

**CANBY CITY COUNCIL
REGULAR MEETING
APRIL 7, 1993**

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

Also present: Administrator Michael Jordan, City Attorney John Kelley, City Recorder Marilyn Perkett, Librarian Beth Saul, City Planner Bob Hoffman, Aquatics Director Scott Nelson, Police Lieutenant Jim Scharmota, David Pierce, Karen Cederquist, Kimberly Churchill, Heather Whitney, Doug, Terry, Ted & Tanner Dolney, Annette Everson, Sandra Nichols, Mark O'Shea, Donna Jean McManamon, Wendy Allison-Petshor, John Petshor, Cana Koskela, Jan Bemper, Linda Hines, Don Stash, Phil Sargent, Karen Peasby, Doris Mathis, Steve, Kathryn & Wendy Hausotter, Susan Clark, Gay Cilenti, Barbara Tracy, Timothy Cates, Ted Ellingboe, Eric & Linda Mihata, Lois Larson, David Fidanque, Bonnie Engleman, Jasper & Claudine Keith, Paul Calhoun, Genevieve Hoffman, Ann Weaver, Ken & Laurretta Maccolman, Rick Maier, Mary Harrison, Ken & Joan Perinchief, Charles & Verda Miltenberger, Rosalie & James McLean, Will Newman, Kathy & Craig Shinn, Sandra Schauner, Janine & Kathryn VanSant, Martha Schrader, Doretta Schrock, Susan Abe, Tom & Tamara Maher, Mike & Cindi Gerkman, John Dewar, Ada Stout, Morris Cederquist and several others.

Mayor Taylor called the regular session to order at 7:30 p.m., in the Canby Adult Center. The flag salute and moment of silence was observed.

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

MINUTES OF PREVIOUS SESSION: **Councilman Daniels moved to approve as distributed the minutes of regular session March 17, 1993. Motion seconded by Councilwoman Stark and approved 6-0.

CITIZEN INPUT ON NON-AGENDA ITEMS: None presented.

PROCLAMATIONS: Oregon Telecommunication Week - Mayor Taylor proclaimed the week of April 12-16, 1993, as Oregon Telecommunicators Week and presented the original proclamation to Police Lieutenant Jim Scharmota. Mayor Taylor listed the emergency dispatchers employed by the City: Rod Davis, Eva Ayala, Susan Larson, Keith Marquand, Eric Taasevigen and Julie Schonfeld. Lt. Scharmota thanked the Council for honoring these employees noting that they are proud of the work our City communicators do and invited anyone who wished to stop by the communication center.

Army Stay in School and Stay Off Drugs Month - Mayor Taylor proclaimed the month of April as "Army Stay in School and Stay Off Drugs Month". The Mayor presented the proclamation to Sgt. Horn. Sgt. Horn thanked the City on behalf of the U.S. Army for participating in this program and asked to have the Proclamation placed in the Canby Youth Center.

COMMUNICATIONS: General Canby Day Committee Appointments - Recorder Perkett informed the Council that a letter had been received from the General Canby Day Committee informing the City of three resignations from the committee. Also, the present committee suggested the following names for appointment to the committee: Gordon Rasted, Luana Hill and Janice Weeks.

Mayor Taylor recommended the following terms and appointments to the General Canby

Day Committee: Gordon Rasted, term expiring July, 1984; Luana Hill, term expiring July, 1995; and Janice Weeks, term expiring July, 1996.

****Councilman Daniels moved to confirm the General Canby Day appointments as recommended by Mayor Taylor. Motion seconded by Councilwoman Miltenberger and approved 6-0.**

NEW BUSINESS: Accounts Payable - **Councilman Prince moved to approve payment of accounts payable in the amount of \$161,364.66. Motion seconded by Councilwoman Stark. Councilman Driggers asked if the City has a policy for radius of travel for paying travel time. Administrator Jordan said we had no policy at this time but are willing to pursue one if the Council directs. **Motion was approved by roll call vote, 6-0.

ORDINANCES & RESOLUTIONS: Resolution No. 533 - Administrator Jordan reminded the Council that the proposed resolution was similar to an Albany one and is in regards to an initiative petition. Mayor Taylor asked for a show of hands of those wishing to address the Council on this issue. Six people declared an intent to address the Council.

Attorney Kelley explained that after Clackamas County notified the City of the certified required number of signatures, the City Attorney then had five (5) days to prepare a ballot title; Mr. Kelley then prepared his ballot title, question and summary; and finally our ordinance allows that "any person" may then challenge that ballot title. The challenge is limited to whether the City Attorney's proposed ballot title, question and summary accurately describes the initiative that is to go on the ballot to amend the City Charter. Mr. Kelley said it has nothing to do with whether the initiative will go on the ballot, only if it accurately and without bias describes the peoples' initiative request. Mr. Kelley said it has been prepared and circulated and we are now waiting to see if it will be challenged.

Mayor Taylor first read the ballot title, question and summary that appeared on the petitions that were circulated and turned into the City. Next, he read the ballot title, question and summary as prepared by City Attorney, John Kelley. Finally, he read Resolution No. 533 in its entirety.

State Representative for Oregon Citizens Alliance Philip Ramsdell, Wilsonville - Mr. Ramsdell addressed the resolution and noted that the OCA did not file the resolution, a citizen from Canby filed; and no organization can technically file an initiative. Mr. Ramsdell implied that the previous state initiative, reference, Measure 9, passed in Canby by approximately 54%. He said all citizens rights are guaranteed by the Oregon and US Constitution, his claim was that this proposal basically states that no additional rights can be extended based on sexual orientation. Mr. Ramsdell referenced a section of the resolution saying "certain activities and official action of the City that have never been contemplated or promoted in the City"; he said this was true in Springfield until they had a Mayor that established a human rights commission and ultimately disbanded the commission as not useful when sexual orientation was addressed. Mr. Ramsdell pointed out that things that are true today may not be true tomorrow due to changes in elected officials. He implied that in Springfield and Colorado where this type of proposal has been established, business has flourished.

Will Newman, 11124 S. Bremer Road - Mr. Newman reported that he was never able to get an answer from a petitioner on what "special rights" were involved. He stated that this addresses status, not activity, and therefore you can't be protected. He stated that homosexuality is not illegal in this state. Mr. Newman suggested that the word "alcoholic" be substituted for homosexual, and then evaluate the resolution. He said the basic principal is that the initiative will describe a group based on some assumption and no matter what happens, based on that "grouping" they will not be maintained as equal citizens. He suggested that it would be a good public statement for the Council to say "on

principal" we are against this proposal.

Phil Sargent, 1838 NE Laurelwood Loop - He implied that homosexuals will not be given minority status, the status will be exactly the same rights as for others, "no more and no less." The petition initiative does not give special rights to anyone. Mr. Sargent said this is about providing special rights when they are not required. He implied that the homosexual movement has a definite agenda and referenced a book published ten years ago that outlines that agenda.

Mark O'Shea, 815 S. Douglas - Mr. O'Shea asked why it is necessary to restrict our constitutional rights and stated this is the "civil rights movement" all over again. He maintained there was no agenda by the homosexuals and stated it is not a learned activity. "If it's not taking away something, then why is it necessary?" Mr. O'Shea said that our constitutional rights also give everyone a responsibility which is often a burden. In closing, he sited that Canby is not Springfield nor Colorado.

Mike Gerkman, 386 NE 14th - He stated that there are three bills in the state legislature at this time that pertain to sexual rights and rights of homosexuals. He suggested that this arena should provide the Council to act upon the "will" of the majority of the City of Canby. He further suggested the Council take a "neutral" position on this issue.

Craig Shinn, 645 NE 22nd - Mr. Shinn said that Mark O'Shea actually "spoke for him". He said the issue was a matter of principal and a moral issue.

Rick Maier, 12230 S. Atkins Circle - Mr. Maier implied that freedom of expression and basic human rights are in jeopardy. He requested the Council pass the proposed resolution presented by the "Canby Neighbors for a Safe Community" with the following consideration: personal religious beliefs should not be a factor; number of signatures on the petitions should not be a factor; and personal approval or non-approval of homosexual orientation should not be a factor. He reiterated that the Council had a responsibility to keep Canby a safe community.

David Fidanque, Executive Director of the American Civil Liberties Union of Oregon - He reported that he was asked to attend tonight by several local citizens. Mr. Fidanque said the ACLU clearly believes the proposed initiative is unconstitutional under both the state and federal constitutions. He reminded the Council that each of them has taken an oath of office to uphold those constitutions. The proposed measure would prohibit a class of citizens from the right to petition; it would encourage censorship of certain library materials; it would require the City to express disapproval of homosexuality, which he declared are all unconstitutional. He reminded everyone that all religions have special rights under Oregon law, as well as federal anti-discrimination status, which prohibits discrimination on the basis of religion. Mr. Fidanque also pointed out that current pending legislation regarding sexual orientation, defines it as heterosexuality, homosexuality and bisexuality.

Tammy Maher, 603 SW 13th - Ms. Mayer reminded the Council of a portion of the City's mission statement, "Maintain and Improve Quality of Life for All in the Canby Community". She referred to a sibling who was homosexual and said she was a single parent with no "agenda", and works hard with daily struggles. Ms. Maher pointed out that during last fall's campaign on Measure Nine, there was a rise in violence against homosexuals because of the environment and she believed that could happen in Canby. She also stated that even though she is an attorney, she was not sure she understood the measure after reading it in its entirety. There are many internal inconsistencies with the proposed initiative. It creates a divisiveness in the community; we need to teach our children to tolerate differences among us; there may be economic consequences; and she encouraged the Council to pass the proposed resolution.

Annette Everson, OCA member from 5426 Colony in Milwaukie - She circulated a book found in the Gladstone Library in the children's section and noted it was on the New York recommended reading list for children. The book, for very small children, talks about a traditional family breaking apart and relates to a father moving in with another man. She read a list of other publications such as: Artificial Insemination, Heather Has Two Moms, Flores Goes to Gay Pride, How Would You Feel If Your Dad Was Gay, and other books referring to a homosexual lifestyle.

Mayor Taylor called for a short recess at 8:40 p.m. The regular session was reconvened at 8:50 p.m.

Mayor Taylor called for discussion from the Council on the proposed resolution.

Councilman Driggers said that when working with various community groups, when they were asked why they moved to Canby, the overwhelming answer was for the "sense of community identity": He felt this identity was built by shared goals, projects and events and the proposed initiative will destroy this community sense. He said he felt the Council had an obligation to promote "fairness for all" and the Charter change would inhibit that. Mr. Driggers said he discussed this issue with a County Commissioner in regards to the effect this will have on the County Fair and felt it would economically affect this event. Finally, expressed that he made "best friends" growing up in Canby with kids that were "allowed" to have friends that were a little bit "different" than they were and that's what he wished for his daughter.

Councilwoman Stark stated that we have to prepare our children for life by education and leave Canby a place where all people are welcome.

Councilman Nolder said he could not support the resolution because it discourages people from signing petitions and voting. He felt we should encourage voters to study and learn about the issue and then vote intelligently. Mr. Nolder further said we should, by resolution or proclamation, make Canby a "hate free zone" by encouraging all citizens, regardless of race, creed, religious beliefs or sexual orientation of their equal rights. He said decisions should be made with logic, not fear.

Councilman Prince said in regard to the OCA petition, a lot of it has to do with fear. He said, "justice is not for some of the people some of the time, but for all of the people all of the time."

Councilman Daniels said he could not agree with the resolution, basically it limits the rights to petition. He said we should let the ballot decide the issue. Mr. Daniels said this is not an OCA petition, but one from the grass roots of the community. He said he objects to the public promotion of the homosexual lifestyle.

Councilwoman Miltenberger noted that she has personally been very involved with the Canby Neighbors for a Safe Community, as well as the Clackamas County Neighbors for a Quality Life that supports diversity. She agreed that people have the right to go to the polls to make choices, however, this particular issue presented problems in her mind. Ms. Miltenberger felt many of the local citizens were not as educated on this issue as others that arise. She addressed the issue regarding the books in libraries and felt this issue is very confusing and interpreted differently. She said she "cannot support anything that will limit rights to any citizens in Canby."

Mayor Taylor said he felt this was a very divisive issue in the community; and everything we are about talks about community and a special place to live and in harmony. The Mayor said he is personally opposed to anything that pits people against each other or how people stand out for being different. He said citizens have the right to vote on the issue,

however, he said it would hurt the economy of the community, the reputation of the community and it will damage how we interact with each other. He also recognized that this was placed forth by citizens of this community, but the leaders of the community should express the damage this issue may have in Canby. He also noted that we are a center that serves a community larger than the "city limits" and we should be open to the diversity of everyone that comes to Canby with their talents and gifts. It also directly impacts the oath taken by the Council in upholding the City Charter and place future leaders of this community in difficult situations.

Mayor Taylor reviewed the issues that need to be decided: do we pass a resolution and what it says; or should the Council limit the proposal from being on the ballot.

****Councilman Driggers moved that the City not refer the proposed Charter amendment to the voters based on its unconstitutionality and shall not expend any public monies toward such election. Motion seconded by Councilwoman Miltenberger.**

Councilwoman Stark explained that she was in favor of the resolution, however, she did not want to take away the right of citizens to vote.

Councilman Prince said he felt the process was important and voting should be allowed.

Councilman Daniels said he will support what ever the ballot box indicates.

Councilman Nolder again reiterated that voting was very important.

Councilwoman Miltenberger said she was in favor allowing the right to vote, however, she believed the proposed ballot measure is illegal and would not support it.

Councilman Driggers reminded everyone that this body makes judgments on what is right or wrong, as to creating a law. The right to vote is extremely important. There is no legal judge's order that requires us to put this initiative on the ballot. He felt it was a misplacement of values when we placed the right to petition and vote against constitutionality.

Councilman Prince said he would be very proud of the community if they turned this down at the ballot box.

The general consensus of the Council was to ask the City Attorney if the Council had the authority to allow or dis-allow the initiative to the voters.

Attorney Kelley said in his opinion, the Council does not have the authority which is supported by various cases.

Councilman Driggers questioned the constitutionality of the initiative or if there is direct case law to stop the initiative from going on the ballot.

Attorney Kelley said he honestly doesn't know about the constitutionality. However, there is a case on file that says City officials cannot stop the initiative process, this case was on another issue and did not involve constitutionality. However, if it passes, then the judicial process will determine the constitutionality.

Councilman Driggers reiterated his position on not allowing the initiative on the ballot due to the constitutionality issue.

****Questions was called for on the motion on the floor. The motion failed, 2 - 4, with Councilman Driggers and Miltenberger voting in favor and the remaining Council**

members voting against the motion.

****Councilwoman Miltenberger moved that Resolution No. 533, A RESOLUTION DENOUNCING DISCRIMINATION AND DECLARING THE CANBY CITY COUNCIL'S OPPOSITION TO AMENDING THE CITY CHARTER BY INITIATIVE PETITION be approved with the following change: in the first paragraph **eliminate** the following: *"the Oregon Citizen's Alliance (OCA), a political active committee based in Wilsonville, Oregon and other"*. Motion seconded by Councilman Driggers.**

Mayor Taylor reiterated that this resolution only says the Council is not in favor of the petition, however, it would not remove it from the ballot.

****Motion passed for approval of the resolution, 4-2, with Councilman Nolder and Daniels voting nay.**

Mayor Taylor thanked the audience for their participation and called for a short recess at 9:35 p.m. The regular session was reconvened at 9:35 p.m.

Ordinance No. 886 - Administrator Jordan informed the Council that this was the second reading of the ordinance that implements the sewer plant improvement projects with Slayden Construction. Also, there was an addition of a brief clause regarding attorney fees.

****Councilman Daniels moved to adopt Ordinance No. 866, AN ORDINANCE AUTHORIZING THE MAYOR AND CITY RECORDER TO EXECUTE A CONTRACT WITH SLAYDEN CONSTRUCTION, STAYTON, OREGON, FOR THE RENOVATION, REMODELING AND UPGRADING OF THE CANBY SEWAGE TREATMENT FACILITY; AND DECLARING AN EMERGENCY. Motion seconded by Councilman Prince.**

Councilman Prince asked if the engineer was comfortable with this since the bid was so low. Mr. McLeod said "yes" and he is ready to proceed.

Councilwoman Stark asked if the schedule would be timely. Mr. McLeod said, by agreement with DEQ, they need to be completed by the end of June, 1994.

Councilman Daniels asked if we would get penalties from DEQ if the company defaulted on the contract. Mr. Curran said DEQ would be reasonable and felt there would be no punitive action.

Councilman Nolder asked when the "odor" would be gone. Mr. McLeod said it would be several months, but hopefully by fall.

Councilman Prince asked if we had earthquake insurance. Mr. McLeod said he didn't know, but would review the coverage. He did feel that the plant would withstand an earthquake of similar magnitude as the recent one a few days ago.

Mayor Taylor asked if we were locked into wood buildings, in case we may want to change to another type. Mr. McLeod said we could always modify them.

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

Ordinance 887 - Administrator Jordan reported that this ordinance was drafted to purchase a parcel of property to implement a street alignment and utility provisions in the south side industrial park area. However, with the Trost School opening next year, we need to get the sewer in place prior to that opening. The property is known as the Kraxberger Property. The City offer was to purchase at appraisal price, which is \$105,000, and an earnest money

offer has been tendered. The ordinance is to pursue the purchase of the property.

****Councilman Prince moved that Ordinance No. 887, AN ORDINANCE AUTHORIZING PURCHASE OF REAL PROPERTY FOR STREET AND UTILITY PURPOSES TO SERVE AN INDUSTRIAL PARK DEVELOPMENT; AND DECLARING AN EMERGENCY, be properly posted and come up for final action on April 21, 1993. Motion second by Councilwoman Miltenberger and approved 6-0.**

Recorder Perkett asked if the Council wanted to remove Ordinance No. 885 from the table. Attorney Kelley said if no action is taken, the ordinance will naturally die due to no further action.

UNFINISHED BUSINESS: None presented.

OTHER REPORTS OR ANNOUNCEMENTS: Planner Hoffman passed out a proposed ordinance to amend the development code. A public hearing will be held before the Council about May 5th.

Recorder Perkett informed the Council that the Planning Commission will be joining them for the next dinner meeting on April 21st. Also, the second May meeting, the Clackamas County Commissioners have tentatively been scheduled.

Mayor Taylor said that the next meeting may be scheduled for the Adult Center.

- ACTION REVIEW:**
1. Notify the three new members of their appointment to the General Canby Day Committee.
 2. Check on earthquake insurance for the sewer construction project.
 3. Ordinance 887 will be posted for second reading on April 21st.

Mayor Taylor also reported that the Centennial Committee has elected June Ball as the new President.

****Councilman Prince moved to go into Executive Session under ORS 192.660 (1)(e), to negotiate real property; (1)(h), consult legal counsel regarding pending litigation; and (1)(i), to evaluate a the performance of a public employee.**

Mayor Taylor recessed the regular session at 9:57 p.m. to go into Executive Session. The regular session was reconvened at 11:50 p.m. and immediately adjourned.

**EXECUTIVE SESSION
APRIL 7, 1993**

Present: Mayor Taylor, Councilor members Miltenberger, Nolder, Prince, Stark, Daniels and Driggers, Administrator Jordan and Attorney Kelley.

Mayor Taylor called the session to order at 10:01 p.m. in the Adult Center crafts room.

ORS 192.660 (1)(h) - The Council discussed two pending litigation cases, Rinkes and Watson.

ORS 192.660 (1)(e) - Real property acquisition was discussed regarding a possible south side City park.

ORS 192.660 (1)(i) - The Council evaluated the performance of a public employee.

•Mayor Taylor adjourned the session at 11:50 p.m.

A handwritten signature in cursive script, reading "Marilyn Perkett". The signature is fluid and stylized, with a large loop at the end of the last name.

Marilyn Perkett
City Recorder

A handwritten signature in cursive script, reading "Scott Taylor". The signature is fluid and stylized, with a large loop at the end of the last name.

Scott Taylor
Mayor

PROCLAMATION

WHEREAS, hundred of dedicated telecommunicators daily serve the citizens of Oregon by answering their requests for law enforcement, fire and emergency medical services by dispatching the appropriate assistance as quickly as possible; and

WHEREAS, the professional public safety telecommunicator is that vital link between the citizen or victim and the public safety provider who may apprehend a criminal, save their worldly possessions from fire, save their life or the life of another loved one; and

WHEREAS, the critical functions performed by professional telecommunicators also include those related to forestry and conservation operations, highway safety and maintenance activities, and many other operations performed by federal, state and local government agencies; and

WHEREAS, professional telecommunicators work to improve the emergency response capabilities of these communications systems through their leadership and participation in training programs and other activities; and

WHEREAS, the Associated Public Safety Communications Officers, Inc., an organization of nearly 10,000 people from the United States and Canada, has set aside the second week in April to recognize telecommunicators and their crucial role in the protection of life and property.

NOW, THEREFORE, I, Scott Taylor, Mayor of the City of Canby, Oregon, proclaim April 12 - 16, 1993 as

OREGON TELECOMMUNICATORS WEEK

in the City of Canby to honor our City's telecommunicators and the vital contributions they make to the safety and well-being of our citizens.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of Canby to be affixed this 7th day of April in the year of our Lord One Thousand Nine Hundred and Ninety-Three.

Scott Taylor, Mayor

WHEREAS, the City of Canby is a caring community that wants each and every child to develop into a self-reliant, responsible and caring adult; and

WHEREAS, the stability and economic security of our country and of our community will require the skills, creativity, courage and leadership, of well-educated men and women, both within and outside the military; and

WHEREAS, the high school experience helps develop the kind of discipline, perseverance and self-confidence required in the workplace by exposing the student to a variety of challenging academic and social settings with persons from diverse ethnic cultures and economic circumstances; and

WHEREAS, teenagers who use drugs or alcohol are less likely to complete high school or find stable employment; and

WHEREAS, the United States Army, needing fewer people for the high-tech armed forces of the future but recognizing the ongoing need for well-educated men and women in all parts of our society, has produced and made available to every school in Canby posters, banners and videotapes which encourage teenagers, regardless of their career choices, to complete high school and stay off drugs and has produced similar materials to encourage those who have dropped out of school to resume their educations and revive their dreams, so that they, too, can have the confidence and ability to be all that they can be; and

WHEREAS, the Army's "STAY IN SCHOOL AND STAY OFF DRUGS" campaign is an excellent supplement to the efforts of others in this community to encourage young people to make choices that will lead to their personal fulfillment and to the overall good of the community.

NOW, THEREFORE, I, Scott Taylor, Mayor of the City of Canby, Oregon, do hereby proclaim the month of April, 1993 to be

ARMY "STAY IN SCHOOL AND STAY OFF DRUGS" MONTH

in the City of Canby, and encourage all youth in this City to heed the admonition to "STAY IN SCHOOL AND STAY OFF DRUGS". Furthermore, I hereby commend General Colin Powell and the United State Army for displaying a non-military interest in Canby's young people.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of Canby to be affixed this 7th day of April in the year of our Lord One Thousand Nine Hundred and Ninety-Three.

Scott Taylor, Mayor