

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

Also present: Administrator Michael Jordan, City Attorney John Kelley, Public Works Director Rusty Klem, City Planner Bob Hoffman, Assistant Planner Jim Wheeler, Lt. Jim Scharmota, City Recorder Marilyn Perkett, Craig Bowcock, Irene Breshears, Wade & Miriam Bettis, Karen Sasse, Joni Cramton, Steve Lakey Sharon Root, June Ball, Dave & Susie Fisher, Patty Elliot, Tom O'Hallaran, Allen Manuel, John Watson, Nancy Wilmes, Dan Mickelsen and Tom Binder.

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

MINUTES OF PREVIOUS SESSION: **Councilman Prince moved to approve the minutes of the regular session, April 21, 1993. Motion seconded by Councilwoman Stark and approved 6-0.

CITIZEN INPUT ON NON-AGENDA ITEMS: None presented.

SEWER PROJECT UPDATE - Curt McLeod, Engineer, reported that construction on the sewer project began last month and the first of four major structures has had the foundation poured. The first pay request for the project has been submitted. The tentative completion time is ten (10) months.

Councilman Prince asked about earthquake insurance and was informed that the contractor has coverage.

PROCLAMATIONS: <u>Law Enforcement Memorial Day & Week</u> - Mayor Taylor proclaimed the week of May 9 - 15, 1993, as "Law Enforcement Memorial Week" and May 12, 1993, as "Law Enforcement Memorial Day." Lt. Jim Scharmota accepted the signed proclamation to display in the Police Department.

<u>Poppy Month</u> - Mayor Taylor proclaimed the Month of May as Poppy Month, as requested by the American Legion Auxiliary. Karen Sasse and Joni Cramton presented the Mayor and Council with poppies.

<u>National Historic Preservation Week</u> - May 9 - 15, 1993, was declared National Historic Preservation Week by Mayor Taylor. Patty Elliot accepted the proclamation and invited everyone to the May 16th, Historical Open House.

COMMUNICATIONS: <u>Gilles Foundation Presentation</u> - Wade Bettis, Chairman of the Board of Directors of the Gilles Foundation, briefly reviewed the history of the foundation. Mr. Bettis explained that Norbett H. Gilles was a farmer in the Woodburn area that was murdered in his home in 1987. Mr. Gilles was never married and left a financially large estate to be distributed by a five member board. Mr. Bettis said that one half of his estate, \$580,000, was to be distributed to local charitable organizations. Mr. Bettis presented Lt. Scharmota a check in the amount of \$5,000 for the D.A.R.E. program from the Gilles Foundation. Lt. Scharmota thanked Mr. Bettis and introduced Steve Landis, Canby D.A.R.E. Officer, who is currently teaching D.A.R.E. to other officers at the academy. <u>Centennial Committee Memo</u> - Administrator Jordan explained that the Centennial Committee was interested in establishing a permanent 100th Canby Birthday Memorial.

June Ball, Centennial Committee President, addressed the Council and stated that she was not sure of the amount of money available for the project. However, she was requesting input from the Council for a proposed Centennial Memorial. The committee suggestions were a flag with the Centennial logo, park benches for Wait Park or a water fountain for Wait Park.

June Ball informed the Council that they had received two bids for a flag and was open to any other suggestions the Council might want them to consider.

Several Councilors commented that they would prefer a long lasting memorial, such as park benches. However, Mayor Taylor told Mrs. Ball that he would like the committee to make the decision.

<u>American Legion Request to Use River Park</u> - Administrator Jordan informed the Council that the American Legion had requested use of Canby Community Park for a Civil War Reenactment and that Sharon Root was present to address the issue.

Sharon Root, Legion Auxiliary member and First Oregon Volunteer, informed the Council that this group had planned the event as a tribute to Canby's Centennial. She said it will be "free" and open to the public on Saturday, noon to 6 pm; and Sunday, 9 am to 6 pm. Also, the First Oregon Volunteer group will participate in the Monday Memorial activities at Zion Cemetery. Mrs. Root said the group asks to be allowed to stay overnight in the park and have a small campfire, by removing the sod and replacing it when done, for the reenactment event. Jack Stark, Fire Marshal, submitted a letter approving of the request. Mrs. Root said there would be no horses at the event and no actual battles; only blanks will be fired

**Councilman Daniels moved to authorize the American Legion to sponsor the Civil War Reenactment over Memorial Day Weekend at Canby Community Park and to be sure the park is left in the condition it was found. Motion seconded by Councilman Driggers.

Councilman Prince asked if there would be a problem regarding the Municipal Code in allowing a campfire. Attorney Kelley said it should be on a permit only basis.

**The motion was approved 6-0.

<u>Whiskey Hill Jazz Club Request</u> - Steve Lakey, President of the Jazz Club, addressed the Council requesting use of Wait Park for the May 22, 1993, third annual Canby Junior Jazz Festival and the blocking off of streets around the park. Mr. Lakey said there would be 20 high school bands from Idaho and Oregon participating in the free concert. He reviewed the schedule of events with the Council, including the competition for local area bands and awards.

**Councilman Daniels moved to approve the request for the Canby Junior Jazz Festival on May 22, 1993, to use Wait Park and closure of the surrounding streets; and to coordinate the activities with the appropriate City agencies. Motion seconded by Councilman Driggers.

Mr. Daniels said he had previously attended this event and it is excellent.

**The motion was approved 6-0.

PUBLIC HEARING: Amendment to Land Development and Planning Ordinance -

Mayor Taylor opened the hearing at 8:10 p.m. and reviewed the hearing procedure.

The Mayor asked the hearing body to declare any conflicts; none were declared. Mayor Taylor asked if the hearing body had any exparte contact regarding the issue. Mr. Prince said he had attended the Planning Commission hearing. Other Councilors declared none.

<u>STAFF</u> - Jim Wheeler, Assistant Planner, explained that the Planning Commission is proposing the amendments. He noted two specific items that were not resolved at the Planning Commission public hearing level and briefly reviewed them.

The first issue is regarding Commercial-Residential (C-R) zone and the allowed density. One alternative is to allow R-1.5 density; alternative two would be to have R-1.5 zone (duplexes & tri-plexes) permitted outright, R-1.5 zone standards or R-2 standards permitted conditionally.

The second issues was in regards to temporary signs, specifically real estate signs. The two alternatives were: no signs permitted in the public right-of-way; or "open house" directional signs permitted in the public right-of-way but on sidewalks only and only on weekends.

Councilman Prince was concerned about allowing "bed and breakfast" establishments in an R-1 zone and various parking requirements. He specifically cited the parking in an R-1 zone for a daycare facility, which is permitted outright. Mr. Wheeler noted that the state mandates that we allow daycare in residential zones, with only 12 or fewer children and over 12 children would require a conditional use process. Also, he stated that in an R-1, a daycare is allowed one employee and then must provide an additional off street parking space for that employee.

Councilman Prince said that in his opinion we should not allow a daycare in an R-1, with over 12 children. Mr. Wheeler said this would be reviewed by the commission and reminded the Council that churches, schools, etc., having large volumes of children would also be reviewed for the specific site.

Councilman Driggers questioned the amount of visitor trips allowed to a home occupation in an R-1. Mr. Wheeler said that in a home occupation, if there are no visitors to residence, it is permitted outright. Mr. Wheeler said the reason for limiting the trips to a home occupation is the impact on the neighborhood of a residential area to keep it as such, not a commercial area.

Councilman Driggers asked if the rationale was if a "home occupancy" business became successful to the point of customers or daily deliveries, it then should be moved to a commercial zone or a conditional use applied for. Mr. Wheeler confirmed this scenario.

Councilman Prince again related to a bed and breakfast in an R-1 or R-2 zone, he was emphatic that it was not conducive to this zone and felt they were the same as a regular hotel. Mr. Wheeler said the intensity and aesthetic effect on a neighborhood is different since it is in a single family structure with a lower intensity.

Councilman Driggers expressed concern about 16.20.030, number 4, regarding the requirement of 100 square feet of recreational area per unit, thinking it might limit the low cost housing factor. Mr. Wheeler said this would provide facilities for children in apartment complexes, however, the commission approved this section. Mr. Driggers asked why an addition of 50 square feet (total 150 sq.ft.) is required for recreational space in a mobile home park. Mr. Wheeler said that is because the intensity is usually higher in a mobile home park, "more children, more space".

Councilman Driggers asked why the sight-blocking fencing for a mobile home park. Mr.

Wheeler said the commission would allow flexibility in whether a fence would be "required", however, the type would be sight-blocking. Also, Mr. Wheeler noted usually the development is more intense and there are no property lines in a mobile home park. Mr. Hoffman interjected that the commission has waived the fencing issue in some instances.

Mayor Taylor asked if manufactured homes were allowed on single family lots if they meet construction codes. Mr. Wheeler said there are specific requirements if placed on a single lot and they must meet the same requirements as a stick built home. Actually, we have not had one meet those requirement yet.

Councilman Driggers said he was confused on the percentages in the landscape credits for Design/Review. Mr. Wheeler said we are permitting 17% credit currently, i.e., 17% of existing landscaping can be allowed as credit and the proposal is that 40% of landscaping can be existing and the other 60% must be new landscaping. Mr. Wheeler said this encourages preservation.

PROPONENTS: None presented.

<u>OPPONENTS</u>: Allan Manuel, 1612 N. Redwood, said he is a property owner in the C-R zone. They purchased a parcel in that zone on S. Ivy and 3rd and did a minor partition to locate a four-plex under the current regulations. However, the proposed reduction in the density standard change for that zone will end their project. Mr. Manuel said this was the only area in the City with this proposed zoning, and he ultimately felt this area will change to commercial in time. Jim Wheeler said that alternative number 2 would meet Mr. Manuel's needs as a conditional use.

Tom O'Halleran, 15919 S. Country Air Ct., Oregon City, said that when he and Mr. Manuel bought the property, it was represented as C-R, and they would be able to develop it to the intensity they had planned. He implied that without being able to develop it as planned, the existing 8-plex will become a slum since they can't improve it to fit in with plans for their proposed development. Instead, they will have a duplex lot and will build something as cheap as possible. They felt that at this point they could not develop and recoup their investment.

Craig Bowcock, Beaverton, owner of a vacant lot on S. Ivy said the intent was to work with the other two developers obtaining another piece of adjacent property to build rentals. He said he had no objections to the second alternative for the C-R conditional use criteria.

Allen Manuel, owner of Heritage Real Estate, addressed the Council regarding the proposed changes for real estate signs. He noted that "open house" signs are the number one way of advertising for real estate. He also said that Tuesdays are a big real estate day for open houses. He also felt that, practically, this would be hard to enforce on companies outside of Canby.

Attorney Kelley reminded everyone that we cannot allow or authorize anyone to place signs on the state highway, 99E.

John Watson, Lake Oswego, the developer of the Pine Street mobile home park, stated he was neither an opponent or proponent of the issues. He implied that many of the proposals were more restrictive and asked if his development would be affected since it was in the approval process. Jim Wheeler said they have not had a chance to respond to Mr. Watson's letter they received today, however, Mr. Watson's development has already received approval and the proposed amendments shouldn't apply.

Councilman Driggers asked if the intent on the sign proposals was safety or aesthetic. Administrator Jordan explained that the initiation of the proposed sign codes changes was Dave Fisher, Fisher's Meats in Canby, said he helped write the sign ordinance, however, he felt there were many inequities in the current restrictions. He felt that if real estate agents can put up temporary signs, the downtown merchants should be allowed the same.

Administrator Jordan said he was willing to meet with the merchants to make changes that are workable for everyone.

Councilman Driggers asked if staff members, besides the Site and Design Review Board, were allowed to approve plans. Kurt Schrader said this intent was to allow some technical support to the details, however, the commission will still review the projects.

Mayor Taylor closed the public hearing at 9:27 p.m., and called for a brief recess. The regular session was reconvened at 9:36 p.m.

NEW BUSINESS: <u>Accounts Payable</u> - **Councilman Daniels moved to approve payment of accounts payable in the amount of \$413,703.24. Motion seconded by Councilman Prince.

Administrator Jordan mentioned that a \$305,900 payment was made to Slayden for the first installment on the sewer project.

**The accounts payable was approved by roll call vote, 6-0.

<u>Liquor License Application</u> - Dave Fisher, Fisher's Old Fashioned Meats at 272 N. Grant, informed the Council that he will be enlarging his business to a gourmet deli and would like to sell beer and wine as a part of the new business venture.

**Councilwoman Stark moved to approve the package container liquor license application for Dave Fisher's business and make a recommendation to the O.L.C.C. for approval. Motion seconded by Councilman Prince and approved 6-0.

<u>Sister City Garden Proposal</u> - Nancy Wilmes passed out documents which showed replicas of Canby City Hall as a gazebo and the Canby Ferry that have been built in our Sister City, Kurisawa. Ms. Wilmes said that Kurisawa wanted to present the City with a Centennial gift of a Japanese Garden. They will pay for all of the expenses, and the Sister City Association would provide maintenance, thus no expense to the City. Ms. Wilmes suggested the Adult Center or the triangle section on N. Holly as possible sites.

Administrator Jordan suggested the Adult Center area because of security rationale.

**Councilman Daniels moved to authorize the Sister City Association to proceed with plans to prepare a Japanese Garden and work with staff on the appropriate site. Motion seconded by Councilman Nolder and approved 6-0.

Mrs. Wilmes said as soon as the architectural drawings come back, she will show them to the Council, as well as work with City staff on the proposed project.

<u>Dedication/Vacation of Right-of-Way</u> - Attorney Kelley informed the Council that the City should initiate a vacation procedure on S. Pine for a newly proposed road alignment.

**Councilman Daniels moved that the City initiate a street vacation process under ORS 271.130, to vacate that portion of S. Pine that bisects John Watson's property. Motion

seconded by Councilman Prince.

Mr. Hoffman reminded the Council that this was not only the north- south portion of S. Pine, but a very short section on the east-west link to be vacated.

**Motion was approved 6-0.

ORDINANCES & RESOLUTIONS: <u>Ordinance No. 889</u> - Administrator Jordan reported that this ordinance was being heard for final action on second reading.

**Councilman Prince moved to adopt Ordinance 889, AN ORDINANCE AUTHORIZING THE MAYOR AND CITY RECORDER TO EXECUTE A CONTRACT FOR THE ACQUISITION OF AN IN-LINE TELEVISION INSPECTION EQUIPMENT; AND DECLARING AN EMERGENCY. Motion seconded Councilwoman Miltenberger and approved by roll call vote, 6-0.

Ordinance No. 891 - Administrator Jordan noted that this was in regards to a sewer line that will be developed for the Logging Road Industrial Park, as well as the new Trost Elementary School.

Curt McLeod reported that the bid opening was yesterday, (May 4, 1993) and 14 bids were received, varying from \$152,000 to \$246,000. The recommendation was to award the contract to the low bid of Robertson Utilities from Vancouver, Washington, for \$152,462.10. Mr. McLeod said they had worked with this firm, and they are very reputable.

**Councilman Driggers moved that Ordinance No. 891, AN ORDINANCE AUTHORIZING THE MAYOR AND CITY RECORDER TO EXECUTE A CONTRACT WITH ROBERTSON UTILITIES OF VANCOUVER, WASHINGTON, FOR THE LOGGING ROAD INDUSTRIAL PARK SANITARY SEWER IMPROVEMENTS; AND DECLARING AN EMERGENCY be posted and come up for final action on May 19, 1993. Motion seconded by Councilman Prince.

Councilman Prince asked if all right-of-way requirements had been met. Mr. Jordan said we have "agreements" but have not signed documents yet. Mr. McLeod said that will be his emphasis for the next three weeks, to get those documents signed.

******Motion passed 6-0.

Mayor Taylor stated that if we do not have the right-of-ways secured, he will not sign the contract.

<u>Resolution No.537</u> - Jim Wheeler said an emergency access was previously required for the Willow Creek Estates from Territorial to N.E. 21st. The Planning Commission has said it is no longer necessary for that easement. The Police and Fire Departments approve of the request, as do the affected property owners.

**Councilman Daniels moved to adopt Resolution No. 537, A RESOLUTION APPROVING THE ELIMINATION OF AN EMERGENCY ACCESS EASEMENT IN WILLOW CREEK ESTATES SUBDIVISION. Motion seconded by Councilman Driggers.

Mr. Wheeler said he felt the prior intent was because there was only one access point and, therefore, a concern for an emergency second access. Kurt Schrader said a property owner has asked to put a fence in that area, so the trade off was that there would be no more walls in the subdivision and the area could be accessed in an emergency situation. Mr. Schrader said there is a street light in the middle of the access so it is really not practical. Bob

Hoffman said the initial concern for the access was a commission concern as an interim solution, if needed, pending the actual function of the subdivision.

******Motion for the Resolution passed 6-0.

<u>Resolution No. 538</u> - Attorney Kelley reported that he had contacted the Attorney General's office regarding the need to either call for bids or request quotes for the financing proposal. The competitive quote process was approved by the Attorney General's office. Mr. Kelley said he received three quotes from financial agencies and the U.S. National Bank of Oregon was the lowest interest rate, 5.2% with a \$300 loan fee.

**Councilman Prince moved to adopt Resolution No. 538, A RESOLUTION AUTHORIZING AN AGREEMENT WITH UNITED STATES NATIONAL BANK OF OREGON FOR A LEASE/PURCHASE CONTRACT FOR IN-LINE TELEVISION INSPECTION EQUIPMENT. Motion seconded by Councilwoman Stark.

Councilman Driggers asked if payments were in the budget, and was encouraged that we inquired about proper competitive processes. Mr. Jordan said the money has been budgeted for the annual payments.

**Motion was approved 6-0.

<u>Resolution No. 539</u> - Jim Wheeler said that a property line adjustment was approved at 1967 and 1979 N.E. 19th. This is a utility easement and now needs to be adjusted. It will not inhibit building on the parcels. Utility agencies did not find any problem with the request.

**Councilman Prince moved to adopt Resolution No. 539, A RESOLUTION APPROVING AN ADJUSTMENT OF THE LOCATION OF THE UTILITY EASEMENT LOCATED ALONG THE JOINT PROPERTY LINE OF TAX LOTS 506 AND 507 OF TAX MAP 3-1E-27DB. Motion seconded by Councilwoman Miltenberger and approved 6-0.

<u>Ordinance No. 890</u> - Mayor Taylor suggested that this ordinance be placed on the June 2, 1993 agenda and was approved by Council consensus.

UNFINISHED BUSINESS: None presented.

OTHER REPORTS OR ANNOUNCEMENTS: Recorder Perkett reminded the Council that Clackamas County Commissioners would be present at the next 6:00 p.m. dinner meeting.

Mayor Taylor also reported that the Three Rivers Farm would be receiving a historical preservation award from the Clackamas County Commission at a ceremony on May 11, 1993, 4:00 p.m.

ACTION	REVIEW. 1.	Accept (
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- Accept Gilles Foundation award.
- 2. Working with Centennial Committee for 100th memorial.
- 3. Work with the American Legion for the Memorial Day weekend Civil War reenactment at River Park.
- 4. Placing Ordinance 890 on June 2, 1993 agenda.

5. Recommend approval to OLCC for Dave Fisher's liquor license.

- 6. Work with Sister City Association for a Japanese Garden site.
- 7. Initiate a vacation on the Watson property.
- 8. Purchase in-line sewer TV equipment.

- Returning Ordinance 891 for second reading.
- 9. 10. Vacate Willow Creek emergency access, Resolution 537.
- Execute finance contract with US Bank, Resolution 538. 11.
- Adjust utility easement on NE 19th, Resolution 539. 12.

Mayor Taylor reminded the Council that they could dress in "period costume" for the May 19th meeting when the 100th anniversary of the City Council meeting will be observed.

**Councilman Prince moved to go into Executive Session under ORS 192.660 (1)(d), for labor negotiations; (1)(h), regarding pending litigation; and (1)(i) to evaluate the performance of a public officer. Motion seconded by Councilman Daniels and approved 6-Ō.

Mayor Taylor recessed the regular session at 10:23 p.m. to go into Executive Session in the Police Department Conference Room. The regular session was reconvened and immediately adjourned at 11:16 p.m.

EXECUTIVE SESSION MAY 5, 1993.

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

Mayor Taylor called the session to order at 10:30 p.m. in the Police Department Conference Room.

ORS 192.660 (1)(h) - the Council discussed the Rinkes case and the Watson pending litigation. (Attorney Kelley left after this discussion.)

ORS 192.660 (1)(d) - labor negotiations were discussed by the City Council.

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

Mayor Taylor adjourned the session at 11:15 p.m.

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Marilyn K. Perkett City Recorder

Scott Taylor Mayor

PROCLAMATION

LAW ENFORCEMENT MEMORIAL DAY AND LAW ENFORCEMENT MEMORIAL WEEK

MAY 9 - 15, 1993

WHEREAS, the City of Canby Police Department has become an effective, modern and scientific force against crime; and

WHEREAS, it is important for all citizens to recognize and understand the duties and responsibilities of their law enforcement officers in serving them by safeguarding life and property, by protecting them against violence and disorder, and by protecting the innocent against fraud and deception and the weak against oppression and intimidation.

NOW, THEREFORE, I, Scott Taylor, Mayor of the City of Canby, call upon the citizens of Canby and all patriotic, civic, and educational organizations to observe the week of May 9th through May 15th as

LAW ENFORCEMENT MEMORIAL WEEK

with appropriate ceremonies to commemorate our law enforcement officers, past and present, who by their faithful and loyal devotion to duty have rendered dedicated service to their communities and, in doing so, have earned an enviable and enduring reputation for preserving the rights and security of all citizens; and further

L CALL UPON ALL CITIZENS OF THE CITY OF CANBY to observe Wednesday, May 12, 1993, as

LAW ENFORCEMENT MEMORIAL DAY

in honor of those law enforcement officers who through their courageous deeds, have lost their lives or have become disabled in the performance of their duties.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of Canby to be affixed this 5th day of May in the year of our Lord One Thousand Nine Hundred and Ninety-Three.



Scott Taylor, Mayor

PROCLAMATION

WHEREAS, the American Legion Auxiliary adopted the Poppy as its Memorial Flower which pays tribute to the war dead, and aids the living veterans and their families; and

WHEREAS, the contributions are used for Children and Youth and Rehabilitation in our local community of Canby.

NOW THEREFORE, I, Scott Taylor, Acting Mayor of the City of Canby, Oregon, do hereby proclaim the

MONTH OF MAY, 1993, AS POPPY MONTH

and May 19 through 22, 1993, as POPPY DAYS in the City of Canby.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of Canby to be affixed this 5th day of May in the year of our Lord One Thousand Nine Hundred and Ninety-Three.

Scott Taylor, Mayor

PROCLAMATION

WHEREAS, Historic preservation gives American an authentic experience of their diverse heritage and provides direction for future generations; and

WHEREAS, Historic preservation enhances the livability of cities, towns and rural areas across America; and

WHEREAS, Preservation Week 1993 provides an opportunity for citizens of all ages and cultures to appreciate, preserve and protect America's heritage; and

WHEREAS, "Preservation Brings History to Life" is the theme for Preservation Week 1993, cosponsored by the City of Canby Historic Preservation Task Force, Canby Heritage League and Canby Historical Society in the Canby, Oregon and the National Trust for Historic Preservation.

NOW, THEREFORE, I, Scott Taylor, Mayor of the City of Canby, Oregon, hereby proclaim May 9 - 15, 1993 as

NATIONAL HISTORIC PRESERVATION WEEK

and call upon the citizens of Canby to recognize and participate in this special observance.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of Canby to be affixed this 5th day of May in the year of our Lord One Thousand Nine Hundred and Ninety-Three.



Scott Taylor, Mayor