

**CANBY CITY COUNCIL
REGULAR MEETING
MAY 19, 1993**

WORKSHOP: The Mayor and entire City Council met in workshop session at 6:00 p.m. in the Utility Board room. Also present were Administrator Jordan, Clackamas County Commissioner Ed Lindquist and Rod Sandoz from the County Transportation Department. Various County and City projects were discussed by the group.

REGULAR SESSION: Mayor Scott Taylor presiding. Council members present: Maureen Miltenberger, Dennis Nolder, Terry Prince, Cheryl Stark, Walt Daniels and Joe Driggers, Administrator Michael Jordan, City Planner Bob Hoffman, City Attorney John Kelley, City Recorder Marilyn Perkett, Jerry & Judelle Rothi, Marion Tharp, Arden Eby, Alice Fenske, Doug & Elizabeth Miles-Neeley, Diane Anderson, Linda Mihata, Bob Cryder, Leona Sandsness, Deve Swaim, Alice Widner, Marge Rathmann, Betty Langdon, Cheryl Learfield, Patty Moore, Rudy & Elvera Colliander, Lee Wiegand, Jim & Jill Gilchrist, Ernie Graham, Harold & Joy Fish, Dario Hernandez, Kurt & Martha Schrader, Darlene Key, Peggy Sigler, Lori Johnson, Norma Bivens, Royann Lund, Stan & Patty Elliot, Bettie Postlewait, F. Marion Garmire, Gary & Claudia Eklund, James Kopelk, Ron & Karen Bode, Pete Kelly, Dave Colliander, Irene Breashers, Norm & Sharon Kenagy, June Ball, Butch Neff, Julie Ann Blake, Virginia Miller, Thomas O'Donnell and others.

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

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

MINUTES OF PREVIOUS SESSIONS: **Councilman Daniels moved to approve as distributed the minutes from regular session, May 5, 1993. Motion seconded by Councilwoman Stark and approved 6-0.

CITIZEN INPUT ON NON-AGENDA ITEMS: None presented.

CENTENNIAL CEREMONIES: First Council Meeting - Myra Weston, who is fondly referred to as our local historian, was introduced by Mayor Taylor. Mrs. Weston gave a brief history of the settling of the community, dating back to August, 1870, when the town was platted as a 24 block town. On February 15, 1893, the City of Canby was incorporated. Mrs. Weston read from the original meeting book in the handwriting of William Knight, May 13, 1893, the minutes of the first City Council meeting.

Presentation by Clackamas County Commission - Ed Lindquist, Clackamas County Commissioner, read a proclamation signed by all three Commissioners, honoring Canby's 100th Centennial.

Commissioner Lindquist presented the City with a very large replica of a check in the amount of \$31,000 to pay for a study for a proposed bike/pathway on the "Old Logging Road". The study will be used to prepare for an ICTEA grant, and the time line for the grant application is very soon.

**Councilman Prince moved to authorize the City to enter into an agreement with Clackamas County to prepare a grant application for the Molalla-Canby-Logging Road project; and that the City will reimburse the County for one-third (1/3) of the money at a later date. Motion seconded by Councilman Daniels and approved 6-0.

Mayor Taylor explained that due to the volume of the audience present for the hearing, he would deviate from the agenda and go into the hearing portion of the meeting.

PUBLIC HEARING: Historic Preservation Ordinance - Mayor Taylor opened the hearing at 7:48 p.m., and explained the procedure that would be followed, including the time line for testimony. Mayor Taylor asked for a show of hands of people wanting to testify, noting the number, he said testimony would be limited to five (5) minutes each.

Mayor Taylor first asked the Council to declare any conflict of interest. None was declared.

Mayor Taylor asked the Council if they had any exparte contact on the subject before the hearing body.

Miltenberger - None.

Nolder - None.

Prince - Stated that he had spoken to two citizens, however, he did not feel it would affect his judgment on the issue.

Mayor Taylor asked the audience if they wished to question Councilman Prince's exparte contact. None was voiced.

Taylor - Mayor Taylor noted that he had breakfast with Pete Kelley and discussed the matter, but said it would not affect his decision process.

Mayor Taylor asked if anyone in the audience wished to question his exparte contact. None was voiced.

Stark - Councilwoman Stark spoke with Pete Kelley, Kay Gardner and Mert Johnson, she also said it would not affect her decision.

Mayor Taylor asked if any audience member wanted to question Councilwoman Stark. None was voiced.

Daniels - Councilman Daniels said he briefly talked with Pete Kelley.

Mayor Taylor asked for questions of the audience for Councilman Daniels. None was asked.

Driggers - Councilman Driggers said he had conversation with Pete Kelley, and Mr. Westcott and Mr. Danchock were present. Also, a phone call from Dick Brown and conversation with Martha Schrader.

Mayor Taylor asked if there were any questions for Councilman Driggers. None were voiced.

Mayor Taylor explained that he would try to alternate between opponents and proponents on the issue.

STAFF - Bob Hoffman, City Planner, explained that the Council appointed a task force in July, 1991, assigning them certain tasks. The group met for approximately one and one-half years. The group made an inventory and found that 20% of structures cited in 1984 with some historic significance had been destroyed. The current ordinance was inadequate and not enforceable. A workshop was held in December, 1992, with the Council and March 8,

1993, the Planning Commission held a hearing and recommended approval, by a 4-3 vote, with a number of amendments.

Mr. Hoffman said the main advantages of the proposed ordinances are the clear and objective standards for designations and reviews. Once a structure is designated it gives protection to it. The main oppositions are that property owners cannot veto designation of the structure, demolition would be difficult and additional costs associated with the ordinance would be incurred.

Mr. Hoffman reviewed some of the ordinance areas specific to the oppositions: owner desires are to be given consideration, currently state laws do not allow the owner the option to veto a designation; demolition will be difficult with at least a wait of days and a review of other options, specifically seeking someone else to purchase the property; and the additional costs which are undetermined at this time. The Council makes the ultimate historic designation. Nominations can be made by the owner, the City Council or a petition with 20 signatures. The Planning Commission considered increasing the number of petition signatures to 50, however, it did not pass.

Mr. Hoffman briefly reviewed the ordinance: this is adding a new chapter to the development code regarding historic preservation; describes source for the power and authority of the ordinance; provides a series of definitions; sets up a Historic Review Board, which would be the County representatives and two representatives from Canby; sets criteria for designations; provides for notice and review of a proposed designation; provides for a process for structure improvements, moving or demolition; and a few other miscellaneous provisions, such as permitted uses and incentives.

Proponent - Peggy Sigler, task force member, stated that two years ago they approached the Council with the feeling that a great deal of our history was being destroyed and the task force was appointed. Every block of Canby was reviewed and houses prior to 1940 were identified. 1940 was the designated year since it was pre-World War II buildings and they were built from different materials which are not available now. Also, 50 years old is the usual cutoff date. They worked closely with a Clackamas County resource specialist. Mrs. Sigler cited some of the 20% of sites that no longer exist, the water tower, the agriculture warehouse on highway 99 E, the granary, the high school, a house where Elm Street Inn is, one house where Township Village is, one house where the Christian Church parking lot now exists, and a couple of houses near the old high school. They investigated the State Goal # 5 mandates for preservation; and studied existing ordinances in other communities. Mrs. Sigler said they looked for incentives, feeling this is important. She implied that the proposed ordinance is as "nonrestrictive" as the law allows. If the ordinance is adopted we qualify for planning monies.

Councilwoman Stark said she was confused, since some areas of the document say it is for the benefit of the owner, and other areas indicate that owners rights are taken away on decisions. She felt it would be costly to the owner if the owner of a building would have no choice. Mrs. Sigler said the current owner does not determine if that structure has historic significance. She said they had done the best they could in developing the ordinance in not hampering property rights.

Opponent - Cheryl Learfield, 856 N. Ash, said she has a rental home that is being considered for designation. She urged that this ordinance not be adopted until HB 207, which allows property owners to refuse to consent to any form of historic property designation, is voted upon. She felt the ordinance unjust to property owners and this gave her a "false sense of ownership".

Proponent - Martha Schrader, historic task force member and lives in a Clackamas County Historic Landmark Farm which is on the National Historic Registry. She implied it is a

good ordinance and does not take away property rights. The ordinance would allow the City to greater portions of Block Grant Funds. Instead of 70% application, we could utilize 100% because those funds can be used for historic preservation. Mrs. Schrader passed out a list of projects that the City has used Block Grant Funds for, totaling over \$1,000,000. In February, 1993, President Clinton asked Congress to delegate \$2.5 billion more into Community Development Block Grant Funds. Mrs. Schrader said another source of funds, National Trust for Historic Preservation receives its funds from off-shore oil leasing and private donations, these funds will also be able to be accessed.

Mrs. Schrader noted that property values will rise if historically designated, she cited Galveston, Texas and Fredericksburg, Virginia as passing an ordinance and having property values rise 674% in residential areas and commercial areas 480%.

Mrs. Schrader said this is proposed so we don't lose more structures. Mrs. Schrader said she was from the Bronx, New York, and would not go back to that area to live where it is concrete from one end to the other. Finally, she said she wanted her children, native Oregonians, to grow up in a community that is wise enough to preserve its resources.

Opponent - Lee Wiegand, owner of a home on N. Holly that is number 4 on the historic list proposed by the task force. He indicated that he, and several generations are from Canby. He grew up in the house that he lives in now and the one being considered. Mr. Wiegand stated that this infringes on his personal property rights. He noted that he is concerned about history and wants to preserve it, however, he will preserve his own home without laws. Mr. Wiegand suggested that this ordinance be tabled until legislature acts on the HB regarding personal rights. He felt the ordinance discriminated against people that choose to live in an older home. He also was concerned that fees would be implemented and cost him to do something to his own home.

Diane Anderson interjected that proponents had used 25 minutes in testimony and opponents 6 minutes.

Proponent - Darlene Key, owner of the Pioneer Chapel, reviewed her interest in older homes. She related that her 21 year old son was concerned that citizens did not want to save Canby, and suggested that they look at Sisters, Oregon. Ms. Key said that her Pioneer Chapel is one of three designated landmarks in Canby and it means nothing without the proposed ordinance. The chapel has weddings which brings in 400 to 600 people a month.

Opponent - Diane Anderson, Barlow, said she owned an 1892 home in Aurora and feels very strongly about preservation, however, she felt stronger about the government controlling her preservation efforts. Mrs. Anderson said there are five homes in or near Canby that are on the National Historic Register. She said it is an added expense to restore historic homes because materials are not readily available. Mrs. Anderson said there is no money left in Oregon for grants to restore historic homes. She referred to a historic home close by that has been under repair for about 20 years, again reiterating the expense. Mrs. Anderson pointed out that the Block Grant money referred to by Mrs. Schrader went to public entities not private. She implied that she would rather see President Clinton put the proposed \$2.5 billion dollars to reducing the national deficit, and let her preserve her own home herself. She questioned why the City Council let the old water tower be torn down, which she indicated was a "sign" of a small town. Mrs. Anderson said HB 3361 is before the senate regarding personal rights and she urged people to call to encourage this bill be passed.

Mayor Taylor reviewed the testimony: property owner rights without government intervention, need to preserve historic property, money available to assist preservation and some concern that legislation may change some things. The Mayor encouraged the audience to try to comment on new themes and not reiterate what has been previously been stated.

Opponent - Norm Kenagy, said he was from several generations that have lived in Canby. He referred to the \$31,000 check that the City had received tonight from Clackamas County and the money from the off-shore oil companies. He said this is "not free money" it is taxpayers money. Mr. Kenagy said let's balance the budget by government cuts. His analogy of the historic preservation issue was in relation to driving our current vehicles forever, and if it needed repairs going to the government to ask for repairs.

Proponent - Virginia Miller, owner of the Barlow House, said she has been restoring her home for the past 20 years to the original condition. She said the government has not told her what to do. It has taken so long because she has done it herself, without much additional funding. Mrs. Miller implied that you only have to do what you personally want to, even in repairs.

Opponent - Pete Kelley, owner of a commercial building that may be considered historical, entered a written document into the record, as well as two letters from other citizens. Mr. Kelley implied that the requirements for task force members on the Historic Preservation Committee were not met and two members resigned and were not replaced. The committee had consisted of only people interested in preservation, none that were opposed. Mr. Kelley asked why public notice requirements were not followed in this procedure, the same way development requirements are outlined. He said peoples' lives could be affected economically or physically, and yet they received no notification of this action. Mr. Kelley said the ordinance is left to "interpretation" and the City Planner will be charged with interpretation. He said LCDC has not stipulated that we "have" to pass a new ordinance, we have one in place. Mr. Kelley implied that this ordinance could stall you up to 6 months for demolition and demand that you advertise, repair the structure and submit plans to save the structure. He referred to the penalties of \$500 per day up to \$25,000 a year, he felt this was excessive. Mr. Kelley felt the proposed ordinance should go to a vote of the people.

Councilman Driggers asked if this community would be a better place with this ordinance. Mr. Kelley said, in talking with area realtors, they felt property values would maybe stay the same, or most likely lower because this limits proposed buyers. Mr. Kelley said "everything" enhances the community if it is taken care of, however, "eyesores" will detract. Mr. Driggers asked if older homes should be maintained. Mr. Kelley said most people maintained their older homes, and all homes should be encouraged to be maintained, but not mandated.

Proponent - James Kopelk, who grew up in Canby and owner of an 1895 home in Aurora which is on the National Historic Register, said he has done major alterations to his home with "no hassle" from the government. He said people would be more interested in maintaining their older homes if there were money available or an ordinance in place. He did say that there is extra expense in refurbishing older homes because materials are different today and often must be custom made. He said he could do what ever he wanted to his home, however, it would lose historic status if he had not followed this line of maintenance.

Mayor Taylor requested a short recess at 9:05 p.m. and reconvened at 9:15 p.m.

Opponent - Jerry Rothi, owner of two older homes, said he is opposed to this ordinance and asked the Council to vote against it. He implied that Canby is not ready for this. He said if there are no constraints, as some have testified, then we don't need this ordinance. Mr. Rothi said a "well preserved neighborhood enhances property values and creates pride." He implied that some of the apartment complexes create more problems in a neighborhood than older homes, specifically the impact of crime that results of high density living.

Proponent - Doug Neeley, President of the Old Home Forum from Oregon City, suggested the Council adopt the proposed ordinance. He implied that too many historic structures have been destroyed. He said alterations could be made as long as they meet code restrictions and pass historic review boards. Mr. Neeley suggested that Canby initiate a review board.

Opponent - Jim Gilchrist, 517 NE 10th, commented that if 20% of the historic homes are gone, maintaining 80% "is not that bad".

Proponent - Julia Ann Blake, resident of Canby and teacher, felt historic preservation should be considered as a heritage for our children. She said she grew up in California and many of their older homes and beautiful orchards are gone. She felt there is undue alarm in regards to the ordinance. Ms. Blake said it is an honor to have a home as a historical landmark.

Opponent - Betty Langdon, 216 NW 5th, said she is against the proposed preservation ordinance. She said her home is under consideration and it should be her decision. Also, she does maintain her home as best she can.

Proponent - Stan Elliot, owner of the Bair Home, said he has done major repairs and used the Clackamas County Historic people who gave great advice and there were no fees involved. He said he has found no negative aspect in the process and felt many fears are unfounded.

Councilwoman Stark commented that Mr. Elliot restored his home on his own choice and was not told to do so, and felt this is what other citizens want, a choice.

Peggy Sigler interjected that the 20% loss of older homes has been in the last 8 years.

Opponent - Leona Sandsness, business building owner under consideration, said she would like to demolish her structure. She also stated that her family has been in Canby for five generations and have the oldest business in Canby. Mrs. Sandsness noted that everyone says there will be no problems with this ordinance, then she questioned why have the ordinance. Mrs. Sandsness said if she is forced to maintain her business building at the site, it would be the scenario of someone "stealing" up to \$75,000 from her. She said she is interested in Canby's history and they have always "worked for it and worked with it".

Proponent - Royann Lund, 227 SW 3rd, said she hoped her home is on the register but felt it didn't qualify. She noted that she is from Southern California and there is no history left there and urged we maintain our history. She presented a clipping from the Oregonian regarding a survey on rating various structures. She commented that between the railroad and 99E is an eyesore due to the weeds.

Opponent - Arden Eby, 1212 N. Grant and owner of three historic homes, said he would like to see the improvements from each generation on the historic homes, this adds to the generational historic value. Mr. Eby expanded on his past years of experience, such as currently Chairman of Advisory for the Pittock Mansion, and has seen many, many alterations handled very well. He felt our proposal was "highly restrictive".

Opponent - Cheryl Learfield again addressed the Council regarding the agriculture structures that were removed from Highway 99E. Mrs. Learfield said this was their business and livelihood and the loss of those buildings was an extreme hardship for them, both financially and emotionally. However, they continued to financially lose ground each year, and they could find no one to buy the business and preserve the buildings, so they were demolished.

Proponent - Elizabeth Miles-Neeley, from Oregon City and on their Historic Review Board, said they work with homeowners for whatever they want to do.

Proponent - Lori Johnson, member of the task force, urged the Council to vote for the ordinance and reported that if not now it may be too late. She said the ordinance is not designed to take away property rights.

Opponent - Judelle Rothi, urged the Council to wait until the state legislative action before deciding on this ordinance.

Proponent - June Ball, local resident, noted that her family felt some of these same fears on historic preservation. However, once they went through the process of preservation of a family home in Medford, they felt different about the issue. Everything went very smoothly and no one really told them what they could or could not do in the restoration.

Proponent - Irene Breashers, local resident formerly from the California Bay Area, urged the Council to pass the ordinance and not let this area be subject to what has happened in California with most of the historical sites destroyed.

Mayor Taylor informed the audience that the hearing would be continued to July 7, 1993.

Mayor Taylor closed the hearing at 9:55 p.m. and waited for the room to clear before proceeding.

COMMUNICATIONS: Request for LOC Annual Dues - Administrator Jordan briefly reviewed the LOC annual breakdown of fees, including voluntary requests. The Water Fund dues of \$600 is not voluntary, however, the \$100 Amicus Fund and \$315.65 Oregon Vision Project, known last year as the "Joint Tax Project" are voluntary. Mr. Jordan informed the Council that CUB has agreed to pay half, \$300, of the Water Fund request. The Water Fund does a lot of work in water, sanitary sewer and stormwater resource work, as well as the Clean Water Act.

Mayor Taylor said he would be interested in seeing some type of report from LOC in regards to the "results" gained from the various funds.

****Councilman Nolder moved to pay the LOC total request for dues in the amount of \$3,872.10, with CUB paying \$300. Motion seconded by Councilwoman Miltenberger.**

Councilman Driggers noted that last year we did not pay the voluntary requests and felt that if these funds were important enough to fund they should be included in the annual fee request.

****Councilman Driggers moved to amend the motion to eliminate paying the Amicus Fund and Oregon Vision Project Fund in the amount of \$415.65. Motion to amend seconded by Councilman Nolder and approved 6-0.**

****The motion on the floor, as amended, to pay the LOC dues for a total of \$3,456.45, with CUB paying \$300 was approved 6-0.**

NEW BUSINESS: Accounts Payable - ****Councilman Daniels moved to pay accounts payable in the amount of \$540,547.30. Motion seconded by Councilwoman Stark.**

Councilman Daniels commented that the high total was due to a Sewer Plant construction payment to Slayden for \$305,000 and purchase of a piece of property for street and sewer purposes in the amount of \$100,000.

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

CDBG Intergovernmental Agreement - Administrator Jordan reminded the Council that we are required to sign an agreement with Clackamas County to formalize our participation in the Block Grant funding cycles.

****Councilman Daniels moved to authorize the City Administrator to sign the Intergovernmental Agreement between Clackamas County and City regarding the Community Development Block Grant Program. Motion seconded by Councilman Driggers and approved 6-0.**

Liquor License Application, Dario Hernandez - Administrator Jordan informed the Council that Mr. Hernandez is opening a new Mexican restaurant in the Holly Mall and is requesting a license to serve "hard" liquor. Formerly, at another location, Mr. Hernandez had a license to serve beer and wine.

****Councilwoman Stark moved to recommend approval to the OLCC for the Dispenser Class C liquor license for Dario Hernandez at the El Campestre Restaurant in the Holly Mall. Motion seconded by Councilman Driggers and approved 6-0.**

ORDINANCES & RESOLUTIONS: Ordinance 891 - Administrator Jordan informed the Council that this ordinance was due for final action regarding a contract for sewer improvements for the Logging Road Industrial Park. Mr. Jordan said that we have received firm commitments for easements for the line.

****Councilman Prince moved to adopt Ordinance No. 891, AN ORDINANCE AUTHORIZING THE MAYOR AND CITY RECORDER TO EXECUTE A CONTRACT WITH ROBERTSON UTILITIES, CAMAS, WASHINGTON, FOR THE LOGGING ROAD INDUSTRIAL PARK SANITARY SEWER IMPROVEMENTS; AND DECLARING AN EMERGENCY. Motion seconded by Councilman Daniels.**

Councilman Prince asked if the contract performance bond is high enough. Mr. Jordan said the project is very straight forward and the entire project should be done by August 1st, so no problems are anticipated.

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

OTHER REPORTS OR ANNOUNCEMENTS: Administrator Jordan reminded the Council that Canby would be hosting the monthly Clackamas County Cities meeting at St. Josef's Winery on Thursday, May 27th and encouraged Council members to attend.

Mr. Jordan also reminded the Council of the June 10th coronation of the General Canby Day King and Queen. The event will be at the Canby Adult Center at 1:00 p.m.

Councilwoman Stark informed the Council that she had spoken to Debbie Scharmota and The Zoo, the youth center, seems to be going quite well. However, volunteers are still needed.

Mayor Taylor reminded the Council of the forum session regarding the proposed charter amendment at the Canby Adult Center at 7:00 p.m.

ACTION REVIEW:

1. Preparing Intergovernmental Agreement with Clackamas County for the Logging Road Project.
2. Continuing Historic Ordinance hearing to July 7th.
3. Paying LOC annual dues in the amount of \$3,456.45, and forwarding a letter.

4. Entering into CDBG Agreement with Clackamas County.
5. Forwarding recommendation to OLCC for liquor license approval for Dario Hernandez.
6. Executing Ordinance 891, for the Pine Street sewer line extension.

Mayor Taylor reminded everyone of the Memorial Day weekend at the Canby Community Park for the Civil War reenactment.

Also, he reminded everyone of the Junior Jazz Festival at Wait Park on May 22nd from 10:00 am to 6:00 p.m.

****Councilman Prince moved to go into Executive Session under ORS 192.660 (1)(d), regarding labor negotiations. Motion seconded by Councilwoman Stark and approved 6-0.**

Mayor Taylor recessed the regular session at 10:35 p.m. to go into Executive Session in the Police Department. The regular meeting was reconvened at 11:55 p.m. and immediately adjourned.

EXECUTIVE SESSION
MAY 19, 1993

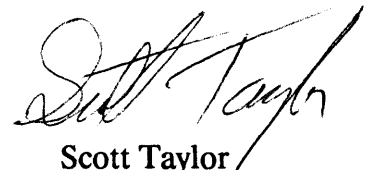
Present: Mayor Taylor, Councilors Prince, Miltenberger, Nolder, Stark, Daniels and Driggers, and Administrator Jordan.

Mayor Taylor called the session to order in the Police Department Conference Room at 10:50 p.m.

ORS 192.660 (1)(d) - The Council discussed the AFSCME labor contract.

Mayor Taylor adjourned the session at 11:53 p.m.


Marilyn K. Perkett
City Recorder


Scott Taylor
Mayor