Chief Giger noted that Officer Skipper will still be obligated to his normal police officer duties. He commented that if Office Skipper is on vacation they will reciprocate services with another agency.

Councilman Daniels asked if we could cross train another officer. Tim Skipper stated that the dogs only "bond" with one person and are good for about seven years.

Councilman Prince noted that we need to review the forfeiture funds. Administrator Jordan said the Chief will be creating a long term budget regarding forfeiture money. He

said policy statements will be set for priority budgeting of the forfeiture funds.

The general consensus of the Council was to have the Police Department pursue the canine program.

Vehicle Insurance/Licenses - Councilman Prince noted that there appears to be an increasing number of drivers without a license or insurance. He suggested an ordinance for impounding vehicles be researched. Council directed staff to prepare a draft ordinance on this subject.

Auto Emission Testing - Councilman Prince said he had heard that DEQ will be expanding their auto emission testing area and Canby has been mentioned. Administrator Jordan said he attended a meeting on December 22nd at DEQ. DEQ is pursuing expanding their boundaries as instructed by the State Legislature. Mr. Jordan said Multnomah, Clackamas and Washington counties have been suggested as the area, however, criteria has not been set on how the boundaries will be defined.

Vision Program - Mayor Taylor pointed out that this City and other small cities are beginning to be impacted by the urban growth within the state. With this in mind, the Mayor said the City will be holding a "Vision Center." He explained that this would allow citizens to use electronic participation in visualizing Canby's future.

Cemetery - Councilman Nolder remarked that the Council had received a letter regarding the process of contracting the cemetery services. Administrator Jordan said we have been investigating privatizing the cemetery management and operations. We have negotiated some terms of a contract, and now the AFSME Union is reviewing the contract. He said this is time consuming because of time frame criteria. Also, there is the potential that an employee may be laid off from work. Mr. Jordan said he expected the contract to be implemented by March 1, 1994, if the Union does not present a counter proposal.

- ACTION REVIEW:**
1. Amending the Advanced Financing Ordinance for review.
 2. Amending the resolution for the Logging Road Industrial Park Advanced Financing.
 3. Appoint Maureen Miltenberger to head up task force for Locust Street Park.
 4. Table Ord. 905, Historic Ordinance and set January 20th workshop on this ordinance prior to final action February 2nd.
 5. Prepare draft Liquor License approval process.
 6. Prepare draft ordinance on uninsured drivers for confiscation of vehicles.

****Councilman Prince moved to go into Executive Session under ORS 192.660 (1)(h), regarding pending litigation. Motion seconded by Councilwoman Stark and approved 4-0.**

Mayor Taylor recessed the regular session at 10:10 p.m. to go into Executive Session. The regular meeting was reconvened at 11:12 p.m. and immediately adjourned.

**EXECUTIVE SESSION
JANUARY 5, 1994**

Present: Mayor Taylor, Councilors Daniels, Stark, Nolder and Prince, Administrator Jordan, Attorney Kelley and Cam Sivesind.


Mayor Taylor called the session to order in the CUB conference room at 10:15 p.m.

ORS 192.660 (1)(h) - The Council discussed possible litigation regarding advanced financing of Willow Creek.

The pending OSHA hearing was discussed.

Mayor Taylor adjourned the session at 11:10 p.m.


Marilyn K. Perkett
City Recorder


Scott Taylor
Mayor