

**CANBY CITY COUNCIL  
REGULAR MEETING  
JUNE 2, 1993**

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

Also present: Administrator Michael Jordan, City Attorney John Kelley, City Planner Bob Hoffman, Assistant Planner Jim Wheeler, Librarian Beth Saul, City Recorder Marilyn Perkett, Jim Roberts Roy Hester, Janet Paulson, Cam Sivesind, Joe Dills, Ron Tatone, Curt McLeod, Rusty Klem and James Kasameyer.

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 SESSION:** \*\*Councilman Daniels moved to approve as distributed the minutes of regular meeting, May 19, 1993. Motion seconded by Councilman Driggers and approved 6-0.

**CITIZEN INPUT ON NON-AGENDA ITEMS:** Roy Hester, Legion Post # 122 Commander, presented Mayor Taylor with a certificate of appreciation for his participation in the Memorial Day Ceremonies. Mayor Taylor thanked Mr. Hester and commended the Legion for their participation in the services, including the Civil War re-enactment.

**SEWER PLANT UPDATE -** Curt McLeod - Mr. McLeod informed the Council that four crews had been working on the sewer plant construction project. At this time, they are 7% ahead of their schedule. Mr. McLeod reported that they are currently dealing with "odor" problems and are now changing the sludge handling. He also pointed out that on the accounts payable for this evening, is another large payment of approximately \$431,000 for Slayden Construction.

Mayor Taylor commented that there would be a few deviations from the published agenda for the evening, however, everything would be addressed.

**PUBLIC HEARING:** ANN 93-01 - Mayor Taylor opened the hearing at 7:37 p.m. and reviewed the hearing procedure.

Mayor Taylor asked the hearing body if there was any conflict of interest by anyone. None was declared.

Mayor Taylor asked the hearing body to declare any exparte contact on the subject. None was declared.

**STAFF -** Jim Wheeler, Assistant Planner, reviewed the annexation request for the Hostetler property on the west side of the southern end of S. Redwood Street, across from the new Trost Elementary School, a 2.4 acre parcel. Mr. Wheeler said that after the initial application was filed three other property owners requested to be included in the annexation. The additional properties are Tax Lots 1100, 1700 and 1701, located on the north side of Township Road, east of S. Pine Street. Mr. Wheeler said this annexation does create an island, which the Boundary Commission doesn't like because the City can force annexation on the island property. However, historically, Canby has never forced an annexation. The subject property has all utilities available and S. Redwood Street has been widened for the new school project. The Hostetler parcel will be zoned R-1, Low Density

and the other three parcels will be zoned R-2, Medium Density. The Planning Commission recommended approval and had no problems with the request at their hearing.

Councilman Driggers asked if the annexation process had one fee, or one fee per applicant. Mr. Wheeler said there is only one fee for the entire application.

**APPLICANT** - Ron Tatone, representing the Hostetler's, informed the Council that the application fee would be split equally four ways.

**PROPOSERS** - None were voiced.

**OPPOSERS** - None were voiced.

Mayor Taylor closed the hearing at 7:45 p.m.

**\*\*Councilman Daniels moved to adopt Resolution No. 541, A RESOLUTION RECOMMENDING APPROVAL TO THE PORTLAND METROPOLITAN AREA LOCAL GOVERNMENT BOUNDARY COMMISSION OF THE ANNEXATION TO THE CITY OF CANBY, CLACKAMAS COUNTY, OREGON (APPLICATION OF THE HOSTETLERS), OF TAX LOTS 500 OF TAX MAP 4-1E-33DB, LOCATED ON THE WEST SIDE OF S. REDWOOD STREET, SOUTH OF TOWNSHIP ROAD, AND TAX LOTS 1100, 1700, 1701 OF TAX MAP 3-1E-34C, LOCATED ON THE NORTH SIDE OF TOWNSHIP ROAD, EAST OF S. PINE STREET. Motion seconded by Councilman Nolder and approved 6-0.**

**COMMUNICATIONS:** Administrator Jordan reviewed a memo faxed to the City from Canby Neighbors for a Safe Community requesting use of Wait Park on June 13th for a rally, and closure of streets surrounding the park. The event will feature four music acts, food vendors, brief political speakers and various other entertainment.

Tamara Maher informed the Council that the event was free and invited everyone to attend. She also said they had paid the \$50 fee for use of the Gazebo and had applied for the banner permit.

**\*\*Councilman Nolder moved to approve the request of the Canby Neighbors for a Safe Community to hold their "Sounds of Harmony" celebration on June 13, 1993, at Wait Park; and to allow the street closures by coordinating this with the Public Works and Police Departments. Motion seconded by Councilwoman Miltenberger and approved 6-0.**

Mayor Taylor said he had received a letter from Maude Jones, Canby, with a selection of explicit homosexual literature of pornographic nature. Mr. Taylor informed the Council that if they wanted copies of this literature it would be available.

**NEW BUSINESS: Accounts Payable - \*\*Councilman Daniels moved to approve payment of accounts payable in the amount of \$528,578.03. Motion seconded by Councilwoman Stark.**

Mr. Daniels commented that the second payment to Slayden Construction for the sewer plant project accounted for over \$431,000.

Councilman Driggers asked about the "1981 Van" loan fee and the "Centennial Brick". He was informed that the 1981 was probably a typo and was for the 1991 in-line TV van; and the brick was for a high school fund raiser, using donated Centennial funds.

**\*\*Motion for accounts payable was approved 6-0, by roll call vote.**

Intergovernmental Agreement - Administrator Jordan informed the Council that this document was drafted to implement the process for the Transportation Master Plan so we could apply for ISTEA funds to proceed with the bike/pedestrian pathway project on the Old Logging Road between Molalla and Canby. The Agreement states that Canby and Molalla will each pay one-third of the \$31,000 that Clackamas County fronted for the TMP. Mr. Jordan also informed the Council that Ordinance 893, was to enter into a contract with OTAK, the firm that would actually prepare the master plans. Mr. Joe Dills, from OTAK and Jim Roberts, a volunteer working on the project, were present to answer any questions. Administrator Jordan apologized for the "haste" in this matter, however, we are facing close deadlines for ISTEA applications.

Councilman Daniels reiterated that only because of another City, Silverton, filing a lawsuit on the original April 15 deadline for ISTEA money and the state "freezing" the funds, were we able to have the time to put together this application.

Councilman Prince asked if we needed to apply the open bid process for the master plan. Mr. Jordan noted that this was considered professional services and exempt from the state law. Also, the City Council, acting as the Contract Review Board, could make the same exemption.

**\*\*Councilman Driggers moved to authorize the Mayor to sign an Intergovernmental Agreement between Clackamas County and the Cities of Molalla and Canby for funds for a Transportation Master Plan. Motion seconded by Councilman Prince and approved 6-0.**

**PUBLIC HEARING: Amendments to Land Development and Planing Ordinance** - Mayor Taylor asked the audience if anyone wanted to testify or make further comments on this subject since the public hearing was actually closed at a prior meeting. None were voiced.

Mayor Taylor suggested the Council discuss the areas of concern regarding the proposed amendments.

Jim Wheeler said the issues of concern during the hearing process were: bed and breakfast in an R-1 zone; day care in an R-1 zone with more than twelve children; density in the C-R zone; and the temporary real estate signs.

16.42.040 - Temporary Signs. Mr. Wheeler said the two suggested alternatives from staff regarding the signs were: alternative #1, to ban off-site signs altogether; or alternative #2, allow temporary "open house" off-site signs on Saturdays and Sundays from 8am to 8pm.

Administrator Jordan reminded the Council that, currently, the ordinance does not allow for any type of temporary signs in the right-of-way.

Mayor Taylor took a survey of the Council on their preferences for the proposed amendment:

- Driggers - alternative #1
- Daniels - alternative #2, with the addition of Tuesday as an allowed day for signs since it is the day brokers tour homes.
- Stark - alternative #2, with the addition of allowing signs on a daily basis, primarily due to the "garage sale" signs.
- Prince - alternative #2, as is.
- Nolder - alternative #1.
- Miltenberger - alternative #2, as is.

Mayor Taylor felt that we should select alternative #1, since we had made an effort to

manage their problem, now he felt the real estate industry should make the effort to manage themselves.

Mayor Taylor called again for a survey with little deviation from the prior results expressed by the Council members.

Administrator Jordan noted that many communities have numerous signs in the right-of-way, and actually it is very hard to enforce many of the violation, specifically garage sale signs.

Councilman Daniels suggested that after we notify the real estate agencies of the new code, they might become self-enforcing.

Councilwoman Stark asked why implement an ordinance if we cannot enforce it. Mr. Jordan said we needed to have an ordinance in place to enforce if it were necessary.

Mayor Taylor took another survey of the Council preference on this issue:

- Driggers - alternative #1
- Daniels - alternative #2, as is.
- Stark - alternative #2, as is.
- Prince - alternative #2, including garage sale signs.
- Nolder - alternative #2, as is
- Miltenberger - alternative #2, including garage sale signs.

Mayor Taylor said the consensus was to select alternative #2, as proposed by staff.

The Council did feel that they might "revisit" this section and make changes in the future if warranted.

16.24, C-R Zone - The Council discussed the density for the C-R Zone, which at this time is in only one area of the City.

Mr. Wheeler said the two proposed alternatives were: alternative #1, R-1.5, multi-family development with current standards; alternative #2, a split zone, R-1.5 development (duplexes & triplexes) to be permitted outright at current standards and R-2, development to be permitted conditionally at the R-2 standards.

Mayor Taylor surveyed the Council on this section, resulting in the unanimous decision to select alternative #2, as proposed by staff.

16.04.240 Home Occupation - Councilman Driggers suggested a change in 16.04.240, regarding home occupations, and wanted to see the number of "visitors to the premises" changed from three (3) to eight (8).

The Council voted 5-1, to change section 16.04.140 to the suggested eight (8) visits per day, with Councilman Prince voting to stay with the three (3) visits per day.

16.10.030 Off Street Parking & Loading - Councilman Daniels questioned Section 16.10.030, regarding parking on an adjacent lot. Mr. Hoffman said a binding agreement would be necessary.

16.16.020 (M) Bed and Breakfast - Councilman Prince addressed 16.16.020, regarding the conditional use of a "bed and breakfast" in an R-1 and R-1.5 zone. He felt this was intrusive in nature on residents and should be limited to some type of historical overlay zone.

After some Council discussion, Mayor Taylor polled the Council on their preferences for this section on the bed and breakfast issue:

Stark - leave it as staff proposed.  
Daniels - as proposed.  
Driggers - sustained.  
Miltenberger - as proposed.  
Nolder - as proposed.  
Prince - no, eliminate it from the residential zoning.

The majority of the Council approved the bed and breakfast issue as presented by staff.

16.16.021 (C) Day Care Facility - Councilman Prince felt that this was not appropriate for a residential zone.

Mr. Wheeler reiterated that a day care in a R-1 zone is permitted outright if there are twelve (12) or fewer children; and it would be a conditional use if there are more than twelve (12) children. He noted that the conditional use would also apply to schools and churches.

Councilwoman Miltenberger also pointed out that many day care homes must have a state and county license.

Mayor Taylor surveyed the Council on the preference for the day care section:

Miltenberger - approved as written.  
Nolder - approved as written.  
Prince - no more than 12 children in a residence.  
Stark - approved as written.  
Daniels - approved as written.  
Driggers - agreed with Mr. Prince.

Mayor Taylor said the day care amendments were approved 4-2, as presented by staff.

Mayor Taylor questioned if the Council has the authority to review all of these conditional use requests. Mr. Hoffman said that the Council, by its own action can trigger an appeal and hear any commission action.

Mayor Taylor asked that it become CITY POLICY DIRECTION, that the City Council review any day care facility with more than twelve (12) children.

16.16.010, R-1, Low Density - Councilman Daniels asked if the intent of this was to discourage flag lots. Mr. Wheeler said it is not permitting duplexes and not really dealing with flag lots.

Mayor Taylor reviewed the amendments and Council decisions as discussed:

Signs - alternative #2, and reserving the right to review the enforcement provision at a later time.

Bed & Breakfast - alternative #2, as presented.

C-R Zone - alternative #2, as presented.

Day Care - as written.

Home Occupancy - change number of visits from 3 to 8.

**\*\*Councilman Daniels moved that Ordinance No. 890, AN ORDINANCE FOR THE CITY OF CANBY, COUNTY OF CLACKAMAS, OREGON, AMENDING TITLE 16 OF THE PLANNING AND DEVELOPMENT CODE be amended as corrected this evening, posted and come up for final action on June 16, 1993. Motion seconded by Councilman Driggers.**

Councilman Prince said he still felt that portions of the proposed ordinance were intrusive in R-1 zones and this ordinance should not be passed.

Councilman Driggers acknowledged Mr. Prince's concerns, and suggested that as problems arise the Council have the opportunity to correct the issues.

**\*\*Motion was approved 5-1, with Councilman Prince voting nay.**

**ORDINANCES & RESOLUTIONS: Ordinance No. 888 - Attorney Kelley said that since we updated the building code on February 17th, the 1993 State Code was approved and this is to update our code again.**

Councilman Prince said he spoke with the City Building Inspector who pointed out that the main changes were that we moved up one level on the earthquake code which requires us to strap down our water heaters and provide extra bracing on a two story structure.

**\*\*Councilman Daniels moved that Ordinance No. 888, AN ORDINANCE ADOPTING THE 1993 OREGON EDITION ONE AND TWO FAMILY DWELLING CODE REPEALING SECTION 2 (F) OF ORDINANCE NO. 884; AND DECLARING AN EMERGENCY be posted and come up for final action on June 16, 1993. Motion seconded by Councilman Prince and approved 6-0.**

**Resolution No. 540 - Attorney Kelley pointed out that we are currently operating under "temporary" rules adopted in 1984 in regards to bidding, purchasing and contract review. Therefore, he suggested we adopt 1991 and 1992 rules by this resolution.**

**\*\*Councilwoman Stark moved to adopt Resolution No. 540, A RESOLUTION RELATING TO THE ESTABLISHMENT OF THE CANBY CITY COUNCIL AS THE LOCAL CONTRACT REVIEW BOARD PURSUANT TO REVISED STANDARDS AND REGULATIONS AND ESTABLISHING REVISED EXEMPTIONS FROM COMPETITIVE BIDDING. Motion seconded by Councilman Prince and approved 6-0.**

**UNFINISHED BUSINESS: None presented.**

**OTHER REPORTS OR ANNOUNCEMENTS: Administrator Jordan reminded the Council of the Wine & Arts Festival dinner on Friday, tickets are \$15.00 each.**

Bob Hoffman informed the Council that the legislative action regarding the historical designation and the "owner opted out" provision has now been incorporated into a "mega bill", HB 3661 for those who wish to respond to this bill.

Mayor Taylor informed the Council that he would set aside a short time at the end of meetings for any Councilor who wanted to report on a department they represent as a liaison.

**ACTION REVIEW:**

1. Forward Resolution 541 and recommend that annexation.
2. Allow Neighbors for a Safe Community to use Wait Park for their June 13th event, with street closures.

3. Bring back Ordinance 893; Ordinance 888 and Ordinance 890 as amended and returning with another amendment on Section 16.42.110 (E), regarding signs.
4. Implementing Resolution 540, regarding purchasing policy.

**\*\*Councilman Prince moved to go into Executive Session under ORS 192.660 (1)(i), regarding the evaluation of a public officer. Motion seconded by Councilwoman Stark and approved 6-0.**

Mayor Taylor recessed the regular session at 9:30 p.m. to go into Executive Session in the Police Department. The regular meeting was reconvened at 12:26 a.m. and immediately adjourned.

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**EXECUTIVE SESSION**

**JUNE 2, 1993**

Present: Mayor Taylor, Councilors Miltenberger, Nolder, Prince, Stark, Daniels and Driggers, Administrator Jordan, Rusty Klem, Attorney James Kasameyer, Herald Report Cam Sivesind and Oregonian Reporter Janet Paulson.

Mayor Taylor called the session to order in the Police Department Conference Room at 9:37 p.m.

ORS 192.660 (1)(i) - The evaluated the performance of Rusty Klem, Public Works Director.

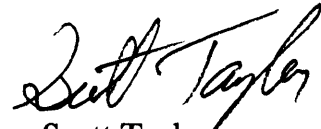
A brief recess was taken at 10:59 p.m. and the session resumed at 11:05 p.m., at which time Mr. Klem and Mr. Kasameyer left.

Also, the Council evaluated performance of Police Department personnel.

Mayor Taylor adjourned the session at 12:25 a.m.



Marilyn K. Perkett  
City Recorder



Scott Taylor  
Mayor