

CANBY CITY COUNCIL  
REGULAR MEETINGS  
AUGUST 3, 1994

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

Also present: Assistant to Administrator Sarah Jo Chaplen, Police Chief Jerry Giger, Librarian Beth Saul, City Planner Bob Hoffman, Parks & Recreation Director Scott Nelson, City Recorder Marilyn Perkett, City Attorney John Kelley, John & Luci Green, Don & Chris Ohmart, Patrick & Larry Ross, Shawnah & Charlotte Carman, Dave & Delores DeGraw, Steve Landis, Greg Kroeplin, Drake Butsch and Ray Baldwin.

Council President Prince called the session to order at 7:30 p.m., followed by a moment of silence.

Roll call of the Council showed a quorum to be present.

MINUTES OF PREVIOUS SESSION: \*\*Councilwoman Stark moved to approve as distributed the minutes of regular session July 20, 1994. Motion seconded by Councilman Harris and approved 6-0.

CITIZEN INPUT ON NON-AGENDA ITEMS: Request to Waive Appeal Fee - Ray Baldwin, 210 S. Elm Street, addressed the Council requesting that the City initiate an appeal on a Design Review process for Pacific Pride. He added that a waiver of the \$400 appeal application fee was an alternative.

Bob Hoffman explained that the application in question was for an expansion of the Pacific Pride operation located off of S. Elm on S.W. Second and was for Design/Review.

Councilman Nolder asked if the ordinance had criteria for a "hardship" appeal application. Attorney Kelley said no provisions were in the ordinance.

Councilman Nolder asked what the \$400 fee was used for and was informed it was to recover processing costs.

Councilman Prince stated that he felt it would be a mistake to waive the fee for the appeal application.

Councilman Harris asked if this would set a precedent and possibly create more applications. Mr. Hoffman said we currently have about two appeals a year. He anticipated this would set a precedent, and the City would get substantially more requests if the fee were to be waived.

Several Council members noted that they did not know much about the application, therefore, a judgment decision would be difficult.

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Due to the time frame of 15 days to file an appeal, this matter had to be resolved tonight.

Mr. Baldwin stated that it was wrong to have a gas station less than 100 feet from his residence.

\*\*Councilman Harris moved to approve the request of Ray Baldwin to waive the appeal application fee for the Pacific Pride Design/Review process. Motion seconded by Councilman Nolder. The motion failed 5-1, with only Councilman Harris voting for approval.

Scott Nelson reminded the Council that the City currently uses a system to allow for a one-half reduction in parks & pool fees on a hardship basis using the Federal income standards. He added that some of the applicants' volunteer hours make up for the reduction in the fees.

Councilman Daniels noted that Mr. Baldwin had appeared before the Planning Commission twice to testify. Also, the business in question has been at that site for many years and is more than 100 feet from the Baldwin property. He stated this is only a design/review process, not a zoning process.

Council consensus was for staff to review some type of process that would allow for a "hardship" reduction in these type of fees.

Ray Baldwin stated that, in his opinion, it was unethical for him to pay to establish a case that he was personally opposed to.

Molalla River Bike/Pathway - David DeGraw, 29515 S. Molalla Forest Road, informed the Council that he was totally opposed to the proposed Molalla River Bike/Pathway. He asked the Council to seriously consider, "if it was a path going through property," how they would feel. He also expressed a concern for safety due to criminal activity in the area. Mr. DeGraw felt the proposed money for this project could be better used. He added that maintenance would be an ongoing financial burden. Mr. DeGraw stated that condemning property for this project is "unwarranted." He informed the Council that, in a one-mile section, he and his wife had collected 29 signatures of residents opposed to the project.

Shawnah Carmen, 3037 S. Cramer Road, reported that she purchased her property in 1990, and the proposed bike/pathway project would cut her property off from her water well and access. She said this was agricultural land and that is how she makes her living. Ms. Carmen said that bikes and horses do not mix. She asked who would clean up the "manure" on the pathway and maintain the area. She added that this was a total waste of money and said that property owners had never been contacted about the project.

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Councilwoman Stark asked how she could not have known about the project when it was in the newspapers. Ms. Carmen said it was the end of March when she found out about it.

Delores DeGraw gave a brief history of the Logging Road dating back to 1943. She pointed out that when Cavenham owned the road they tried to "give" it to the County, who didn't want it. Canby and Molalla both took a portion near their City. Now, millions of dollars are proposed to develop this road that nobody wanted.

Charlotte Carmen, reiterated that her daughter, Shawnah would have no access to her home if the project were to proceed.

Ray Baldwin asked how much had been spent on the feasibility study and was told \$35,000. Also, 3 to 4 million is proposed for the entire project. He asked what the "overage" in expenses were at the treatment plant project and was told none, that, in fact, it had come in under budget. Mr. Baldwin pointed out that these vast amount of expenses were unfair when the City could not afford to allow \$400 to be waived for an appeal process.

Mrs. DeGraw stated that petitions of property owners opposed to the Molalla River Bike/Pathways Project were turned in to both Molalla and Canby, and had not been acknowledged.

Sarah Jo Chaplen stated that these people would be put on a mailing list to be kept apprised of meetings. Also, she pointed out that staff is currently working with property owners regarding this project.

COMMUNICATIONS: Letter from Christian Church - Ms. Chaplen read a letter from Gary Davis, Canby Christian Church, commending City employee Scott Nelson for solving a problem regarding maintenance at Wait Park during church services.

Mr. Nelson said it was appropriate to recognize Parks employee Jerry Stanbery who actually arranged the work schedule at the park.

Kiddie Kapers Parade - Ms. Chaplen read a letter from Doug Birkeland, Kiwanis Club, requesting permission to hold the annual Kiddie Kapers Parade on City street on August 16th, as well as a police escort.

\*\*Councilman Daniels moved to allow the Kiwanis Club to hold their annual Kiddie Kapers Parade on August 16th, and to coordinate their activities with the Public Works and Police Departments. Motion seconded by Councilman Harris and approved 6-0.

Ms. Chaplen read an invitation from Nancy Wilmes inviting the Council to a breakfast at 8:00 a.m., prior to the Kiddie Kapers Parade.

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NEW BUSINESS: Accounts Payable - \*\*Councilman Daniels moved to approve payment of accounts payable in the amount of \$543,881.64. Motion seconded by Councilman Harris.

Mr. Daniels pointed out that a \$135,000+ payment was made to Slayden Construction for the sewer plant project; in addition \$181,000 was paid to Parker Northwest for the Logging Road Industrial Park Project.

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

Council President Prince noted that Judge Jon Henricksen, who was scheduled to present his annual Municipal Court Report, was ill and would be rescheduled on another agenda.

Prevention Team Contract - Steve Landis, D.A.R.E. Officer, informed the Council that the Canby Area Prevention Team would like to enter into a contract with Clackamas County for a \$4,040 grant to cover expenses for "Parenting for a Positive Future" classes. Mr. Landis stated that Virginia Biddle has offered to handle the bookkeeping element of the project.

\*\*Councilman Daniels moved to approve the contract for a grant of \$4,040 for the Canby Area Prevention Team from Clackamas County, and to authorize City Treasurer, Virginia Biddle, to handle the bookkeeping process. Motion seconded by Councilman Harris and approved 6-0.

ORDINANCES & RESOLUTIONS: Ordinance No. 924 - Attorney Kelley noted that this ordinance was to amend the parks code penalty provision making it an infraction for violations of the State Park regulations that the City adopted. Also, this ordinance makes possession and consumption of alcoholic beverages in the parks a "C" misdemeanor.

\*\*Councilman Nolder moved to adopt Ordinance No. 924, AN ORDINANCE AMENDING CITY PARKS CHAPTER 12.24.020 AND ORDINANCE NO. 914, REGARDING PENALTY PROVISIONS AND DECLARING AN EMERGENCY. Motion seconded by Councilwoman Stark.

Councilman Harris asked why this was important enough to initiate an amendment. Mr. Kelley said the class "C" misdemeanor gave the Police Officers the right to make an arrest and remove the violator from the scene. Also, an infraction means no arrest is made and no jail time.

Officer Kroeplin was present and agreed with Mr. Kelley's interpretation.

Councilman Harris presented the scenario that if someone was drinking alcohol in the park and stepped into the street then they could be cited. Mr. Kelley said, "If they were observed drinking," then they could be cited. However, if they were only

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in the street and not in the park, at this time, there are no provisions for arrest for public drinking except in the City parks.

Councilman Daniels pointed out that past history of abuse of alcohol in parks generated the action to initiate such ordinances.

Scott Nelson asked if his Parks staff could still issue citations and was told they could.

Councilman Nolder commented that many other cities have this same type of ordinance.

**\*\*Motion to approved Ordinance No. 924, was by roll call vote for approval, 6-0.**

Ordinance No. 925 - **\*\*Councilman Nolder moved to adopt Ordinance No. 925, AN ORDINANCE RELATING TO TAXATION, ESTABLISHING A CONSTRUCTION EXCISE TAX; AND DECLARING AN EMERGENCY. Motion seconded by Councilman Daniels.**

Drake Butsch, from the Home Builders Association of Metropolitan Portland, addressed the Council to urge them to reconsider the proposed excise tax.

Mr. Butsch reported that the HBAMP has 1500 members from all aspects of the building industry, from the framers to the carpentry finishers. He said the building industry has created 85 jobs in the Canby area since May 1st. Mr. Butsch noted that 60% of home buyers are current residents moving to another home. He stated that it is the home buyer that ultimately must pay for this tax. Mr. Butsch pointed out that we currently have SDC's and permit fees that provide for the growth and infrastructure in our community, and it was unfair to ask a new home buyer to pay more by this tax.

He stated that it violates the City's Comprehensive Plan by violating the following:

\*Comp Plan states, "...assuring that local requirements and regulations are not overly restrictive."

\*Comp Plant states, "...the private sector to provide low income housing and encouraging low income housing aimed at private ownership, so property is not reduced from the tax rolls."

Mr. Butsch said they will be asking the Attorney General's Office to review the ordinance for legality. He stated that Canby would be the first City in the state to pass such a tax. Also, his organization will be proposing legislation to make this "unfair."

Finally, he asked if the Council does pass this ordinance, would they consider eliminating the emergency clause and giving people 60 days to continue with current building plans.

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Councilman Nolder reported that the citizens he hears from are opposed to paying for growth.

Councilman Daniels questioned if Canby would be the first City to implement this tax. Mr. Butsch said that after public hearings in Portland, the proposed tax failed twice.

Attorney Kelley pointed out that we modeled our ordinance after a Maryland ordinance.

Councilwoman Stark said she was opposed to the proposed ordinance, saying it was unfair.

Councilman Harris said it was a way for new development to help pay for such things as streets and police protection. He didn't feel the additional money would stop a first-time home buyer, and it could be recouped at resale time.

Councilman Nolder agreed with Mr. Harris saying current citizens did not want to pay for Canby growth.

Councilwoman Strong stated that it was an unfair tax.

Councilman Prince stated that he was initially in favor of the proposal, however, if the revenue went to the Planning Department he was concerned about the other department budgets.

Ms. Chaplen commented that the budget committee would decide each year what the excise tax revenue would fund.

\*\*Roll call vote was a tie, voting YES were Nolder, Daniels and Harris; and voting NO were Stark, Strong and Prince. The motion FAILED.

Resolution No. 567 - Recorder Perkett explained that this was the resolution suggested by the Traffic Safety Committee to increase their committee membership from five to seven members. She also stated that the four positions for that committee could be appointed after the adoption of the resolution.

\*\*Councilman Daniels moved to adopt Resolution No. 567, A RESOLUTION CREATING AND ESTABLISHING A COMMISSION FOR THE PURPOSE OF DEVELOPMENT AND IMPLEMENTATION OF COORDINATED TRAFFIC SAFETY PROGRAMS WITHIN CANBY TO BE KNOWN AND DESIGNATED AS THE CANBY TRAFFIC SAFETY COMMISSION. Motion seconded by Councilwoman Strong and approved 6-0.

\*\*Councilman Daniels moved to appoint Matt Knoblauch, Butch Neff, Barbara Guild and Bill Cassel to the Traffic Safety Commission for terms to be drawn by lot. Motion seconded by Councilwoman Stark and approved 6-0.

Resolution No. 568 - Ms. Chaplen said the resolution was to authorize membership in the CIS Insurance Group which included cities, counties and schools. She stated that the City has had coverage with CIS for many successful years.

Councilman Nolder informed the Council he would abstain from voting on this resolution since CIS is a client of his. He also stated that this self-insurance was supported by the League of Oregon Cities and was initiated for municipalities in 1979 when insurance could not be obtained on the open market.

**\*\*Councilwoman Stark moved to adopt Resolution No. 568, A RESOLUTION AUTHORIZING MEMBERSHIP IN THE CITY/COUNTY INSURANCE SERVICES TRUST. Motion seconded by Councilwoman Strong.**

Councilman Prince asked if the \$76,000 for CIS in the accounts payable was for the premium. He was informed it was but the check had not been mailed.

The Council requested that these type of contract documents be presented to the Council in a more timely manner, preferably 30 days in advance of effective date.

**\*\*The motion was approved 5-0, with Councilman Nolder abstaining.**

UNFINISHED BUSINESS: Adult Center Contract - Scott Nelson reported that the proposed contract has very minor changes and outlined that the City would take care of the facility and the Friends group would provide the services.

Councilwoman Strong asked about a section in the contract which stated the furnishings, whether donated or purchased, are owned by the City and maintained by The Friends. Mr. Nelson said that was correct and was primarily for insurance purposes.

**\*\*Councilman Daniels moved authorize approval of the Canby Adult Center and City of Canby contract as presented. Motion seconded by Councilwoman Strong and approved 6-0.**

Logging Road Change Order - Curt McLeod informed the Council that the Logging Road Industrial Park project is 60% complete with base paving to be done next week and final paving in four to five weeks.

Mr. McLeod explained the change order requests:

1. \$ 2,727.00 - Realignment of S. Pine Street due to a conflicting water line. Mr. McLeod said a savings for gas line reconstruction in the amount of \$2,500 will offset the request.
2. \$ 327.00 - Modify manhole to drop below telephone conduit ducts that were unknown to Canby Telephone.

3. \$ 1,350.00 - Dry well construction, because of the modification, 165 feet of storm line construction was deleted for about the same cost savings.

4. \$ 17,158.90 - Add 12" storm drainage across 99E. This is part of the work traded with ODOT for the City's share of the proposed signal installation at the site.

Mr. McLeod further requested an increase of \$6,400 to their engineering contract. It is to provide for additional survey expenses and continued engineering involvement through the signal design.

\*\*Councilman Daniels moved to approve the change order on the Logging Road Industrial Park to Parker Northwest Paving in the amount of \$21,562.90, seconded by Councilman Nolder and passed 6-0.

\*\*Councilwoman Stark moved to increase Curran-Mcleod engineering contract by \$6,400 to provide for additional survey expenses and continued engineering involvement through the signal design, seconded by Councilwoman Strong and passed 6-0.

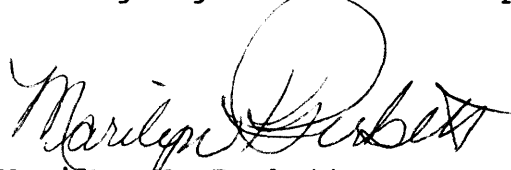
OTHER REPORTS: Joint Meeting with the Planning Commission on August 17th,


ACTION REVIEW:

1. Explore hardship payments
2. Letter from Molalla Pathway
3. CIS/renewal more timely (need 30 days)
4. Keep Wednesday 17th Council Meeting light

Councilwoman Stark announced that Canby can be proud of it's Girls' softball program. The 16 and under team placed 5th overall in Regionals in Billings, Montana, the highest any Oregon team placed; and the 12 and under team placed 2nd in Spokane.

Meeting adjourned at 9:50 p.m.

  
Marilyn K. Perkett  
City Recorder

  
Terry Prince, Acting Mayor  
Council President