

CANBY CITY COUNCIL
REGULAR MEETING
FEBRUARY 5, 1992

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

Also present: Administrator Michael Jordan, City Attorney John Kelley, City Recorder Marilyn Perkett, Police Chief Jerry Giger, Judge Jon Henriksen, Library Director Beth Saul, City Planner Bob Hoffman, Assistant Planner Jim Wheeler, Public Works Director Rusty Klem, Officers Steven Landis and Ray Fillis, Don Bear, Ken and Allison Patterson, Tracy and Dawn Smith, John Falkenstein, Bob Stuart and Terry Blackwell.

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, with Councilman Daniels arriving at 7:35 p.m.

MINUTES OF PREVIOUS SESSION: **Councilman Taylor moved to approve as distributed the minutes of regular session, January 15, 1992. Motion seconded by Councilwoman Miltenberger and approved 6-0.

CITIZEN INPUT ON NON-AGENDA ITEMS: Mayor Carroll introduced Municipal Judge Jon Henriksen who performed the oath of office to the two new Canby Police Officers, Steven Landis and Ray Fillis.

Mayor Carroll also expressed his thanks to the Chamber of Commerce and business community who have taken a supportive stand on the upcoming sewer bond election.

At this time Mayor Carroll asked each of the Councilor's their position on the proposed sewer revenue bond elections.

Councilman Stiglbauer had no comment at this time.

Councilwoman Miltenberger said should was in support of the issue and urged everyone to exercise their right to vote on the matter.

Councilman Taylor expressed his support of issue and the City's need for this funding mechanism.

Councilman Prince supported the issue and felt revenue bonds were appropriate. He urged everyone to become informed on the matter.

Councilman Smith said he had attended the Chamber lunch where this was discussed and he was impressed with the questions and answers on the issue. He supports the revenue bonds.

Councilman Daniels echoed his support of the sewer revenue bonds and congratulated the business community for supporting same.

Mayor Carroll requested that the public become informed on the issue so they could make a wise decision at the polls.

PUBLIC HEARING: SP 92-01, Bob Stuart, Temporary Trailer Permit - Mayor Carroll reviewed the hearing procedure for the audience.

Mayor Carroll asked the Council if anyone had any conflict of interest on the issue. None was expressed.

The Mayor inquired if any Councilor had any exparte contact on the issue. None was expressed.

Mayor Carroll opened the hearing at 7:42 p.m.

Staff Report - Jim Wheeler, Assistant Planner, reviewed the application of Bob Stuart for a Temporary Trailer Permit at 1320 N. Holly for a period not to exceed six months, to monitor and care for the property that is up for sale.

Mr. Wheeler informed the Council that their decision should be made on criteria from Code Section, 16.44.090 B, that if approved, the permit would have no significant adverse impacts on the value or appropriate development of nearby properties.

Mr. Wheeler reported that Fire Marshal, Jack Stark, stated that the application will pose no safety hazard.

Information regarding disposal of gray water and sewage was not provided by the applicant.

Staff recommended that if the Council determines there will be no significant adverse impact on the value of nearby properties that the permit have the following conditions: City Engineer will review and approve plan for disposal of gray water and sewage; trailer be located in the side yard of lot one of the minor land partition; and a minimum 15 foot rear yard space be provided.

Applicant: Bob Stuart, applicant, informed the Council that he and his brother purchased the property with the understanding from the seller that they could build a couple of houses on the back portion of the lot. The Planning Commission approved the partition of the property into three lots, however, the Council reversed the decision in an appeal process. Mr. Stuart said while he has been unemployed he has been living on the premises in the 18 foot travel trailer to maintain the area.

Proponents - Don Bear, 1630 N. Maple, implied that a similar trailer was on property located in the Willow Creek development and people were living in it. Mr. Bear asked if they had a permit and felt there should be "equality" in issuing the permits when people were living in the trailer located at Willow Creek.

Bob Hoffman, cited Code Section 16.88.040, which allows for a temporary trailer to be placed as a construction office. Mr. Hoffman said that Mr. Stuart's application was not for a construction site trailer permit.

Mayor Carroll informed Mr. Bear that staff will pursue the issue of people residing in the trailer site at Willow Creek.

Opponents: Allison Patterson, 155 N.W. 13th Avenue, informed the Council that she had checked with the County and Bob Stuart is not an owner of the property and his name is not on the deed.

Mrs. Patterson said the trailer has been there 69 days, since November 29th, and after repeated complaints, the trailer has been moved twice for an hour or so at a time and then returned to the site.

Mrs. Patterson implied that, if the permit is issued, the impact will lower her property value and it is an eyesore. She also expressed concern about the drainage, noting that many times a bad odor comes from the area.

Mr. Stuart said he was not hooked up to sewer the and dumped the holding tanks every two weeks.

Mrs. Patterson reported that she had called DEQ regarding the odor from the wastewater spread on the ground and was informed this was a violation. She appealed to the Council to deny the application.

Also, Mrs., Patterson read a letter from Earl and Helen Grove, 140 N.W. 13th Avenue, Canby, expressing their concern about the draining of gray water on the surface and causing an odor; and they inquired about the period of time for the permit and would it be renewable.

Ken Patterson, 155 N.W. 13th Avenue, noted that Mr. Stuart had used the trailer as an office while remodeling the home on the site. Also, he referred to some sand blasting that had been done which DEQ said was illegal. Mr. Patterson reiterated the problems with the gray water and odor.

Rebuttal - Bob Stuart said he would answer any questions.

Mayor Carroll closed the hearing at 8:15 p.m.

Councilman Taylor asked Mr. Stuart about the drainage problem. Mr. Stuart said that Bob Godon had been out on two occasions and found nothing. He said he dumps the holding tanks every two weeks. Jim Wheeler informed the Council that Mr. Godon had been to the site on January 28th and February 5th, and found no drainage on the ground and no odor problem.

Councilman Prince asked about the land value implication. Mr. Wheeler said they did not have enough information to make a judgment on this issue.

Mayor Carroll asked Mr. Stuart what would happen at the end of his six month request for the permit. Mr. Stuart said he would move it.

Councilman Prince asked what the plan would be about dumping the holding tanks. Mr. Wheeler said they would be dumped every two weeks. Mrs. Patterson asked how they would know this was actually being accomplished. Mayor Carroll said someone from City Hall would monitor the matter.

Terry Blackwell, 160 N.W. 13th Avenue, expressed her concern about an electrical hook-up to the trailer, as well as the continuing odor. Mr. Stuart said he uses an extension cord to obtain electricity from the house.

Councilman Stiglbauer asked if the property had a port that he could connect to the sewer. Mr. Stuart indicated that it did not.

Mr. Stiglbauer also asked if he could move the trailer every seven days for a matter of hours and return and keep up this scenario and not be in violation. Attorney Kelley said he could only have the trailer there for seven consecutive days in a 60 day period.

Councilman Smith asked why Mr. Stuart wanted to live there. Mr. Stuart said he was in a joint venture with his brother and he was performing the contract work on the residence. He said he was also unemployed at this time and saving \$200 a month for rental expenses by living in this travel trailer. Councilman Smith offered to personally go out to the property from time to time to review the situation.

Councilman Prince felt Mr. Stuart has a right to "park" his trailer at the site without it affecting the value of the area, however, his concern was the gray water and sewage issue.

Mayor Carroll polled the Council to see if they were willing to make a decision on the matter. All of the Council were ready to make a decision, except for Councilwoman Miltenberger who said she needed more information.

****Councilman Taylor** moved to approve the application for a Temporary Trailer Permit for Bob Stuart at 1320 N. Holly for a period not to exceed ninety (90) days with regular, weekly checks made by the City to determine if there were any violations. Motion seconded by Councilman Daniels and approved 5-1, with Councilwoman Miltenberger voting no.

Councilman Taylor proposed that the Findings be as follows: there were no significant adverse impacts which would affect the value of the property or appropriate development of nearby property. He found that it was not an eyesore; and the gray water sewer issue was to be monitored weekly.

Councilmen Stiglbauer, Smith, Prince and Daniels concurred with the proposed Findings.

Councilwoman Miltenberger felt it was setting a precedent for future applications and was concerned about the gray water and sewage issue.

COMMUNICATIONS: None presented.

NEW BUSINESS: Accounts Payable - ****Councilman Prince** moved to approve payment of accounts payable in the amount of \$100,167.70. Motion seconded by Councilman Smith and approved 6-0, by roll call vote.

Budget Committee Member - Mayor Carroll informed the Council that Budget Committee Member Edgar Millar had requested a one year leave from the position while he is working in Central Oregon.

Councilman Taylor suggested that Mr. Miller apply again when we have another vacancy since he felt it was important to have a complete committee.

****Councilman Prince** moved to remove Edgar Miller from the City Budget Committee due to his unavailability for the ensuing year and to fill his unexpired term. Motion seconded by Councilman Daniels and approved 6-0.

Councilman Daniels noted that we are not unhappy with Mr. Miller on the committee, only that we wanted a complete contingency at this time.

Planning Commission Appointments - Councilman Prince reported that the review committee, himself, Linda Mihata and Bob Smith, had interviewed Alan Gallaher and Lorie Gustafson for the position. At this time the committee recommended appointing Ms. Gustafson. ****Councilman Prince** moved to appoint Lorie Gustafson to a three year term on the City Planning Commission, with her term expiring in December, 1994. Motion seconded by Councilman Daniels and approved 6-0.

CUB Member Appointments - Mayor Carroll recommended appointing Bud Atwood and Milt Dennison to a second three year term on the Canby Utility Board.

****Councilman Daniels** moved to approve the recommendation of the Mayor and appoint Bud Atwood and Milt Dennison to another three year term on the Canby Utility Board, with their term expiring in February, 1995. Motion seconded by Councilman Prince and approved 6-0.

Annual Liquor License Renewals - Recorder Perkett explained that all liquor licenses in

the City are required to be renewed annually by the O.L.C.C. The Police Chief and Fire Marshal have reviewed the list and concur with the renewals.

****Councilman Smith moved to renew the following liquor licenses in the City of Canby: Roth's IGA, Willamette Valley Country Club, American Legion Post 122, TNT Market, Canby Bowl, Filbertreats, Lost Dollar Saloon, Cutsforth's Thriftway, Elm Street Inn, Gold Dragon Restaurant, Fultano's Family Pizza and Marvel's Pizza. Motion seconded by Councilman Prince and approved 6-0.**

Community Service Coordinator - Councilwoman Maureen Miltenberger declared a conflict of interest on this agenda item, since it is within the area of her professional endeavors, she might consider applying for the position. Ms. Miltenberger left the podium to sit in the audience at this time.

Administrator Jordan reiterated the position as explained at the last Council meeting. The project would be to create a position of Community Coordinator to develop and coordinate volunteer services in the community. This would be a two year pilot project. Larry Cole of Canby Telephone Association will request his board to fund \$20,000 each year and the remaining \$21,500 would be divided between the two school districts and the City, with approximately \$7,100 to be funded by each of these entities. Mr. Jordan explained that at this time, he was requesting an approval of "intent" with no commitment to funding. Funding of the project will be reviewed before the Budget Committee.

John Falkenstein, Community School Director, explained that he felt the position would address the needs and future needs of the community and become a "clearing house" for volunteers.

Mayor Carroll asked if this position might take on the task of little league scheduling. Mr. Falkenstein said he did not feel it would.

Councilman Taylor said he would only support the concept at this time and wanted to be sure we were not duplicating services. Mr. Falkenstein explained that we would coordinate with some of the County services and projected we would go far beyond what is currently being done. He saw no problem with duplication or conflicts with other agencies.

Councilman Stiglbauer asked where the office would be located and was informed that was something that had not yet been decided.

Mr. Falkenstein informed the Council that the school districts have not committed at this time, however, they are still in the discussion stage.

Councilman Daniels commented that locally we have a great deal of volunteers which save us a lot of money.

****Councilman Taylor moved to authorize the City to indicate our interest in the concept of a two year pilot project of establishing a Community Service Coordinator in conjunction with Canby Telephone Association and the two school districts. Motion seconded by Councilman Daniels and approved 4-1, with Councilman Stiglbauer voting nay.**

Councilwoman Miltenberger returned to the Council podium at this time.

ORDINANCES & RESOLUTIONS: Ordinance No. 873 - Administrator Jordan explained that this ordinance is to be considered for final action regarding adoption of Traffic Code.

****Councilman Daniels moved to adopt on final reading, Ordinance No. 873, AN ORDINANCE AMENDING THE CITY TRAFFIC CODE AND ADOPTING BY**

REFERENCE THE STATE OF OREGON MOTOR VEHICLE CODE, AND DECLARING AN EMERGENCY. Motion seconded by Councilman Smith and approved by roll call vote, 6-0.

Ordinance No. 874 - Administrator Jordan noted that this was a similar ordinance, only it was in regards to adoption of the Criminal Code.

****Councilman Taylor moved to adopt on final reading, Ordinance No. 874 AN ORDINANCE AMENDING THE CITY CRIMINAL CODE AND ADOPTING BY REFERENCE THE STATE OF OREGON CRIMINAL CODE AND DECLARING AN EMERGENCY. Motion seconded by Councilman Prince and approved 6-0, by roll call vote.**

Ordinance No. 875 - Administrator Jordan explained that the requested change regarding easements had been implemented in the ordinance prior to this final reading.

****Councilman Daniels moved to adopt on final reading, 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. Motion seconded by Councilman Smith and approved 6-0, by roll call vote.**

Resolution No. 499 - This resolution will be reset to the next meeting.

UNFINISHED BUSINESS: None presented.

OTHER REPORTS OR ANNOUNCEMENTS: Bob Hoffman informed the Council that Nelson's manufactured home park at the end of S.W. Elm, has taken out a building permit and the next stage in the process will be design/review.

Mr. Hoffman also informed the Council of a meeting at the Canby Pioneer Chapel, N.W. 3rd and Elm, at 7:00 p.m., on February 25th, to review the historic survey. Also, the Historic Task force is preparing a proposal for some grant funding to continue their efforts.

ACTION REVIEW:

1. Send out thank you letters to proper people.
2. Advertise for Budget Committee member.
3. Appoint new Planning Commission and Utility Board members.
4. Recommend renewal to OLCC of several renewal applications.
5. Send letter of intent regarding Community Service Coordinator.
6. Implement Ordinance's 873, 874 & 875.

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

Mayor Carroll recessed the regular session at 9:25 p.m. to go into Executive Session in the Police Department Conference Room. The regular meeting was reconvened at 9:58 p.m.

Councilman Prince asked if the City would be enforcing the sign ordinance, specific to reader boards. Administrator Jordan said we have just started a process, starting with the Code Enforcement Officer siting possible violations, followed by sending letters to violators.

Mayor Carroll said he has passed out petitions supporting the sewer revenue ballot

measure. Mr. Carroll noted it is only a promotional measure to ask people to sign it to show their support.

Mayor Carroll adjourned the regular session at 10:05 p.m.

EXECUTIVE SESSION
FEBRUARY 5, 1992

Present: Mayor Carroll, Councilor's Prince, Smith, Daniels, Taylor, Stiglbauer & Miltenberger, Administrator Jordan, Attorney Kelley, Attorney Stark & Tom Lawrence.

Mayor Carroll opened the session at 9:33 p.m., in the Police Department Conference Room.

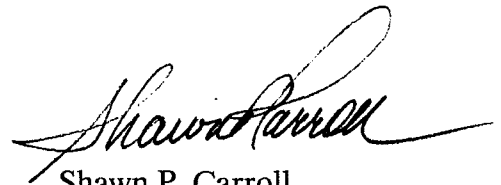
ORS 192. 660 (1)(h) - The Council was given an update on the status of the City/Rinkes case.

Attorney Kelley discussed the City vs. Tamayo civil forfeiture case.

Mayor Carroll adjourned session at 9:53 p.m.



Marilyn K. Perkett
City Recorder



Shawn P. Carroll
Mayor