

**CANBY CITY COUNCIL  
REGULAR MEETING  
FEBRUARY 3, 1993**

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

Also present: Administrator Michael Jordan, City Attorney John Kelley, City Planner Bob Hoffman, Police Chief Jerry Giger, Public Works Director Rusty Klem, Librarian Beth Saul, Aquatics Director Scott Nelson, City Recorder Marilyn Perkett, Jim & Bev Simpson, Barbara Guild, Leona Sandsness, Pete Kelly, Darlene Key, Evelyn Meredith, Jack & Lois Murray, Max Dusselhaus, Clarence & Helen Potampa, Norma Bivens, Stan Elliot, Lee Wiegand, George & Dorothy Mickel, Ronald Tatone, Dorothy McCormick, Curt McLeod, Peggy Sigler, Kurt & Martha Schrader, Kimberly Churchill, Susan Abe, Doretta & Sarah Schrock, John Watson, Royann Lund, Wade Wiegand, Dave Eby, Terry Blackwell, Linda Mihata and Tamara Maher.

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

**\*\*Councilman Daniels moved to approve as distributed the minutes of regular session, January 20, 1993. Motion seconded by Councilman Nolder and approved 5-0.**

At this time, Mayor Taylor explained to the audience that the workshop session scheduled for the end of the meeting was not a hearing. Mr. Taylor said the workshop was primarily for the Council and Planning Commission to review and comment on the "first draft" of a proposed Historic Preservation Ordinance. Citizens would be allowed to comment, however, no debates or actual testimony would be taken. The Mayor noted that this ordinance would be reviewed in a public hearing format before the Planning Commission prior to coming to the Council in adoption form.

**CITIZEN INPUT ON NON-AGENDA ITEMS:** John Watson, Lake Oswego and developer of Pine Crossing, addressed the Council regarding an action he has filed against the Canby Utility Board and City of Canby. Mr. Watson wanted the Council to be informed that the reason he would not continue on the street and sewer alignments was for economic reasons.

Attorney Kelley said that when he spoke with Mr. Watson's lawyer, Mr. Charles Corrigan, that all "dealings" were to be directly between Mr. Corrigan and Mr. Kelley and not Mr. Watson. Mr. Kelley said he would not participate in any dialogue.

Mr. Watson wanted the Council to realize that the only reason he said "no", was an economic issue and was not intended for leverage or negotiating. Mr. Watson briefly reviewed the proposed siting of his street, and utilities, as proposed with his set of plans. However, due to the changes, specifically those that initiated the law suit, that project is no longer viable. He said they would continue to work toward some equitable resolution regarding this issue. Mr. Watson noted that he had not asked for waiver's of connection costs, however, if the City did waive some costs, perhaps they could get closer to a solution. Mr. Watson said a meeting will be set between CUB, the City and his representatives. He said he needed numbers regarding potential assessments for street and sewer in the subject area.

Mr. Kelley, once again, reiterated the fact that he must deal directly with Mr. Watson's attorney, Mr. Corrigan, due to the law suit that has been filed. Also, Mr. Kelley implied that Mr. Watson should receive a letter in a couple days that outlines the City's position on this issue.

**SEWER PLANT PROJECT UPDATE** - Curt McLeod briefly updated the Council on the proposed schedule for the sewer plant project. We will advertise for bids in the Daily Journal of Commerce on February 4 & 11, 1993; distribute plans and specs on February 15, 1993; bid opening will be in the Chamber on March 11, 1993, at 3:00 p.m.; award contract on March 17, 1993; execute contract and notice to proceed on March 31, 1993; and hold a pre-construction conference on April 5, 1993. Mr. McLeod said the plans have been reviewed with DEQ and everything is in line and ready to proceed.

**PUBLIC HEARING: Street Vacation of "Old" Knights Bridge Road** - Mayor Taylor reviewed the hearing process for the audience.

Mayor Taylor opened the hearing at 7:50 p.m. Mr. Taylor asked the Council if any member had a conflict of interest on the hearing subject. None was declared. The Mayor then asked the hearing body if anyone had any exparte' contact on the subject. None was declared.

**STAFF** - Rusty Klem, Public Works Director, said this street vacation was initiated by a petition from Ron Tatone. He reminded the Council that the City requested transfer of the road from Clackamas County and has now received that transfer. Mr. Klem pointed out that Mr. Tatone's subdivision, Lillians Meadow, Phase I, was approved contingent upon this street vacation prior to continuing with Phase II. Property owner to the south, John Mitsch and property owner to the west, Paul Dupont have both consented to the street vacation. Staff recommends approving the vacation and retaining a twelve (12) foot utility easement on each side of the joint property line. Mr. Klem also suggested that Lillians Meadow be granted secondary access to this street. The Dupont's and Mitsch's will continue to use this road as an access to their property.

Councilman Daniels asked if access would be limited to the back yards of Lillians Meadow residents. Mr. Klem said it would be limited, however, he felt there should not be a total closure.

Councilman Prince asked how potential property owners would know about the access and how large the lots are. Mr. Klem said the vacation will be recorded and would be found in a lien search. Also, Mr. Tatone usually has restrictions in his land sales. Mr. Klem said the lots are about 8,000 square feet.

Councilman Nolder asked if the right-of-way down the center would hamper the other two existing owners that use this road and who would maintain the road. Mr. Klem said both property owners have approved the vacation and are willing to maintain the road. Also, Mr. Dupont will be provided access through Lillians Meadows.

**APPLICANT** - Ron Tatone, informed the Council that he had no objections to any of the staff report. He said that the frontage road, N.W. 8th Place, will paved up to the Dupont property. Mr. Tatone said the lots will be 116 feet deep, so they will have ample room, even with the proposed 12 foot easement.

Councilman Nolder and Daniels both expressed concern about the access usage to the rear of the lots. Mr. Tatone felt it would not be a problem and the wording in the ordinance specifies that the traffic should be "minimized".

**PROPOSERS** - None.

**OPPOSERS** - None.

Mayor Taylor closed the hearing at 8:12 p.m.

**\*\*Councilwoman Miltenberger moved that Ordinance No. 882, AN ORDINANCE VACATING OLD KNIGHTS BRIDGE ROAD ALIGNMENT WITHIN THE PRESENT CANBY CITY LIMITS AND DECLARING AN EMERGENCY be posted and come up for final action on February 17, 1993. Motion seconded by Councilman Daniels and approved 5-0.**

**COMMUNICATIONS: LOC Amicus Funding Request** - Administrator Jordan briefly reviewed the request from League of Oregon Cities for contributions to an amicus fund to assist in financing an appellate brief in the Roseburg School District vs. City of Roseburg case. Mr. Jordan said that the City of Roseburg charges a storm drainage fee and when challenged by the school district, the court decision was that this charge was to be considered a tax under the new Measure 5 criteria. This decision will ultimately have impact on various cities that imposed fees and charges, including Canby.

**\*\*Councilman Daniels moved to contribute our fair share of \$300 to the LOC amicus fund for their efforts in the appellate brief for the City of Roseburg. Motion seconded by Councilman Prince.**

Councilwoman Stark asked if we have used this fund before and how much has been contributed in the past. Mr. Jordan said we generally allocate \$100 each year and have never used those services to date.

**\*\*Motion was approved, 5-0.**

**Wilsonville Proclamation** - Administrator Jordan presented the Mayor with a framed proclamation that he had received on Monday night at the Wilsonville Council meeting, congratulating Canby on our Centennial Anniversary. Mayor Taylor read the proclamation and then presented it to Beth Saul for display in the library.

**NEW BUSINESS: Accounts Payable** - **\*\*Councilman Prince moved to approved payment of accounts payable in the amount of \$88,975.36. Motion seconded by Councilwoman Miltenberger and approved by roll call vote, 5-0.**

**Annual Liquor License Renewals** - Recorder Perkett reviewed the list of 14 entities in the City of Canby that were requesting their annual renewal of liquor licenses.

**\*\*Councilman Prince moved to recommend approval to the OLCC for the following liquor license renewals: Roth's IGA, 7-11 Store, Willamette Valley Country Club, American Legion # 122, TNT Market, Canby Bowl, Filbertreats, Jarboe's Grill, Cutsforth's Thriftway, Elm Street Inn, Gold Dragon Restaurant, Fultano's Pizza and Marvel's Pizza. Motion seconded by Councilwoman Miltenberger and approved 5-0.**

**Community Action Representative** - Recorder Perkett reminded the Council that Betsy Ross had resigned in December, 1992, from the Clackamas Community Actions Board and Councilwoman Miltenberger had suggested that Bryan Sullivan be appointed. Mr. Sullivan had submitted a letter of interest to serve on a City board and had pertinent qualifications for this particular board. He was contacted and has consented.

**\*\*Councilman Daniels moved to appoint Bryan Sullivan to the Clackamas County Community Actions Board. Motion seconded by Councilwoman Miltenberger and approved 5-0.**

**Wait Park Gazebo Use** - Administrator Jordan reported that this issue is one that has been discussed in the past and considering the fact that the budget committee has suggested a review of revenue generation, the issue has surfaced again. Mr. Jordan said that we do sustain some costs, such as electricity to the gazebo and park maintenance. The Public

Works office schedules for the gazebo. Non-profit organizations will not be charged a fee, the suggested rental fee for private use would be \$50 for a City resident and \$100 for an out of City resident.

**\*\*Councilman Daniels moved to approve the suggested Wait Park rental fee for private functions, \$50 for Canby residents and \$100 for out of City residents. Motion seconded by Councilwoman Miltenberger.**

Councilman Nolder asked how many weddings we schedule each year and was informed between 25 and 30.

**\*\*Motion was approved 5-0.**

**WORKSHOP: Historic Preservation Ordinance** - Mayor Taylor recessed the regular session at 8:36 p.m. to go into a workshop session with the Planning Commission for a workshop on the proposed historical ordinance.

The regular meeting was reconvened at 10:08 p.m.

**ORDINANCES & RESOLUTIONS: Ordinance No. 883** - Administrator Jordan reminded the Council that this ordinance was drafted after a complaint regarding trucks unloading in the middle of the street on N.W. Second Avenue.

**\*\*Councilman Prince moved that Ordinance No. 883, AN ORDINANCE AMENDING CODE SECTIONS OF CANBY MUNICIPAL CODE 10.04 RELATING TO PROHIBITING PARKING ON CITY STREETS AND DECLARING AN EMERGENCY be posted and come up for final action on February 17, 1993. Motion seconded by Councilwoman Miltenberger.**

Several Council members asked for a clarification on the phrase "does not impede traffic". Attorney Kelley said that any time a vehicle had to cross over the line to go around a vehicle that was unloading, they were impeding traffic.

Councilwoman Miltenberger asked if some businesses had only front access areas for delivery and was told that was true.

Councilman Prince suggested sending copies of the ordinance to all downtown businesses.

Chief Giger said that the police officers will probably first inform a delivery person of the new ordinance prior to citing them.

**\*\*Ordinance 883 was approved, 5-0.**

**Ordinance No. 884** - Attorney Kelley informed the Council that this is a "housekeeping" measure to keep our building code current.

**\*\*Councilman Daniels moved that Ordinance No. 884, AN ORDINANCE ADOPTING THE 1991 EDITION OF THE UNIFORM BUILDING CODE STANDARDS OTHER UPDATE SPECIALTY CODES AND DECLARING AN EMERGENCY be posted and come up for final action on February 17, 1993. Motion seconded by Councilman Prince and approved 5-0.**

**Resolution No. 530** - Administrator Jordan explained that the County is asking the City to support their 3-year Law Enforcement Serial Levy. Mr. Jordan explained that he is a member of a committee that has been working on the issue of tax equity in regards to the County Sheriff's services. A proposal to form a law enforcement districts has been

defeated twice at the polls. This new proposal is to have a differential rate serial levy for the County Sheriff's services, one rate for inside incorporated cities and a higher rate for the rest of the county, whether incorporated or not.

**\*\*Councilwoman Miltenberger moved to adopt Resolution No. 530, A RESOLUTION IN SUPPORT OF THE CLACKAMAS COUNTY THREE-YEAR LAW ENFORCEMENT SERIAL LEVY. Seconded by Councilman Prince.**

Mayor Taylor suggested that wording be added to the resolution regarding the financial support to other areas, such as, District Attorney's office and corrections. Administrator Jordan suggested adding the following:

*"WHEREAS, the proposed three-year serial levy also supports related services, such as Community Corrections, District Attorney's office, the Cares Program and juvenile programs."*

Both the maker and second of the motion agreed to the amendment.

**\*\*Motion was approved 5-0.**

**UNFINISHED BUSINESS:** None presented.

**PROCLAMATION:** Canby Centennial Year - Mayor Taylor proclaimed February 15, 1993, as Canby's 100th Birthday Party and the entire year as Canby's Centennial Celebration.

**OTHER REPORTS OR ANNOUNCEMENTS:** Proposed CDBG Projects - Rusty Klem explained that the CDBG program has an additional \$750,000 that must be allocated prior to October, 1993, when the new funding cycle starts. Mr. Klem reviewed six possible applications that City staff had suggested:

1. An addition to the Adult Center, \$172,181, with a required match of \$41,234. Mr. Klem felt this is a good project and noted that initial construction was with CDBG funds.
2. S. Locust Street Park, \$90,000 and a total project cost of \$310,000. Mr. Klem said this is an excellent project and we are ready to make an acquisition. However, we had been awarded money for a S. Park project before and were not able to use it, thus asking that it be transferred to the Swim Center Project. At that time, the CDBG people told us not to ask for money for this project in the future.
3. Community center on S. Knott Street, \$60,750, with a \$13,950 match. This project needs a great deal more staff work. The purpose is to purchase a house near the proposed S. Locust Park site and eventually refurbish it as a community center.
4. N. Cedar Street improvements, \$70,000, with a \$14,00 match. This is not in the target area, however, the area is comprised of people who meet the low and middle income criteria.
5. G.I.S. acquisition, \$30,000, with a match of \$6,000. Mr. Klem said this system would be a great help in the planning department. Benefits to low and moderate income would be difficult, however, he felt it would meet criteria for the planning category in the CDBG program.
6. ADA improvement, \$121,000, with a \$25,200 match. Mr. Klem felt this was the "weakest" proposal since most of the estimates are preliminary and we may not be able to show the low and moderate test.

Mr. Klem affirmed that staff would return with the selected applications on February 17th, saying they had to be submitted to the Block Grant program on February 19, 1993. Mr. Klem noted that several advocates for the Adult Center were in the audience and may wish to address the Council.

Mayor Taylor asked if we would submit these in a prioritized order and was told, yes.

Dorothy McCormick, Center Director, informed the Council that in Clackamas County, Canby is third highest for senior population and in regards to square footage for the senior centers, Canby is the third smallest which should substantiate the "need". Mrs. McCormick said that the Friends of the Adult Center is willing to "front" some of the match money, hoping for a payback.

Clarence Potampa, member of Friends of Adult Center, said they have committed \$20,000 in matching funds to assist.

Dorothy McCormick reported that the center will "front" an additional \$8,000. The reason they would like to be reimbursed for their money is to implement other projects. She said this money is their "safety-net". Mrs. McCormick implied that there is no time line for repayment, "whenever it could happen."

Mr. Klem reminded the Council that the proposed projects must be "shelf-ready", and more than one project can be submitted.

Councilman Prince prioritize the list as follows: Number one, Canby Adult Center and number two, south side Park; he expressed interest in the community center but felt we needed more discussion; he is interested in making the GIS application; and is not sure about the street project without further information.

Councilwoman Stark agreed and felt the Adult Center should be first priority.

Councilman Nolder, agreed with Mr. Prince and Mrs. Stark.

Councilwoman Miltenberger set the S. side park as her number one priority and the Adult Center second. Primarily due to the fact that the need is great for a park and there are not enough alternatives for funding such a project.

Councilman Daniels selected Adult Center as first priority and south side park as second.

Mayor Taylor selected the park as his first choice and Adult Center second. However, the basic consensus was to go forward with the applications setting the Adult Center as first priority; south side park as second; and the rest in no certain order, leaving the ADA improvements out entirely.

Maureen Miltenberger - At this time, Councilwoman Miltenberger addressed the Council, as a private citizen, urging citizen support on an organizational meeting at the library on February 12, 1993, by the "Canby Neighbors for a Safe Community", with their first task to defeat the OCA's proposed City Charter Amendment.


SFO - Rusty Klem reminded the Council that we signed a Stipulation and Final Order with DEQ about 8 months ago to allow the City special consideration for discharges levels to the river during the sewer project work. Due to the fact the time frames have changed, DEQ wants a new SFO signed by the Mayor. The Council gave a unanimous consensus to authorize the Mayor to sign a new SFO for DEQ.

Centennial - Beth Saul reminded the Council of the many events and contests upcoming

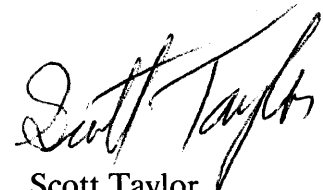
that are associated with Canby's Centennial.

- ACTION REVIEW:**
1. Post Ordinance No.s 882, 883 and 884, for final action on February 17th.
  2. Implement Resolution 530, supporting 3-Year Law Enforcement Serial Levy.
  3. Recommend approval to OLCC for 14 local liquor license renewals.
  4. Notify Bryan Sullivan of his appointment to the Clackamas County Actions Board.
  5. Implement Gazebo rental fees for private affairs.

Mayor Taylor adjourned the regular session at 11:02 p.m.



Marilyn K. Perkett  
City Recorder



Scott Taylor  
Mayor

# **P R O C L A M A T I O N**

**WHEREAS, the community of Canby was incorporated by a vote of its citizens into the City of Canby in 1893; and**

**WHEREAS, February 15, 1993, marks the 100th BIRTHDAY of our fair City and will be marked by a community-wide Birthday celebration at the Fairgrounds that evening; and**

**WHEREAS, a variety of Centennial activities and celebrations are planned throughout 1993 for the enjoyment of the community and visitors; and**

**WHEREAS, we, the citizens of the City of Canby take great pride in the past, present, and bright future of our community; and**

**WHEREAS, we invite all residents of the region, and their friends, relatives, and guests, to come and help us celebrate the best birthday party ever!**

**NOW, THEREFORE, I, Scott M. Taylor, Mayor of the City of Canby, hereby proclaim**

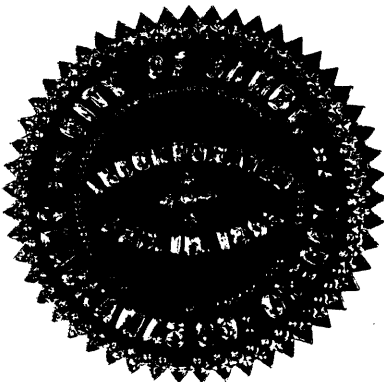
**FEBRUARY 15, 1993 AS CANBY'S BIRTHDAY PARTY,**


**and all of 1993 as**

**CANBY'S CENTENNIAL CELEBRATION,**

**and call upon all citizens and residents of the region to support and participate in the many events and celebrations planned this year.**

**IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of Canby to be affixed this 3rd day of February in the year of our Lord One Thousand Nine Hundred and Ninety-Three.**



  
**Scott Taylor, Mayor**