

**CANBY CITY COUNCIL**  
**REGULAR MEETING**  
**JANUARY 15, 1992**

Mayor Shawn P. Carroll presiding. Council members present: Scott Taylor, Keith Stiglbauer, Maureen Miltenberger, Terry Prince and Walt Daniels. Absent: Robert Smith.

Also present: Administrator Michael Jordan, City Attorney John Kelley, City Recorder Marilyn Perkett, Police Chief Jerry Giger, City Planner Robert Hoffman, Library Director Beth Saul, Public Works Director Rusty Klem, Aquatics Director Scott Nelson, Karen Huiras, Nancy Friesen, Duane & Bonnie Zacher, Laurie Gustafson, Mr. & Mrs. Fred Postlewait, Jimmie Luey and Frank Fortier.

Mayor Carroll 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 session, December 18, 1991. Motion seconded by Councilman Prince and approved 5-0.

**CITIZEN INPUT ON NON-AGENDA ITEMS:** Scott Peterson, 294 N.W. Second, addressed the Council urging them to support the committee that is promoting passage of the sewer revenue bonds to be on the March 24, 1992 ballot. Mr. Peterson noted that the proposed improvements for the sewer plant is most valuable to the community.

Councilman Taylor thanked Mr. Peterson for his stand on the issue and urged others to come forward that might have any questions regarding the matter.

**PUBLIC HEARING: Logging Road Annexation** - Mayor Carroll noted that this was a continuation from December 4, 1991.

Mayor Carroll asked the Council to declare any conflicts of interest on the matter. None of the Council had any conflicts.

Mayor Carroll asked the Council to declare any exparte contact. Councilman Prince said people had asked him about the matter and he informed them of the continuation of the hearing tonight. The Mayor asked if anyone in the audience wished to question Councilman Prince on these contacts, no one responded. No other contacts were disclosed.

The Mayor continued with the explanation of the procedure for the hearing process and opened the hearing at 7:40 p.m.

**STAFF Report** - Planner Hoffman reviewed the subject area, a road that extended from 99E to Territorial Road. He also noted that additional letters of support were received since the last meeting. Mr. Hoffman said that most of the support for the proposed annexation was from residents on the southern part of the road and the non-supporters were primarily from the northern part of the road. The intended uses are for a bike path and walkway, and to facilitate future annexations.

Mr. Hoffman address some of the previous testimony of Karen Huiras:  
Page #1 of Huiras testimony:

Mrs. Huiras suggested the annexation to be premature. - Mr. Hoffman said it was not premature since the City already owns the property. Plans are to develop it as indicated on the Parks Master Plan and it is a Priority "A" area in the Comp Plan for annexation. He said there is no evidence that there would be any negative impact on neighboring properties. Also Land Use Policy # 1 and #2, were appropriately addressed by the annexation.

Page #2 of Huiras testimony:

Land Use # 3, has been appropriately addressed since this issue will not put any additional burden on facilities and services. Land Use # 4, would be satisfied and the road would be rezoned to R-1, Low Density Residential. He pointed out that the soils are excessively drained soils and development is common on these soils. Use for a bike path and walkway has not been a problem in the past and is not expected to be one in the future.

In summary, Mr. Hoffman said that staff continues to recommend approval to the Portland Metro Boundary Commission.

Councilman Taylor questioned if the rest of the logging road on the south side is expected to be used in the same manner. Mr. Hoffman said there may be possible other uses, however, the Parks Plan has it designated as bike path and walkway.

**PROPONENTS** - Bonnie Zacher informed the Council that they had purchased property on Redwood with the intention of building a home for themselves and perhaps a couple more. They were interested in being able to annex and develop their property.

**OPPONENTS** - Karen Huiras 1177 N. Redwood, passed out a letter to the Council of her testimony for the evening. Mrs. Huiras conducted her own survey of other communities regarding problems from bike paths and walkways. She contacted the same cities Jim Wheeler did as well as Salem, Beaverton, Tigard, Medford, Milwaukie and Tualatin. She said most cities have small problems, however, they have implemented measures to control the problems and patrolling these areas seemed to be the primary effort. Mrs. Huiras also requested that all of the written testimony be submitted to the Portland Metro Boundary Commission and was assured that the entire record would be submitted, even though this was not normal procedure.

Frank Fortier, 965 N.E. 34th Place, noted that he has lived for 15 years by the logging road, even though it is not the part of the road that is being suggested for annexation. Mr. Fortier said he had been home watching the meeting and decided to come down to testify. He said the area needs a tremendous amount of attention, specifically patrol. He implied that many "bizarre" situations occur in the area, such as people dragging appliances up and down the road, people with guns, etc. Mr. Fortier said that our Police Department has been responsive, however, he felt we needed more patrol in the area and to clean up the trash.

Councilman Taylor asked if the annexation would make any difference on what is currently happening in the area.

Mr. Fortier said he anticipated that it would get worse.

Nancy Friesen, Willamette Green, said she helped Mrs. Huiras with her survey and that other cities with extensive bike paths had specific standards for development. She also said this proposed bike path starts from nowhere and ends nowhere. Mrs. Friesen asked that the City "post" the logging road for "No Motor Bikes". However, Mrs. Friesen felt that the more people that use the area, the less litter and vandalism would occur.

Mayor Carroll closed the hearing at 8:02 p.m.

Councilman Prince said there was an access on 11th Avenue, as well as various other points on the road. He also noted that the City keeps the bushes trimmed along the side of the road.

Councilwoman Miltenberger asked if there were any estimates on costs or a time schedule for development of the road.

Rusty Klem said that the Parks Master Plan committee estimated that the per mile cost to be much less than for road construction. Also, the Parks Master Plan shows the bike path and walkway to network around the City with phase one utilizing the logging road. However, projected funds are earmarked for other segments of the road.

Councilman Daniels said he walked the logging road this past summer and felt it was O.K. for a walkway and the only problem is the excessive motor bikes. Mr. Daniels suggested more patrol to combat this problem.

Councilwoman Miltenberger felt a reluctance to annex when there was no plan for Police patrol or litter pickup.

Administrator Jordan said there would be no difference in the Police responding now to calls or if it were annexed. He did note there was the Parks Master Plan, however, no designated funding at this time. Administrator Jordan said we would try to restrict the motor bikes whether it is annexed or not. He pointed out the contiguity aspect for future annexation and the proposal would not put a burden on the infrastructure. Mr. Jordan said we may have to scrutinize future annexations due to our present sewer problem. Also, we do not force annexations.

Councilman Stiglbauer, who lives by the road, said in the past few years there has been increased use by bikers and walkers and felt the more it is used the better off we would be as far as vandalism. Also, he asked how we would patrol it.

Administrator Jordan said we can access it by the gate at one end and perhaps use smaller "all terrain" vehicles.

Councilman Taylor said that since we own the road it should be part of the City and we don't have to do anything with it. Annexing it wouldn't change what's been going on there for many years. He also would like to consider annexing the remaining part of the logging road.

Councilman Prince said we should address funding, limit the access and increase patrols.

Mayor Carroll also expressed a desire to increase patrols.

Councilman Taylor pointed out that "every time we do something more somewhere, we must do something less somewhere else." We are at a limit financially as far as providing services.

**\*\*Councilman Prince moved to adopt Resolution No. 496, A RESOLUTION APPROVING ANNEXATION TO THE CITY OF CANBY, CLACKAMAS COUNTY, OREGON (APPLICATION OF CITY OF CANBY), APPROXIMATELY 7.67 ACRES LOCATED EAST OF N. PINE, BETWEEN TERRITORIAL AND 99E. Motion seconded by Councilman Daniels and approved 5-0.**

Attorney Kelley commented that this would only be a recommendation to annex to the Portland Metro Boundary Commission, they are the ultimate authority.

Street Vacation - Mayor Carroll again asked the Council to declare any conflicts of interest regarding this subject. None was voiced.

Mayor Carroll asked the Council to declare any exparte contact. None was voiced.

The Mayor again reviewed the hearing process and opened the hearing at 8:25 p.m.

STAFF - Rusty Klem reviewed the area, noting the City Council initiated the street vacation of S.W. 5th Avenue and S. Birch Street. Mr. Klem said we have heard no opposition to the street vacation. Currently both streets are substandard and are need of extensive repair at approximately \$40 per foot for reconstruction.

Councilman Prince asked if there were utility easements in both streets and was informed that there were. Mr. Prince requested that the utility easements be incorporated into the ordinance.

PROPOSERS - None.

OPPOSERS - None.

Jimmie Luey, architect for the high school, offered to submit a legal description of the proposed easements. However, he was told that we usually do not use legal descriptions in the ordinance for such purposes.

Mayor Carroll closed the hearing at 8:35 p.m.

**\*\*Councilman Taylor moved that Ordinance No. 875, AN ORDINANCE VACATING THE INTERSECTING STREETS OF S.W. 5TH AVENUE AND S. BIRCH STREET, BOTH ENTIRELY WITHIN THE PRESENT CANBY HIGH SCHOOL SITE, be posted and come up for final reading on February 5, 1992. Also, an additional section regarding easements be added prior to final action. Motion seconded by Councilman Stiglbauer and approved 5-0.**

**COMMUNICATIONS:** Administrator Jordan read a letter from the Canby Merchants Group thanking the City, and specifically Roy Hester, Jerry Stanbery and Jack Martin, for assisting with the Wait Park Christmas lights.

Mayor Carroll also extended his thanks, as well the Police Department for their apprehension of vandals.

**NEW BUSINESS:** Accounts Payable - **\*\*Councilman Prince moved to authorize payment of accounts payable in the amount of \$153,235.28. Motion seconded by Councilman Taylor and approved by roll call vote, 5-0.**

Mayor Carroll noted that item "B", a request to consider an ordinance of social gambling had been withdrawn.

**ORDINANCES & RESOLUTIONS:** Ordinance No. 872 - Planner Hoffman pointed out that this was drafted because the parking lot standards adopted a year ago were unworkable and newer adequate standards are suggested. Mr. Hoffman presented two samples where the current standards are unworkable: the Canby Alliance Church on Juniper and 9th; and a business office development on N. Ivy and 3rd.

Councilman Prince said his concern was adequate parking for apartment complexes.

Councilman Taylor asked if we had a procedure to make changes for unique situations.

Mr. Hoffman said the variance procedure would not apply in these instances, therefore we did not.

Councilman Daniels pointed out that he relies on the expertise of the staff in these type of issues.

Councilwoman Miltenberger asked if there was adequate room for emergency vehicles. Mr. Hoffman replied yes, in fact, the Fire Marshal is asked to comment on all developments.

**\*\*Councilman Daniels moved to adopt Ordinance No. 872, AN ORDINANCE FOR THE CITY OF CANBY, COUNTY OF CLACKAMAS, OREGON, AMENDING CHAPTER 16.10 OF THE CANBY MUNICIPAL CODE TO PROVIDE FOR REDUCED STANDARDS FOR PARKING LOTS AND ACCESS. Motion seconded by Councilman Stiglbauer and approved 5-0, by roll call vote.**

Ordinance 873 & 874 - Attorney Kelley pointed out that after the Legislature meets every two years, we must adopt, by reference, the Oregon Criminal and Traffic Codes.

**\*\*Councilman Taylor moved that Ordinance No. 873, AN ORDINANCE AMENDING THE CITY TRAFFIC CODE AND ADOPTING BY REFERENCE THE STATE OF OREGON MOTOR VEHICLE CODE, be posted and come up for final action on February 5, 1992. Motion seconded by Councilman Daniels.**

Attorney Kelley suggested that the emergency clause and title be added prior to final reading.

**\*\*Motion for Ordinance 873, was approved 5-0.**

**\*\*Councilman Prince moved to that Ordinance No. 874, AN ORDINANCE AMENDING THE CITY CRIMINAL CODE AND ADOPTING BY REFERENCE THE STATE OF OREGON CRIMINAL CODE, AND DECLARING AN EMERGENCY, be posted and come up for final action on February 5, 1992. Motion seconded by Councilman Stiglbauer and approved 5-0.**

**UNFINISHED BUSINESS:** Councilman Taylor asked if any decisions had been made regarding the possibility of not issuing building permits until the sewer problems have been addressed.

Administrator Jordan said that a workshop with the Planning Commission to consider a building moratorium should be set for next week. The Council set Wednesday, January 22, 7:30 p.m., for the workshop.

Councilman Prince noted that we had not received much response to our recruitment for a new Planning Commissioner. He suggested the Canby Herald print another story with the January 31st as the deadline for letters of intent.

Beth Saul informed the Council of the February 28th overnight "camp out" in the library which is part of the Winter Reading Program.

Mayor Carroll reminded the Council of the monthly Clackamas Cities Association Dinner on January 30th at the Edgewater Inn.

**ACTION REVIEW:**

1. Implement Ordinance No. 872.
2. Post Ordinances No. 873, 874 & 875.
3. Forwarding all information and recommendation to Metro Boundary Commission for the Logging Road Annexation.

\*\*Councilman Taylor moved to go into Executive Session under ORS 192.660 (1)(h), regarding pending litigation. Motion seconded by Councilman Prince and approved 5-0.

Mayor Carroll recessed the regular session at 9:05 p.m. to go into Executive session in the Police Department.

Mayor Carroll reconvened the regular session at 9:52 p.m.

Administrator Jordan informed the Council that John Falkenstein had approached him regarding a two year pilot project of funding a new position, Community Service Coordinator. The position would primarily coordinate volunteers for various school and social needs.

Mr. Jordan said he was involved in a presentation to Larry Cole and submitted a request that Canby Telephone Association fund a great portion of the project. The remaining funding would be shared by the school districts and the City, and possibly some funding from CUB and other non-profits groups. The proposed budget would be \$41,500. They had requested that CTA fund \$20,000 each year and the remaining \$21,500 to be shared by other entities.

Councilman Taylor noted his experience in supervising a volunteer group and felt we would need a better cost analysis and did not need a full time position. He agreed with the concept that we need to establish more creative measures to providing resources, however he suggested a phase in program or a different way to measure the interest.

Administrator Jordan said this would be an agenda item at the February 5th meeting, requesting a letter of support.

Councilman Prince requested that we remove the Logging Road project from the Capital Improvement Program. Mr. Jordan noted that the entire Capital Improvements list needs to be reviewed.

Mayor Carroll adjourned the regular session at 10:15 p.m.

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EXECUTIVE SESSION  
JANUARY 15, 1992

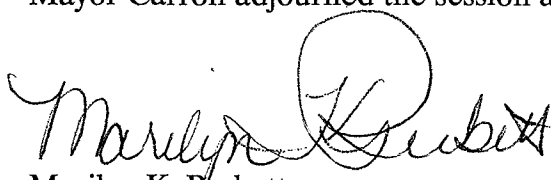
Present: Mayor Carroll, Councilor's Taylor, Stiglbauer, Daniels, Miltenberger & Prince, Administrator Jordan and Attorney Kelly.

Mayor Carroll opened the session at 9:15 p.m. in the Police Department Conference Room.

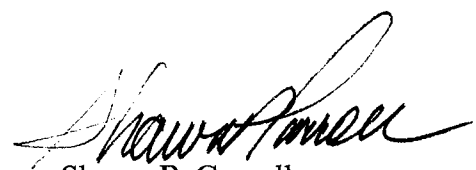
ORS 192.660 (1)(h) - The Council received an update on the Rinkes case.

Attorney Kelley discussed a possible traffic case appeal of Paul R. Baxter.

Mayor Carroll adjourned the session at 9:47 p.m.



Marilyn K. Perkett  
City Recorder



Shawn P. Carroll  
Mayor