

**CANBY CITY COUNCIL  
REGULAR MEETING  
JANUARY 19, 1994**

**WORKSHOP:** Present: Mayor Taylor, Councilors Stark, Nolder, Daniels and Prince, Administrator Jordan, Attorney Kelley, Recorder Perkett, Shirley Strong, Roger Harris, Cam Sivesind, Sarah Jo Chaplin, two representatives from North Willamette Telecom and two representatives from Metro

The Council met in workshop session at 6:00 p.m. in the CUB conference room to discuss the possibility of the City of Canby becoming FCC certified in order to pursue regulating basic rates for cable TV.

**REGULAR SESSION:** Mayor Taylor presiding. Council members present: Cheryl Stark, Dennis Nolder, Walt Daniels and Terry Prince, Administrator Michael Jordan, City Attorney John Kelley, City Recorder Marilyn Perkett, Judge Jon Henricksen, Shirley Strong, Roger Harris, City Planner Bob Hoffman, Sarah Jo Chaplin, Vern Keller, Betsy Ross, Dave And Betty Lou Dalley, Janet Paulson, Curt McLeod and Cam Sivesind.

Mayor Taylor called the session to order at 7:30 p.m. in the Council Chambers. The flag salute and a moment of focus were observed.

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 January 5, 1994. Motion seconded by Councilwoman Stark and approved 4-0.

**OATH OF OFFICE TO COUNCILORS:** Mayor Taylor reported that a committee of Councilors Prince, Stark and himself had interviewed a variety of applicants for the position of City Councilor. They were all very skilled and qualified and at this time the committee nominated the names of Shirley Strong and Roger Harris.

\*\*Councilwoman Stark moved to appoint Roger Harris and Shirley Strong to the Canby City Council for the vacancies of Joe Driggers and Maureen Miltenberger. Motion seconded by Councilman Daniels and approved 4-0.

At this time, Judge Jon Henricksen called Mr. Harris and Ms. Strong forward to have the oath of office administered. After Councilman Harris and Councilwoman Strong repeated the oath of office, they signed their acceptance and were pronounced duly appointed by Judge Jon Henricksen.

Mayor Taylor also welcomed Sarah Jo Chaplin, newly hired Assistant to the Administrator, to the City of Canby staff.

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

**PUBLIC HEARING:** S. Pine Street Vacation - Mayor Taylor opened the hearing at 7:41 p.m.

Attorney Kelley reviewed the procedure for hearing a request on a street vacation.

Bob Hoffman explained that this vacation request is for a portion of S. Pine, and a simultaneous dedication of another five-foot wide strip of land adjacent to S. Pine. It is in

concert with a 92-unit apartment development by Lon Burdge.

Mr. Hoffman noted that the proper publications, site notices and notices to utilities had been made and no remonstrance had been received. He said the proposed vacation is detrimental in the re-alignment of S. Pine Street.

Mayor Taylor asked if anyone in the audience wished to address the street vacation, either pro or con. None was voiced.

Mayor Taylor closed the hearing at 7:45 p.m.

**\*\*Councilman Daniels moved that Ordinance No. 909, AN ORDINANCE VACATING AN EASEMENT AND A PORTION OF THE PUBLIC WAY KNOWN AS SOUTH PINE STREET WITHIN THE PRESENT CITY LIMITS OF CANBY, AND ACCEPTING DEDICATION OF ALTERNATE LOCATION be posted and come up for final action on February 2, 1994. Motion seconded by Councilman Prince and approved 4-0.**

**COMMUNICATIONS:** Administrator Jordan read a letter from Nancy Kopelk tendering her resignation from the Canby Utility Board.

Mayor Taylor expressed his appreciation to Ms. Kopelk for services to this board.

Councilman Nolder, Chair of a committee to interview applicants for the CUB positions, noted that applications will be accepted until February 1 and possible appointments will be made for the open positions at the February 16th meeting.

**NEW BUSINESS: Accounts Payable - \*\*Councilman Daniels moved to approve payment of accounts payable in the amount of \$230,277.90. Motion seconded by Councilwoman Stark.**

Mr. Daniels remarked that the large sum was due to a payment to Slayden Construction for work on the sewer plant project.

**\*\*Motion on the floor was approved by roll call vote, 6-0.**

**New Liquor License Application - Recorder Perkett informed the council that a new restaurant, Hoi Tin Restaurant, will be opening in the Canby Square Shopping Center, formerly Schneider's Restaurant. The owners have requested a liquor license to serve beer and wine. Both the Police and Fire Department have approved the application.**

**\*\*Councilwoman Stark moved to recommend approval to the OLCC for the beer and wine liquor license for the Hoi Tin Restaurant. Motion seconded by Councilman Harris and approved 6-0.**

**ORDINANCES & RESOLUTIONS: Ordinance No. 903 - Attorney Kelley reminded the Council that this ordinance was pulled from the agenda to review the Measure 5 contents. He said it was his opinion that this is not a method of levying a tax, but a method to reimburse for infrastructure development. Mr. Kelley confirmed his opinion with Dick Roberts, Bond Counsel.**

Also, Mr. Kelley pointed out the following changes in the ordinance regarding interest rates for the advanced financing:

Private developers will pay a 7% interest rate;

A public agency shall be reimbursed by the total cost of the improvement increased by the same interest rate, including costs, as the public agency pays to finance construction, multiplied by the fraction of area owned by the benefiting property owners of the total area of all the benefiting property owners; and

If the public agency makes improvements without the issuance of a debt, the reimbursement to the public agency shall be to the total cost of the improvement increased by the current interest rate private developers receive.

**\*\*Councilman Prince moved to adopt Ordinance No. 903, AN ORDINANCE FOR THE CITY OF CANBY, COUNTY OF CLACKAMAS, OREGON, AMENDING TITLE 4 OF THE CITY CODE. Motion seconded by Councilman Daniels.**

**DISCUSSION:** Councilman Prince expressed concern over the fixed interest rate of 7% and questioned the assessment for the development of a one acre parcel out of a 50 acre parcel.

Administrator Jordan said a "floating" interest rate would be very cumbersome to administer, and a resolution can change the rate periodically, if necessary.

After considerable discussion, the Council agreed to current ordinance language regarding the interest rate.

In regards to the one acre parcel scenario, the Mayor said he felt the "intent" of the ordinance was that the developer only pay for the one acre portion developed and the remaining 49 acres would not be assessed.

Curt McLeod remarked that the way the ordinance is worded identifies the legal description of the properties, so if a developer partitioned off one acre to develop, he would only pay on that one acre and the other 49 acres would still be within the legal description of what he has to pay when it is developed. Mr. McLeod said leaving the ordinance as it is written, will satisfy the "one acre scenario" concerns of the Council.

**\*\*Vote on the motion on the floor to adopt Ordinance No. 903, was 6-0 approval, by roll call vote.**

Ordinance No. 906 & 907: Attorney Kelley reported that every two years the Legislature amends the State Criminal and Traffic Codes. The proposed ordinances were drafted to adopt the new codes.

**\*\*Councilman Daniels moved that Ordinance No. 906, AN ORDINANCE AMENDING THE CITY CRIMINAL CODE AND ADOPTING BY REFERENCE THE STATE OF OREGON CRIMINAL CODES, AND DECLARING AN EMERGENCY be posted and come up for final action on February 2, 1994. Motion seconded by Councilman Prince and approved 6-0.**

**\*\*Councilman Nolder moved that Ordinance No. 907, AN ORDINANCE AMENDING THE CITY TRAFFIC CODE AND ADOPTING BY REFERENCE THE STATE OF OREGON MOTOR VEHICLE CODE, AND DECLARING AN EMERGENCY be posted and come up for final action on February 2, 1994. Motion seconded by Councilwoman Stark and approved 6-0.**

Ordinance No. 908 - Attorney Kelley reminded the Council that he had drafted this ordinance after their direction to implement an ordinance similar to Tualatin's regarding a process for recommendations to the OLCC on liquor licenses.

Chief Giger had prepared a memo indicating setting new fees as indicated in the ordinance: \$100 for new application, \$75 for change of ownership or privilege and \$35 for a renewal or temporary license.

**\*\*Councilman Prince moved that Ordinance No. 908, AN ORDINANCE ESTABLISHING A PROCEDURE FOR LIQUOR LICENSE REVIEW AND COUNCIL RECOMMENDATION TO THE OREGON LIQUOR CONTROL COMMISSION be posted and come up for final action on February 2, 1994. Motion seconded by Councilman Daniels.**

Chief Giger indicated that the Tualatin Chief of Police will be forwarding samples and documents regarding their process.

Administrator Jordan pointed out that this ordinance does not address the issue of a "special event hard liquor license." Attorney Kelley said he had not seen that in any other ordinance, however, he will research the OAR about the matter.

**\*\*Motion on the floor was approved 6-0.**

Resolution No. 553 - **\*\*Councilman Daniels moved to adopt Resolution No. 553, A RESOLUTION DESIGNATING THE LOGGING ROAD INDUSTRIAL PARK PROJECTS AS AN ADVANCED FINANCING IMPROVEMENT AND PROVIDING FOR ADVANCED FINANCED REIMBURSEMENT FROM BENEFITING FUTURE PROPERTIES. Motion seconded by Councilman Nolder.**

DISCUSSION - Mayor Taylor expressed concern about this resolution on Logging Road Industrial Park financing, specific to a small parcel located on the Highway 99E, known as the "Hellhake" property. Mr. Taylor noted that testimony at the last meeting indicated that this unique parcel would not gain benefit from the improvements. Therefore, he questioned if there was merit to this parcel being included in Zone 1, which pays the highest assessment cost.

Administrator Jordan briefly "recapped" the project for benefit of the new Council members.

Councilman Nolder asked the amount of the assessment for the parcel the Mayor questioned. He was informed that their assessment would be \$10,741.

Administrator Jordan reported that the property owners of the Hellhake property have applied for a partition, and at this time, ODOT has indicated that the rear parcel, when partitioned, will not have Highway 99E access.

Curt McLeod explained that the parcel in question is very long and narrow with a lot of street frontage on S. Pine Street. He said we would be improving approximately 740 feet of half street improvements, with curbs and sidewalks and realigning the intersection and installing a traffic signal on the highway. These improvements are immediately adjacent to the Hellhake property. Mr. McLeod said his assessment of \$10,741 is about 20% of the cost for improving his frontage. Also, as part of his partition, the City is asking him to dedicate 20 feet adjoining the entire Pine Street, as well as a small piece of property the City would like to negotiate to obtain for realignment of the intersection. Mr. McLeod said if he did not develop the property he would never need to pay the assessments. Mr. McLeod remarked that he felt the assessment for that parcel was very reasonable and noted that this advanced financing is under the "old" ordinance.

Mr. McLeod suggested that we delete the word "future" in the ordinance and just leave it at

"benefiting properties."

Bob Hoffman pointed out that under the "Resolved" part of the resolution the "Zone 3 assessments" was left out, and that will be corrected.

**\*\*The maker of the motion and the second, agreed to the suggested amendments. Vote on the motion was for approval 6-0.**

**UNFINISHED BUSINESS: MOU for OEDD Grant** - Administrator Jordan explained that the Memorandum of Understanding (MOU) with Oregon Economic Development Department (OEDD) is part of the documents regarding the OEDD grant of \$79,000 and a loan of \$635,000 for the Logging Road Industrial Park. Mr. Jordan said he was concerned about "special condition # 5," regarding the senior interest of the Advanced Financing District. Bond Counsel suggested that we consider "parody interest," which means equal interest with other loan obligations on that fund or request that OEDD take a "secondary" interest in that fund. Mr. Jordan said he talked with Bill Campbell of OEDD regarding this matter and he suggested a letter regarding the senior interest. Then the matter will be reviewed prior to signing the contracts. He added that the primary intent of the MOU is to declare both agencies' intent to proceed with the project. Mr. Jordan pointed out that we are allowed to borrow, in advance, up to \$30,000 for design purposes.

**\*\*Councilman Daniels moved to authorize the Mayor to enter into a Memorandum of Understanding with the Oregon Economic Development Department. Motion seconded by Councilwoman Stark and approved 6-0.**

**Cemetery Contract** - Administrator Jordan reminded Council that they had discussed the issue of contracting operations and maintenance of the Zion Cemetery. At this time, Phil Dalley, who has been in the cemetery business all his life, has agreed to contract with the City for Cemetery Services. Mr. Jordan said the agreement is for \$5,000 a month, with the contract covering all costs for maintenance, including materials such as liners, name plates, etc. Also, there is an incentive clause - if the cemetery generates over \$60,000 annually, the contractor will receive 10% of those revenues.

Mr. Jordan noted that the contract does not cover the payback to the Perpetual Care Fund for the Mausoleum. That will be paid back from our revenues. Also, the transfers in the budget from the Cemetery Fund to the Street Fund will be deleted since we will not be using other departments for cemetery uses. Mr. Jordan remarked that the contractor will pay rental rates for any City equipment he might use.

**\*\*Councilman Prince moved to authorize staff to enter into a Personal Services Agreement between the City of Canby and Phil Dalley dba PD Maintenance for the operations and maintenance of Canby Zion Memorial Cemetery. Motion seconded by Councilman Daniels.**

**DISCUSSION** - Mayor Taylor noted that he was pleased to see the City proceed with this process. However, he asked if the 10% incentive was based on gross revenue or above City costs. Mr. Jordan said it was based on gross revenues exceeding \$60,000. Mayor Taylor asked who would spend capital outlay in the scenario of a "disaster" that required a great deal of maintenance.

Dave Dalley interjected that the City will provide the revenues for capital improvements. Also, Mr. Dalley noted that the City would pay for projects, such as making a new entrance that would go by the Mausoleum. He noted this would be a marketing tool for the Mausoleum.

Mr. Jordan said that the City does have "control" over all capital improvements.

Dave Dalley remarked that improvement paid by the City should be amortized over a number of years before realizing increased revenues.

Mr. Dalley informed the Council that his brother, Phil, has created five cemeteries and is now operating three. He noted that he has had the same experience and will be working with his brother in Canby. He also reported that they will put a truck into service with a slogan on it that will say "Care with Caring."

Councilman Nolder reported that he had discussed this matter with the local Canby Funeral Chapel, and they think the proposal is great. Mr. Wellman stated that he knew the Dalleys personally, and felt the City couldn't find anyone better.

**\*\*Vote on the motion on the floor was approved 6-0.**

Mr. Dalley noted that he also has been in the cemetery business since he was 12 years old. With the his family's combined 100 years of experience, they feel they will service the City "well."

**OTHER REPORTS OR ANNOUNCEMENTS: Planning Department Update - Bob Hoffman updated the Council on the Community Services Department:**

- \* 17 land use applications have been received in the last 3 months, one small subdivision of 5 lots and one of 6 lots.
- \* new lot creations have slowed down.
- \* a 92 unit apartment complex has been approved on S. Pine near Township.
- \* Chevron Station is under construction on Highway 99E between Elm and Grant.
- \* two appeals are pending, the Northwoods Project and Howard/Guttormsen partition.
- \* the Kingdom Hall of the Jehovah Witness is in the process of building on S. Ivy Street.
- \* CTA has submitted applications for a Comp Plan Amendment and Zone Change on SE 2nd Avenue.
- \* Mr. Broetje has applied for a building permit for the new Logging Road Industrial Park.

In summary, Mr. Hoffman said the applications are more oriented toward industry.

- \* 34 single family and manufactured homes permits were issued in the past 3 months, making the total for 1993 140 units. Including multiple family units, the total of permits issued for 1993 was 199. He noted that sources say houses that go on the market usually sell in one month or less.
- \* The Transportation and Stormwater Management Studies are underway and should be ready about mid-year.
- \* The Historic and Sign Ordinances are still being worked on. He took this opportunity to thank Henry Fenske for the time and effort he applied to the Advanced Financing Ordinance, which was passed tonight.
- \* The Commission meets twice a month, and his staff reviews applications. The Commission currently has a place on their agenda to review planning issues such as street trees.
- \* The City may be applying for some grants from LCDC and the Transportation

Department which are funded by lottery and federal money. Some of the suggestions for these grant applications are:

- \* Transportation proposals on a study that is not dependent on the auto, perhaps pedestrian oriented.
- \* Detailed Land Use Plan for a specific area in the UGB.
- \* Detailed Growth Management steps, for example delayed annexation, urban reserves and urban cooperation agreement with the County.
- \* Focus Public Investment Plans, detailed plans for a proposed future major development.
- \* Finally, Metro has some proposals that should be announced by April. "Satellite City" is one of the scenarios which could have major impacts on Canby.

Mr. Hoffman noted that the City's only part in these grants would be a contact staff person, attendance at meetings, and copy work.

Councilman Nolder noted that he was very interested in the delayed annexation suggestion.

**MEETINGS** - Administrator Jordan announced that January 27th the Clackamas County Cities Association is in Lake Oswego; the Chamber of Commerce Dinner is January 25th; and January 29th there will be a summit meeting sponsored by the FOCUS group.

Mayor Taylor announced that the City is planning a day long goal setting session on February 19th at Canby High School. This will involve guest speakers from the state and Metro.

Councilman Prince reported that Planning Commission applications for commissioner are closed, and appointments should be made February 2, 1994.

**ACTION REVIEW:**

1. Bring back for second reading Ordinance's 909, 906, 907 and 908.
2. Implementing Ordinance 903, on advanced financing.
3. Recommending approval to OLCC for the Hoi Tin Restaurant.
4. Implementing Logging Road Industrial Financing Project by Resolution 533.
5. Entering the MOU with the OEDD.
6. Entering in to a contract with cemetery services with Phil Dalley.

**\*\*Councilman Prince moved to go into Executive Session under ORS 192.660 (1)(h) regarding pending litigation. Motion seconded by Councilwoman Stark and approved 6-0.**

Mayor Taylor reminded everyone of the last Historic Workshop tomorrow night, January 20th.

Mayor Taylor recessed the regular session at 9:32 p.m. to go into Executive Session. Mayor Taylor reconvened the regular session at 10:13 p.m.

Mayor Taylor noted that we are experiencing an increase in errors in ordinances and resolutions with sentences and words missing. He requested that more "proofing" be done on these.

Mr. Jordan suggested having one more person on staff review the documents.

Mayor Taylor adjourned the regular session at 10:18 p.m.

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EXECUTIVE SESSION  
JANUARY 19, 1994

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

Mayor Taylor called the session to order in the CUB conference room at 9:40 p.m.

ORS 192.660 (1)(h) - The Council discussed the following pending litigation cases:

Rinkes

ODOT vs. City of Canby

OSHA vs. City of Canby

Simnett/Montecucco vs. City of Canby

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



Marilyn K. Perkett  
City Recorder



Scott Taylor  
Mayor



# PROCLAMATION

**WHEREAS**, the Canby Police Department is joining other law enforcement agencies in Oregon, Washington and British Columbia in an enforcement blitz for the **"THREE FLAGS"** international Safety Belt Campaign. The campaign involves communities along Interstate 5 and Highway 97. Child passenger safety is the focus of this blitz period.

**WHEREAS**, the enforcement blitz will occur February 11 - 20, and corresponds with the **"NATIONAL CHILD PASSENGER SAFETY AWARENESS WEEK,"** which is February 13 - 19, 1994.

**WHEREAS**, the Canby Police Officer's efforts will encourage not only use of child safety seats, but **CORRECT** use of those seats. Used correctly, safety seats are 71% effective in preventing death from motor vehicle crashes, and 67% effective in reducing the need for hospitalization.

**WHEREAS**, the improved child safety seat law now requires all children up to the age of 4 years or 40 pounds, to be in an approved child safety seat.

**WHEREAS**, the Canby Police Department feels the safety belt and child safety seat law is an important public safety law. Our department officers will be aggressively looking for safety belt violators in order to impress on the motoring public the importance of buckling up. Safety belt and child safety seat enforcement is a priority with us because we know they save lives.

**NOW THEREFORE**, I, Scott Taylor, Mayor of the City of Canby proclaim the week of February 13-19, 1994 as

## **"NATIONAL CHILD PASSENGER SAFETY AWARENESS WEEK"**

in the City, and with the implementing of the **"THREE FLAGS PROGRAM"** in Oregon, Washington and British Columbia will ensure that all persons traveling anywhere here will **KNOW THAT EVERYONE BUCKLES UP IN THE GREAT NORTHWEST.** We also remind everyone to **DRIVE SOBER.**

**IN WITNESS WHEREOF**, I have hereunto set my hand and caused the Seal of the City of Canby to be affixed this 2nd day of February in the year of our Lord One Thousand Nine Hundred and Ninety-Four.

Scott Taylor, Mayor