

**CANBY CITY COUNCIL  
REGULAR MEETING  
NOVEMBER 2, 1994**

**WORKSHOP:** A workshop session was held at 6:00 p.m. in the CUB board room to discuss the scheduling of the Police Department staff. The Mayor and entire Council were present, along with Chief Giger, Lieutenant Scharmota, Michael Jordan, Sarah Jo Chaplen and Marilyn Perkett.

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

Also present: Administrator Michael Jordan, Chief Jerry Giger, City Attorney John Kelley, City Planner Bob Hoffman, Library Director Beth Saul, Assistant to Administrator Sarah Jo Chaplen, City Recorder Marilyn Perkett, Patti Flagg, Ralph Netter, Drake Butsch, Mr. & Mrs. John Watson, Kevin Calcagno, Pat Curran and Curt McLeod.

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 COUNCIL:** The entire Council was present.

**MINUTES OF PREVIOUS SESSION:** \*\*Councilman Prince moved to approve the minutes of regular session, October 19, 1993, as distributed. Motion seconded by Councilwoman Stark and approved 6-0.

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

**PROCLAMATION:** American Free Enterprise Days - Mayor Taylor proclaimed November 14 & 15, 1994, as American Free Enterprise Days in the City of Canby.

Kevin Calcagno, a member of the CUHS Future Business Leaders of American, accepted the proclamation and informed the Council that the purpose of this was to honor the value of the free enterprise system. He stated that several fast food businesses in the area will have special "deals" to honor the Free Enterprise Days.

**PUBLIC HEARING:** Storm drainage Master Plan, SDC Methodology: Mayor Taylor opened the public hearing at 7:40 p.m. and briefly reviewed the process.

Curt McLeod, informed the Council that his partner Pat Curran was also present, and that they had prepared the Master Plan, along with the help of three other firms, Harding Lawson Associates, the environment analysis, Engineering and Environment Services and Raymond Bartlett, who did the financial analysis.

Mr. McLeod stated that the draft document contained the implementation measures, implementation costs, management practices to minimize problems, and future ways to cope with regulations.

He pointed out that a drywell log was prepared for Roy Hester to use as a maintenance tool.

Mr. McLeod said there are two phases of storm water regulations being imposed by EPA: Phase I affects populations of 100,000 or greater and were required to be permitted by October 1993, Phase II will include all the remaining cities. However, he added, the final draft of regulations is not definite. Mr. McLeod said his firm has modeled the report after

the Phase I scenario of 100,000 populations so Canby will be prepared for whatever comes down the line for larger municipalities.

He said there were three components to their work:

Master Planning Component, which inventories the storm drainage system and proposed improvements to the system

The second was in regards to water quality analysis. They inventoried the contaminants in the storm water and developed contraction standards for the treatment to meet requirements.

The third component was the financial analysis which identifies the costs and the means for paying for the improvements.

Mr. McLeod said his firm reviewed the following for Phase I: inventoried land uses, prepared ground water and geological maps, identified drywells and the major drainage basis. There are 8 major basins and approximately 120 subbasins. He said most of the UBG drains to the Willow Creek area and, ultimately, to the Willamette River. The other major drain area is off N. Third, the Rinkes property.

Mr. McLeod identified improvements for Phase I, noting that the problem resolution phase is meant to identify areas of need. He stated that the existing drywell system is adequate in most all of the community. In the area around 10th Avenue and Pine a system requires immediate improvements for drainage.

Mr. McLeod said a \$420,000 piping improvement, which includes a large trunk that will go to the Molalla River along 10th Avenue, is required. Also, land acquisition will be necessary for one large treatment facility below Territorial adjacent to the City Shops and Sewer Plant. Finally, miscellaneous cleaning of 40 drywells will be required.

The total cost for Phase I, to be implemented as soon as funds are available, is \$662,000.

Phase II is triggered when EPA requires an NPDS permit for each discharge point along with monitoring and treatment. The estimated cost for this phase would be \$500,000.

He pointed out that in some areas, such as at the end of 34th where it discharges straight to the Willamette River, educational programs may be necessary to minimize contamination.

Phase III will be implemented when EPA mandates that drywells are no longer acceptable, which may be decades away. A system has been planned where collection from every drywell can be taken to region treatment facilities. The expense for this Phase is nearly 10 million dollars.

The second component of their work was to address treatment and monitoring. He pointed out that a filtering criteria needs to be at the base of each drywell. The basic criteria is that when drywells are implemented, they need to stay out of the ground water. He added that the majority of storm water in Canby is developed in the streets and most private property water perks into the ground. Also, 90% of contaminants come during the first couple storms of the winter season.

The final component of the document regards the costs, or SDC methodology. He said that since most of the storm water is predominately from the streets, the developments that impact the Transportation System, impact the Storm water Drainage System. The fee would probably become a tax & could be collected by the County. The other option is to

"piggy-back" the storm water with the wastewater fees, He recommended imposing this fee with the transportation fee.

Mr. McLeod reviewed the costs of the three phases, the complete cost of operation and maintenance, and then identified existing benefits as well as benefits for future development within the UGB which allowed a total cost that needs to be paid by both existing and future users.

Mr. McLeod proposed a financing program to implement Phase I: An annual fee for single family residential would be \$ 2.50 for operation and maintenance, and an additional \$6.00 to retire the debt service for Phase I.

Phase II is an additional \$2.10 annually, and Phase III would be \$39.50 annually.

Mr. McLeod reviewed the SDC fees: for a single family residential home, there would be a one time fee of \$4.00, based on 9.55 daily trips. In Phase II, it would be increased by \$18.50 and Phase III would add a one time fee of \$350.00. He stated that chances are we may never get to Phase III.

He said because of our surrounding soil and drywells the City is actually in "good shape."

RECOMMENDATIONS: Mr. McLeod suggested the City adopt the plan, adopt an SDC, and adopt a utility fee to support the implementation of the plan. The targeted date for the implementation of Phase I is 1997. Finally, he recommended the City submit the plan to DEQ for review and acknowledgement.

DISCUSSION: Councilman Prince asked Mr. McLeod to review the fees on the page 7 schedule.

Councilman Nolder asked Mr. McLeod to explain "why" we were doing this. Mr. McLeod replied that in 1982 there were regulations put in place that allow only certain levels of contaminants to discharge into surface waters and that the Clean Water Act required EPA standards to be implemented in two phases. The first phase to be implemented by cities with 100,000+ population, as well as commercial customers, by October 1993. The second phase applies for all other discharges. However, it is in the court systems today because definitions are not clear with regards to 1-5 acres sites. This should be out of the court system by the end of the decade, and then implemented.

Councilman Daniels asked when the survey was done on the drywells. Mr. McLeod replied that it was done during the wet season, but the problem drywells weren't working good anyway.

Councilwoman Strong questioned the per unit scenario. Mr. McLeod explained that per unit meant each dwelling unit. Commercial units are based on 1,000 square foot of floor area, and public schools on a per student cost.

Councilman Prince asked if streets would be torn up during Phase III. Mr. McLeod replied said they would, which is why it is so costly.

Councilman Daniels asked if all drywells would be eventually eliminated, or if the effectiveness of drywells would be considered. Mr. McLeod felt if we could prove adequate treatment with our drywells, they would look at it favorably and "we would fight to the end that our drywells are adequate and our treatment systems are adequate." He added that hopefully, we can make a "case" not to implement Phase III.

Councilman Nolder asked what the immediate cost would be if this plan were approved. Mr. McLeod referred to a cash-flow forecast for the next ten years in the document. In 1997, the first substantial capital outlay would be made and, thereafter debt service is factored. He added that we actually start collecting the SDC now.

Administrator Jordan reminded the Council that tonight the Council was asked to adopt the plan and the SDC methodology.

Mayor Taylor closed the public hearing at 8:25 p.m.

**\*\*Councilman Nolder moved to adopt Resolution No. 573, A RESOLUTION APPROVING A STORM WATER MASTER PLAN AND ESTABLISHING A METHODOLOGY FOR A STORM WATER SYSTEMS DEVELOPMENT CHARGE. Motion seconded by Councilman Prince.**

Councilman Prince noted that he was pleased that the City has implemented this program at this time.

**\*\*The motion was approved 6-0.**

Councilman Nolder said he has been asked about "Lake Pine" near the new Logging Road Industrial Park and asked what could be done about the problem. Mr. McLeod said that the City will work with farmers in the area to educate them about "run-off" methods. Then the City will add some type of berms. He added that this particular problem was created by a very dramatic storm of more than normal rainfall. In the interim, bales of hay will be used for a temporary solution.

**COMMUNICATIONS:** None reported.

**NEW BUSINESS:** Accounts Payable - **\*\*Councilman Daniels moved to pay accounts payable in the amount of \$244,250.69. Motion seconded by Councilwoman Strong.**

Mr. Daniels commented that \$116,734 was payment for the Industrial Park paving.

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

**ORDINANCES & RESOLUTIONS:** Ordinance 929 - Administrator Jordan reminded the Council that this was the second reading for the proposed excise tax ordinance to raise the revenues to balance the 1994-95 budget.

Attorney Kelley stated that this ordinance was modeled after one imposed by METRO and had provisions for a rebate, refund and exemptions.

Drake Butsch, from the Home Builders Association of Metropolitan Portland, addressed the Council to express is opposition to the proposed ordinance. Mr. Butsch said the argument to implement this tax for growth was not strong and felt SDC's were the best revenue method. He added that new development lowers the taxes for existing residents from the increased value of the new houses. He furthered argued that the tax was unfair to residential builders and noted that no such tax will be imposed on commercial development. He added that Canby already has several SDC charges for new development. Mr. Butsch stated that the tax violates the City's goals for the need for affordable housing required by the Comp Plan. He asked where the money would go, stating that there appears to be no definite dedication of the funds. Mr. Butsch stated that a jurisdiction is not allowed to declare an emergency on a tax measure and asked Council to remove the emergency clause and set a sixty (60) day waiting period for adoption, if the

Council chooses to go forward with the proposed tax.

John Watson, 6 Othello Lake Oswego, stated that his existing business, a manufactured home park, will be adversely affected by this tax. He said that he made no provisions in his financing package to include this additional tax. Mr. Watson compared his manufactured home park to an apartment complex that does not have to pay the proposed excise taxes and pointed out that this is unfair.

Councilman Nolder explained the appeal process in the ordinance.

Councilman Prince stated that he wanted these revenues to be dedicated to the Police Department and streets.

Attorney Kelley reviewed case law regarding the emergency clause, which he felt was justified for a municipality.

Councilman Harris said he supported this ordinance the first time it was on the agenda and still does, specifically because he felt that each new home costs the City money for services above what the SDC's compensate. He also agreed with Mr. Prince about dedicating the revenues to certain funds.

Councilwoman Strong noted that at the last budget committee meeting they were one short of a quorum so discussions at that time were only considerations. Mayor Taylor felt the consensus was strong at the last budget meeting and thought a quorum vote would still have been the same.

Mayor Taylor commented that the City is having more and more demands for services, and the City must maintain those services. He stated that there appears to be a desire to maintain the "quality of service and atmosphere" that Canby portrays. He doesn't feel this additional excise tax will stop people from wanting to make Canby their home.

**\*\*Councilman Harris moved to adopt Ordinance No. 929, AN ORDINANCE RELATING TO TAXATION, ESTABLISHING A CONSTRUCTION EXCISE TAX, and eliminating Section 17, Emergency Clause. Motion seconded by Councilman Prince and approved 4-2, with Councilors Stark and Strong voting nay.**

Ordinance Amending Code 15.04 - Attorney Kelley reported that Bob Godon, Building Official, requested this amendment to the Building Code to provide for a Certificate of Occupancy as a requirement for any structure prior to occupancy.

**\*\*Councilman Nolder moved that AN ORDINANCE AMENDING CHAPTER 15.04 OF THE CANBY MUNICIPAL CODE ADDING A NEW SECTION REQUIRING CERTIFICATES OF OCCUPANCY; AND DECLARING AN EMERGENCY be posted and come up for final action on November 16, 1994. Motion seconded by Councilman Daniels.**

Councilman Prince asked if this was for new construction, as well as remodels. Mr. Jordan said it only applied to new permits.

Mayor Taylor asked why this was necessary if it is not already a part of the Uniform Building Code, and suggested more research on the matter.

**\*\*Councilman Harris moved to table the motion on the floor - AN ORDINANCE AMENDING CHAPTER 15.04 OF THE CANBY MUNICIPAL CODE ADDING A NEW SECTION REQUIRING CERTIFICATES OF OCCUPANCY; AND**

DECLARING AN EMERGENCY be posted and come up for final action on November 16, 1994. Motion seconded by Councilman Daniels and approved 6-0.

John Watson asked that the City check to see if it applied to manufactured homes.

**UNFINISHED BUSINESS:** None presented.

**OTHER REPORTS OR ANNOUNCEMENTS:** METRO Memo - Councilman Prince asked for clarification on the memo regarding "Concerns about 2040 Recommended Alternative," dated October 14, 1994. Mr. Prince said the Council only voted on three of the four concerns listed. He said he was not in favor of the first one, "30,000 Job and Household Diversion from METRO Area to 3 n Neighboring Cities."

Mayor Taylor said his interpretation was that we were opposed to the number one concern.

Councilman Prince said the Council needed to discuss all of the issues regarding METRO.

Bob Hoffman noted that this memo was only presented for information and several meetings have been planned.

Mayor Taylor suggested that Bob Hoffman, Councilman Prince, Councilman Daniels, and Commissioner Ewert get together and discuss these issues and then discuss the matter at the next workshop prior to the Council meeting.

Meetings - Administrator Jordan informed the Council that the City would have an "employee appreciation" lunch on November 16th at Old Town Hall.

November 17th a METRO hearing meeting has been scheduled in Canby at the Elm Street Inn, 6:00 p.m.

Candidates - Mayor Taylor reminded everyone of Election Day next Tuesday, November 8th. He noted that the present Council is made up of diverse people and they all are striving for the best for Canby. Mayor Taylor said he would be "happy" to serve with the present five Council members running for office. Also, the continuity of maintaining the same Council is important.

**ACTION REVIEW:**

1. Implement Resolution 573, to Adopt the Storm Water Systems Plan and SDC Fees.
2. Implement the excise tax in 30 days, as per Ordinance No. 929.
3. Review the Uniform Building Code regarding an amendment on Occupancy Permits.

**\*\*Councilman Prince moved to go into Executive Session under ORS. 192.660 (1)(e), to negotiate real property, (1)(h), regarding pending litigation, and (1)(i), to review and evaluate an employee related performance. Motion seconded by Councilman Harris and approved 6-0.**

Mayor Taylor recessed the regular session at 9:36 p.m. to go into Executive Session. The regular meeting was reconvened at 10:40 p.m.

Councilwoman Stark asked when the Planning Commission appointment should be made, specifically regarding Jim Larson who has applied for the Commission. Mayor Taylor suggested that the application process be closed by next Friday.

Mayor Taylor adjourned the session at 10:43 p.m.

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EXECUTIVE SESSION  
NOVEMBER 2, 1994

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


Mayor Taylor called the session to order at 9:43 p.m. in the CUB board room.

ORS 192.660 (1)(h) - The Council discussed the pending litigation regarding Rinkes vs. City of Canby; and Klem vs. City of Canby.

ORS 192.660 (1)(e) - the Council discussed purchase of property located on N.W. Second.

ORS 192.660 (1)(i) - the Council reviewed the performance of the Executive Officer.

Mayor Taylor adjourned the session at 10:37 p.m.



Marilyn K. Perkett  
City Recorder



Scott Taylor  
Mayor

# PROCLAMATION

**WHEREAS**, the American Free Enterprise System is the mainstay of our economy; and

**WHEREAS**, this Free Enterprise system provides each consumer with the freedom to choose from a variety of merchants; and

**WHEREAS**, this system guarantees both consumer and merchant rights under the law; and

**WHEREAS**, many youth organizations like the Future Business Leaders of America support the continued growth of this system; and


**WHEREAS**, the fifteenth day of November, 1994 is unofficially recognized as American Free Enterprise Day nationwide.

**NOW, THEREFORE**, I, Scott Taylor, Mayor of the City of Canby, Oregon, proclaim that November 15, 1994, be declared

## **AMERICAN FREE ENTERPRISE DAY**

and urge the citizens of Canby to observe this day by supporting the System.

**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 November in the year of our Lord One Thousand Nine Hundred and Ninety Four.

  
Scott Taylor, Mayor