

**CANBY CITY COUNCIL
REGULAR MEETING
DECEMBER 1, 1993**

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

Also present: Administrator Michael Jordan, Police Chief Jerry Giger, City Attorney John Kelley, Assistant City Planner Jim Wheeler, Librarian Beth Saul, City Recorder Marilyn Perkett, Don Stash, Pat Mitchell, Margaret Dority, Mark O'Shea, Hank Fenske, Steve Hanson, Martha Schrader, Susan Abe, Mr. & Mrs. Ken Perinchief, Paul Stipe, Ed Montecucco, Jerry & Jim Simnitt, Cam Sivesind and others.

Mayor Taylor called the regular session to order at 7:30 p.m., followed by the flag salute and a moment of meditation.

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 November 17, 1993. Motion seconded by Councilwoman Stark and approved 6-0.

CITIZEN INPUT ON NON-AGENDA ITEMS: Councilwoman Miltenberger addressed the Council about a "flyer" that was left at her home last Monday regarding the recall process. She said the "vote yes on the recall" literature implies that both she and Joe Driggers have a great deal of power. Ms. Miltenberger said she has worked with people for 25 years and in her experience has not seen a group of people working against another group of people use the type of tactics that are being used in this campaign. Maureen said she would not "narrow" herself to socialize with people of only one persuasion. Ms. Miltenberger said that in her opinion the constitution says you cannot vote on "human rights." She said she respects the individual decisions of all people on both sides of the recall issues, specifically for standing up for their beliefs if they come from the heart. She said if people are making their decision on some of the information that has been circulated and believe it out of fear or misunderstanding, "then maybe I'm a little embarrassed to live in Canby, especially if that's the way you vote on issues where people are involved." She encouraged everyone to keep in mind, "there are people involved."

Martha Schrader, 2525 N. Baker Drive, asked the Council if they had any questions about the proposal she had sent to the federal government. The proposal was seeking a \$258,000 grant to hire four new police officers for a community based program, including another D.A.R.E. Officer. Mrs. Schrader commented that with the 4% growth each year in Canby crime will rise, and currently juvenile crime is rising. She said the grant application has suggestions on a number of ways to seek alternate funding for the City's share of the financing.

Mayor Taylor said he felt it was time to let the citizens of Canby know that Measure 5 is real, and the City doesn't have the budgeted funds that are required for this type of grant. He said if we did this, it would take money away from other areas. He said the document starts us down a "spiral debt, that I can't figure how to get out of." Mr. Taylor suggested discussing alternate funding with Mrs. Schrader. He said, "I'm not convinced that we are doing everything we can to do business the best way we can."

Mrs. Schrader encouraged the Council to have a meeting to discuss the entire document.

She felt that City services should keep up with our growth. Also, she said the Police Department are "marvelous guys and do a great job."

Mayor Taylor said he wanted it understood that, "we think we have an outstanding Police Department and are very proud of what they do and how they do it." However, he remarked that someone has to keep paying the costs and felt citizens should be aware of the money needed.

PROCLAMATION: Toys for Tots Week - Mayor Taylor proclaimed the week of December 6-14, 1993, as Toys for Tots Week in Canby and urged citizens to participate in the holiday toy drive.

Nancy Wilmes informed the Council that 12,000 toy and food baskets were distributed in Clackamas County last year. Canby distributed 1,200 of these baskets. She urged everyone to participate in the toy and food drive.

COMMUNICATIONS: None presented.

NEW BUSINESS: Accounts Payable - **Councilman Daniels moved to approve payment of accounts payable in the amount of \$267,009.32. Motion seconded by Councilwoman Stark and approved by roll call vote, 6-0.

ORDINANCES & RESOLUTIONS: Ordinance No. 902 - Administrator Jordan reminded the Council that this ordinance was initiated to create a fund for the library to accumulate donations for future improvements to the library.

**Councilman Prince moved to adopt Ordinance No. 902, ESTABLISHING AN ENDOWMENT FUND FOR THE CANBY MUNICIPAL PUBLIC LIBRARY, and that it become a law of the City of Canby. Motion seconded by Councilwoman Miltenberger and approved by roll call vote, 6-0.

Ordinance No. 903 - Administrator Jordan informed the Council that the second reading of this ordinance regarding advanced financing will be rescheduled until January. Mr. Jordan noted that Attorney Kelley is still researching information for the document regarding Measure 5.

Ordinance No. 904 - Chief Giger reported that this ordinance was drafted to help offset some of the expenses incurred for background checks on citizens purchasing firearms.

**Councilman Daniels moved to adopt Ordinance No. 904, AN ORDINANCE AMENDING CHAPTER 9.08 OF THE CANBY MUNICIPAL CODE REGARDING THE SALE OF FIREARMS AND ESTABLISHING A BACKGROUND INSPECTION FEE. Motion seconded by Councilman Driggers and approved 6-0, by roll call vote.

Councilman Driggers asked if the firearms vendors had been notified of this action. Chief Giger said they were advised.

Ordinance No. 906 - Jim Wheeler, Assistance Planner, informed the council that the applicant for the proposed zone change was John Watson. The location is 1111 S.E. 3rd Avenues at the end of S. Pine Street. The applicant is requesting a zone change from R-1, Low Density to R-2, High Density Residential. The proposed site is for a mobile home park with 60 approved unit sites. Mr. Wheeler said the applicant has already completed the site and design review, and the Planning Commission has recommended approval for the zone change. Mr. Wheeler pointed out that the request conforms to the Comp Plan.

****Councilman Daniels moved that Ordinance No. 906, AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF CANBY, COUNTY OF CLACKAMAS, OREGON, be posted and come up for final action on December 15, 1993. Motion seconded by Councilman Driggers.**

Councilman Driggers asked if the Pine Street improvements could be required to have advanced financing by the Commission. Mr. Wheeler said if the City were not already doing so, yes. Mr. Wheeler said Mr. Watson would be responsible for what the City is looking to recover in costs in an advanced financing issue.

Mr. Driggers asked if the CUB services and fees had been resolved by Mr. Watson. Mr. Wheeler said this had been resolved.

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

Mayor Taylor called for a short recess at 8:01 p.m. The regular meeting was reconvened at 8:06 p.m.

UNFINISHED BUSINESS: Sewer Plant Change Order #2 - Curt McLeod reported that the plant expansion is now 83% completed. They are presently fighting the weather, although most work is indoors.

Mr. McLeod said he wanted the Council to consider Change Order #2, most of which has been discussed by the Council. He noted that the aeration basin is a little higher than originally estimated, \$33,000 instead of \$20,000. He said the total request is for \$61,177. Mr. McLeod discussed the six items:

1. The polymer aging tank was discussed in August, for an amount of \$4,974.
2. A series of changes in the building in wiring and piping for a net cost of \$309.
3. The aeration basin diffusers, discussed in October, is now up to 500 diffusers. This will give a system that will function until the stage two construction. Total cost for this item is \$33,861.
4. Re-coat primary clarifier mechanism, as presented in October, for \$8,608.
5. Purchase a general purpose pump, as presented in October, for \$12,000.
6. A manhole rehabilitation, as presented in October, for \$1,425.

Mr. McLeod said most of the items are discretionary, however, they will improve operations and cut down operation costs.

Councilman Daniels asked if the total sum was higher than the original bid. Mr. McLeod said yes this would increase the contract by \$61,177.

Mayor Taylor asked if we were still under budget. Mr. McLeod said yes, we are probably in the \$500,000 range below available funds.

Councilman Prince noted that we have 2.8 million project, but have bonds for 4.1 million. He asked where the difference in money is being spent. Mr. McLeod said the engineering was about \$450,000, bond cost issues were \$120,000, approximately \$385,000 for reserves, and the difference is the remaining cash that we have.

Mayor Taylor asked about the additional diffusers. Mr. McLeod said the additional diffusers will make a modular system and have a better treatment capacity.

Mayor Taylor asked if there would be other change orders. Mr. McLeod said every month some items come up that are unanticipated. He will be coming back with another change order, hopefully the last.

Mayor Taylor asked about the building that was suggested to be removed. Mr. McLeod said he is waiting for other bids on removal of the building. Mr. Taylor asked if this building could be saved to use for other City functions. Curt said Mr. Hanson has talked to Mr. Hester and Chief Giger on alternate uses for that particular building.

****Councilman Daniels moved to authorize Change Order #2 for the Canby Wastewater Treatment Plant for a total of \$61,177. Motion seconded by Councilman Driggers and approved 6-0.**

OTHER REPORTS OR ANNOUNCEMENTS: Administrator Jordan asked if we would be meeting early on December 15th, and was told we would have an early workshop.

Planning Commission Terms - Administrator Jordan reminded the Council that December is the end of two Planning Commissioner terms. One Commissioner is not interested in serving again, the other would like to serve again. Two other citizens are interested in serving on the Commission, and the local newspaper will print an article to solicit interest. Mr. Jordan said we should be ready in January to review the applicants.

Cable TV Rate Regulation - Administrator Jordan said that under new federal legislation, municipalities can enter into an agreement to regulate basic cable rates. We have a form to complete and mail by December 11th to see if we qualify to regulate the cable rates.

Mayor Taylor asked when the next "window" would be available to pursue this process. Mr. Kelley said he didn't know the answer. He stated that if we were approved as a basic rate regulator, then within 30 days after notification, we have to pass our own regulations for setting the cable rates. The deadline for establishing our regulations is January 11th.

Councilman Prince expressed his wishes to pursue this issue.

Councilman Nolder asked who regulates the rates now. Mr. Kelley said it is federally regulated, and at this time he knew of no other jurisdiction pursuing this process.

The general consensus of the Council was to send in the application to become qualified as a cable rate regulator.

Attorney Kelley also informed the Council that we could hire a cable consultant to assist us in establishing our regulations once we are qualified.

Mayor Taylor requested that this be discussed at the next meeting. Also, to research consultant fees.

CRAEG Meeting - Mayor Taylor said he attended the CRAEG meeting last night (November 30th) regarding the county-wide 911 system. Mr. Taylor had a copy of the initial by-laws and asked the Council to review this document. The next CRAEG meeting is December 17th. Comments should be forwarded to Mr. Taylor prior to that date.

Recall Flyers - Mayor Taylor displayed a copy of a flyer being distributed by the supporters

of the recall. The back of the flyer indicates a specific book "available at the Canby Public Library." Mayor Taylor said this book is not in our library, however, there is one copy of the book located in the County Library system. Mr. Taylor said the information on the flyer was not accurate.

- ACTION REVIEW:
1. Implement ordinance # 902 to create a library endowment fund.
 2. Reschedule ordinance # 903 for a January meeting for final action.
 3. Implement ordinance # 904, regarding fees for backgroundchecks on firearm purchasing.
 4. Post ordinance # 906 and schedule for the next meeting.
 5. Review the cable basic rate regulation issue and schedule for next meeting.

****Councilman Prince moved to go into Executive Session under ORS 192.660 (1)(e) to negotiate real property. Also, to go into Executive Session for emergency conditions under ORS 192.660 (1)(h) to consider current litigation or litigation likely to be filed. Motion seconded by Councilwoman Stark and approved 6-0.**

Mayor Taylor recessed the regular session at 8:34 p.m. to go into Executive Session. The regular meeting was reconvened at 9:00 p.m.

Mayor Taylor asked the Council for some guidance on the issue of the Police Department's deficient of \$30,000 to \$50,000 in their budget. He reminded the Council that this matter was discussed at a workshop a two weeks ago along with Chief Giger, Lt. Scharmota, Officer Kroeplin and Office Skipper.

Also, Mayor Taylor said the Council should discuss the grant that Martha Schrader had discussed earlier since a some of the Council members were not fond of the grant as written.

Councilman Nolder asked who authorized the grant. Mr. Jordan said he authorized it since the deadline was November 30. Mr. Jordan said his concerns were to be sure we weren't committed and to bring it to the Council to discuss if we could meet the annual money match.

Councilman Nolder asked how much Mrs. Schrader received for the grant. Mr. Jordan said she received \$350 for submitting the grant, and if it is awarded, she gets a percentage.

Councilman Prince expressed a concern about submitting of grants prior to the Council being aware. He said it was like, "getting the cart before the horse," until the Council makes a decision if that is the direction they wish to pursue.

Mayor Taylor reminded the Council that Mrs. Schrader had stated that there are measures to pursue for additional funding to assist in this grant. Mr. Taylor said it should be made clear to Mrs. Schrader that the Council must review any grants that contain ongoing financial commitments from the City.

Mr. Jordan said he understood the political issue, if this gets some publicity, regarding the amount of money needed over the next four years and what it will cost the taxpayers. However, he said Mrs. Schrader does have alternative suggestions for matching money. Mr. Jordan said there are valid arguments for the necessity of four more police officers over the next four years. He again reminded the Council we do not have a commitment.

Councilman Prince said that the information provided does not show the justification for four new officers in his opinion. He said we have made an effort in the last three years by adding three new officers, and the police department still feels they are being affected adversely by Council decisions.

Councilman Driggers stated that he was in favor of community policing activities.

Councilman Daniels reminded the Council of the "lay committee" that was to work on the community policing issues, however, the committee consisted mostly of police officers. This committee has not been very active in the last few months.

Councilman Driggers said he liked the idea of a loan to cover the Police Department budget deficit, however, he is not comfortable loaning the department \$50,000, perhaps a portion.

Mayor Taylor said by loaning the money this year, we automatically begin with the deficit next year. This means a great deal of our 6% tax base increase next year will go directly to the Police Department. Ultimately, other departments must hold even in their budgets.

Mr. Jordan said if an arbitration award is more than the City has allocated for public safety, then we could reduce staffing to match what we have allocated in the budget. He said this has been a philosophical stance of the Council regarding binding arbitration. He then questioned if "outcomes" could be maintained with less staffing. Mr. Jordan said there would be about a \$7,000 deficit for the Police Department budget next year in the salary line item, due to the arbitration award. He said the clothing allowance would be another \$12,000 per year which was not budgeted for at all. Mr. Jordan said the Council must decide if the extra money is worth the established outcomes, or if less staffing can accomplish the outcomes. He also informed the Council that the auditors will move the retro-pay to last year's budget, which means we will get a letter from the Secretary of State regarding an out-of-balance budget for 92-93, and it will also reduce our cash position for the end of that fiscal year.

Mayor Taylor said he was not happy with the attitude of the Police Department regarding the budget deficit. He felt they did not show enough initiative to cover the deficit. He went on to reiterate some of the criminal issues in town, such as a drive-by shooting. This should be told to the Council before they read it in the paper. He said we need to get the point across that we are in trouble financially, and people may need to be laid off of work.

Councilman Driggers said he was disappointed that the "outcomes" nature of the budget had not been shared with all Police Department personnel.

Mayor Taylor commented that he was aware that it may take 2-3 years for City "personnel" to feel comfortable in working with "outcomes." However, he expected a shorter time frame for compliance with the Police Department.

Councilman Daniels said he felt that the police weren't taking responsibility for the issue, rather they were saying it is the fault of the Council and Administration who were involved with the negotiations.

Councilman Nolder asked how much impact the OSHA issue had on the police budget. Mr. Jordan said it was about \$17,000 for the radio replacements. The minimum staffing issue has not had visible impact yet and he did not know about overtime issues.

Mayor Taylor said that overtime is way "up."

Councilman Driggers asked if there were a difference between discretionary overtime and

non-discretionary. Mr. Jordan said he knew that police discretionary overtime is in trouble. The non discretionary is normally used for court time, and the remaining overtime is allocated as discretionary

Mayor Taylor said he felt it was clear to him that the police personnel feel it is "the bill you pay," regarding the overtime.

Councilwoman Stark expressed frustration, as a new member, specifically because she wanted to know why the Council let the Police Department get to the size it is now. Mayor Taylor replied that it happened over a period of time for a desire to have and maintain a good Police Department. He also admitted to a certain amount of "weakness" on the part of the Council for allowing the department to take care of their own department matters. He also implied that Measure 5 has had some financial implications on the department, much the same as the state is facing in many of their departments.

Councilwoman Stark asked if any other department is facing similar problems. She suggested that the Chief and Lieutenant meet with the budget committee to discuss this. Mrs. Stark expressed concern that all personnel in the department are not aware of what is expected of them. She felt the department should be given so much money and if they cannot work within the amount received, then they would have to do without some personnel.

Councilman Driggers said what he hears is a conflict in attitude.

Councilman Daniels reminded everyone that they must also deal with the police union.

Mayor Taylor commented that he works with police department daily in his personal life. He said Canby has one of the better departments. They are more educated and do the day-to-day things fairly well. He said his frustration is that they will not change.

Councilwoman Stark said the Council should be more affirmative in their dealings with the department.

Councilman Driggers questioned the military structure of the department, like having Lieutenants and Sergeants. Mayor Taylor said they have historically been structured in this manner, however, now some departments are structured in a different manner. He did note that there seemed to still be a "clear order" in rank.

Administrator Jordan reminded the Council that it is very difficult to change not only a professional structure, but a social one as well.

Councilman Driggers suggested that perhaps the message has not been made clear to the Police Department that change is needed.

Mayor Taylor reflected that in his personal work, some of his top personnel are having trouble with the change necessary to follow the new outcome budget process. He said it takes a great deal of commitment and energy to be successful.

Councilman Driggers said he is committed to his role as a Councilor, however, he was not sure how much energy was necessary to resolve this police issues. He pointed out that he works with schools everyday and they seem to be in denial regarding changes and budget cuts that had become necessary.

Councilman Daniels expressed frustration because he said the Council assumes things are being done when departments are asked to do them. This doesn't always seem to be apparent with the Police Department.

Councilman Prince said police departments parallel military systems. He said to get attention in the military, some of the top personnel are relieved of duties. He said he felt the department heads are not functioning the way the Council wants them to function.

Councilwoman Stark expressed concern about priorities. She cited the Bike/Pathways Project that has seemed to be a top priority of the Council. She reiterated that threats should not be made. She felt it is time the Council took action. If money is not available then personnel should be laid off. Mrs. Stark said she thought we should lend the money to the Police Department for this year, however, the following year personnel could be laid off if a budget deficit is still evident.

Councilman Prince said the fact that we have allowed police personnel to be hired in the past few years shows the Council's priority in public safety.

Councilman Driggers suggested that the Police Department rearrange their structure to have more people on the street and less people in the building. Also, the possibility of a county-wide communications could redirect money to the Police Department services. He also felt the OSHA expense for radios should merely be viewed as a budgetary expense for equipment.

Administrator Jordan said as of June 30, 1993, the general fund will be "x" number of dollars less because of the shortfall placed in 92-93 by the auditors.

Councilman Nolder suggested that the budget committee be involved in this discussion.

Councilwoman Miltenberger said the advisory group did work strongly for awhile. She did not understand what happened as far as the current lack of activity. She sensed an anger regarding this issue. Ms. Miltenberger also felt that she personally needed to be better educated about the Police Department inner-workings. She said she went into the workshop prior to the last meeting not knowing what was to be discussed, and she felt the police weren't totally prepared for the discussion that did take place since they couldn't answer some questions. She also pointed out a lack of communication with the Police Department and Council, citing the drive-by shooting that happened two houses from where she had lived for many years and not knowing there were any problems there. Ms. Miltenberger said it is not just the Police Department. She often reads things in the paper before being made aware as a Councilor. She stated there need to be better communication with the Police Department.

Councilman Daniels suggested that Councilwoman Miltenberger, as the liaison with the Police, check with them more often on their activities.

Councilman Nolder suggested the problem seemed to be more an attitude issue with the department. They feel the Council should give them whatever it takes to provide public safety. He feels everyone has been trained to think in that manner.

Administrator Jordan asked, "How can you argue against safety?" The real issue is whether there is money to provide it.

Councilwoman Miltenberger said that in the past, during goal sessions, police and safety usually come in as top priority.

Mayor Taylor said, in his opinion, he does not agree with "public safety." This term does not mean you are necessarily safer in your home. He said people believe that having another officer drive around town will make them safer - it does not. Police respond after an incident, then they find the individual and the corrections system takes over. Mr. Taylor

said that is why the "outcomes" system is important. Successful outcomes will show it is a safer City. He said he wasn't interested in more officers giving tickets. In his opinion, public safety was when he could feel at ease about walking around at night, or someone not stealing from his home in the daytime. It's a sense of security that is necessary. What the department personnel are really doing with their time is what is important. Mayor Taylor said the overtime factor creates a real financial problem. Many law enforcement agencies he is familiar with do not allow overtime. They manage by making priority decisions that are shared with the community. He said it is "human nature" for people to be intrigued with the Police Department activities. Mr. Taylor said there is something wrong if department heads cannot give a professional level of response to his questions.

Mr. Taylor said he may have less tolerance than others since he personally works for an agency that is laying off public safety personnel everyday.

Mayor Taylor suggested a workshop be scheduled for the next meeting at 6:00 p.m. with the budget committee, Chief Giger, Mr. Jordan and anyone else necessary, to discuss the Police Department budget problems. The session will set policy for a department that has budget deficits first, then inform them of the current police deficit and what will happen for the ensuing years for the Police Department.

Councilman Driggers reiterated that we set the priority on the outcomes. Until priorities are changed, the funding won't change.

Mayor Taylor suggested that when the regular budget meetings are scheduled, we should review the various department outcomes. These meetings should start sometime in January.

Councilwoman Stark also suggested that the Council meet with all Police personnel.

Mayor Taylor adjourned the regular session at 10:25 p.m.

EXECUTIVE SESSION
DECEMBER 1, 1993

Present: Mayor Taylor, Councilors Miltenberger, Prince, Nolder, Stark, Daniels and Driggers, and Administrator Jordan.

Mayor Taylor called the session to order at 8:40 p.m. in the Canby Utility Board Room.

ORS 192.660 (1)(e) - The Council discussed possible purchase of real property for a southside park.

ORS 192.660 (1)(h) & ORS 192.640 (3) - An Emergency Meeting under ORS 192.640 (3) was called to discuss a newly filed lawsuit before LUBA, entitled Simnett Nurseries vs City of Canby. On the morning of December 1, 1993, attorney for the potential intervener, Northwoods Investments, Steven Pfeiffer, requested the Council consider withdrawing its previous decision for reconsideration. The decision must be withdrawn prior to the date the record is due to be submitted to LUBA. Because the Council would not meet again before this deadline for submitting the record was past, it was decided to hold an emergency meeting. The Oregonian and The Canby Herald were both notified by telephone that afternoon as was attorney Ed Sullivan, counsel for the Simnett Nurseries.

Council declined to take any action on the request.

Mayor Taylor adjourned the session at 9:00 p.m.

A handwritten signature in cursive script, appearing to read "Marilyn K. Perkett". The signature is fluid and somewhat stylized, with a large loop at the end.

Marilyn K. Perkett
City Recorder

A handwritten signature in cursive script, appearing to read "Scott Taylor". The signature is bold and stylized, with a large loop at the end.

Scott Taylor
Mayor

WHEREAS, Toys for Tots, originated for the purpose of providing toys for less fortunate children in our community; and

WHEREAS, it is recognized that greater public awareness and involvement is needed to provide and promote joy in each household in this community; and

WHEREAS, the Canby Chapter of Kiwanis, has undertaken the project of collecting and distributing toys to these children, during the time from December 6th through December 14th; and

WHEREAS, The Kiwanis need your help by providing new and like new articles that may be placed in the Christmas bags; and

WHEREAS, drop boxes for these donations may be found at the Canby Public Library, Canby Utility Board, Canby Police Department, Canby Fire Department, North Willamette Telecom, Canby Telephone Association and other Kiwanis barrels distributed throughout the Canby business community.

NOW, THEREFORE, I, Scott Taylor, Mayor of the City of Canby, Oregon, do hereby proclaim the week of December 6 - 14, 1993 as

TOYS FOR TOTS WEEK

and call upon the citizens of this City to observe this time by participating in this toy drive helping to provide the assurance that each child may have a "twinkle in their eye" this Holiday Season.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of Canby to be affixed this 1st day of December in the year of our Lord One Thousand Nine Hundred and Ninety-Three.

Scott Taylor
Mayor

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