

**CANBY CITY COUNCIL  
REGULAR MEETING  
FEBRUARY 19, 1992**

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

Also present: Administrator Michael Jordan, City Attorney John Kelley, Recorder Marilyn Perket, Treasurer Virginia Biddle, Police Chief Jerry Giger, Public Works Director Rusty Klem, John Dethman, Ann Mote, Anne Almgren, Bill Pulver, Cam Sivesind and Dick Hemmerling.

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 Smith moved to approve as distributed the minutes of regular meeting, February 5, 1992. Motion seconded by Councilman Daniels and approved 4-0.

**CITIZEN INPUT ON NON-AGENDA ITEMS:** Mayor Carroll reminded everyone of the Chamber of Commerce sponsored forum on the Sewer Revenue Bond Election, February 27th, 7:00 p.m., at the Canby Adult Center.

**COMMUNICATIONS:** None presented.

**NEW BUSINESS:** Accounts Payable - \*\*Councilman Prince moved to approve payment of accounts payable in the amount of \$89,712.63. Motion seconded by Councilman Daniels and approved by roll call vote, 4-0.

Request for Social Gambling Ordinance - Councilman Smith declared a conflict of interest on this issue since he is a member of the American Legion and Willamette Valley Country Club.

Administrator Jordan explained that he had been approached by Bill Pulver, representing the American Legion, requesting that the City consider implementing an ordinance to allow social gambling. A copy of an Oregon City ordinance was presented as a sample for Council consideration.

Bill Pulver, 1539 N.E. Laurelwood Circle and representing American Legion Post # 122, informed the Council that their request to permit social gaming, as allowed by Oregon Statute, would allow their members to participate in activities such as pinochle, cribbage, bunko, poker; and sports activity "pool" events like football, baseball and basketball. Mr. Pulver noted that the ORS allows these types of activities, only if the City passes an ordinance permitting the same. He also pointed out that the ORS prohibits the promoters from receiving monetary profit from these activities. Mr. Pulver said these type of activities were presently occurring throughout the City on a regular basis.

Councilman Prince inquired if there would be a licensing fee and if bingo and lotto would be allowed. Mr. Pulver said they would conduct bingo, however, they need a state license and a fee is paid for this. Mr. Pulver said the City could also institute fees for any gaming event.

Councilman Prince asked if this would be open to the public. Mr. Pulver said, no. It would

primarily be for the Legion members, except in the case of perhaps once or twice a year when they have a "little casino night".

Councilman Daniels asked if a permit or fee should be required, or if everyone could conduct such events. Mr. Pulver said the ordinance should be somewhat restrictive and they do not intend to conduct a "gambling atmosphere", it is social gaming for the members. He gave the example of the once a week pinochle when members pay \$1.00 and the top three winners receive a few dollars. Administrator Jordan noted that the sample ordinance had some regulatory aspects with the fee and permit requirements.

Councilman Prince asked if they intended to have rules of operation the same as in the sample, 8 hour periods per week or two consecutive dates. Mr. Pulver said most activities are once a week, however, sometimes the activities may occur more than two consecutive nights.

Councilman Prince asked if the Legion was affected by last year's "problem" regarding the area of eligibility due to prior conviction of violations of the gambling laws. Mr. Pulver said they have not been convicted, the subject is still pending and no criminal charges have been assessed.

Councilman Daniels suggested a workshop on the issue. Mr. Pulver said he would be willing to attend a workshop and suggested all activities in the community be considered specific to other organizations.

Councilman Prince pointed out that Chief Giger had reported that some citizens have complained about people losing too much money, will there be a loss limit? Mr. Pulver said this is not a gambling program and will not be "house run", and most of the activities are usually a \$1.00 to enter and the poker games are penny-ante. Also, he did not anticipate any video poker machines. Mr. Pulver noted that even the \$1.00 games of bunko, pinochle, etc., are illegal.

Attorney Kelley said the ORS is very confusing on the issue and the primary purpose of the ORS is to get at the "house run" operation that takes a percentage of money. He also noted that all types of schemes are set up to get around the law and it depends on the prosecutor on the legality of the various issues.

Bill Pulver said that the State of Oregon Justice Department said they legally could not participate in the type of activities he suggested, without a City ordinance. He also said the City at one time did have a social gambling ordinance, but it was revoked due to a request for some house gambling establishment trying to enter the City.

Councilwoman Miltenberger asked if other organizations were requesting this and how would it be enforced. No other organizations have expressed an interest.

Councilman Prince suggested a fee would help to cover expenses of enforcement.

Attorney Kelley noted that in the Oregon City ordinance they limit it to charitable, religious or fraternal organizations.

Mr. Pulver replied to the enforcement issue, noting that it is now illegally happening, so how does the City handle enforcement throughout the City now?.

(Councilman Taylor arrived at this time 8:00 p.m.)

The Council set a workshop session for March 18th regular meeting, starting at 7:00 p.m. This will be open to the public and any other organization interested in the issue.

John Dethman, 90-91 Audit Review - John Dethman, representing our auditors of Coopers and Lybrand, addressed the Council and handed out a comparison charter regarding the following: per capita spending, per capita taxes, expenditures per employee, population per employee, tax rate, fund balance, and per capita assessed valuation. Mr. Dethman pointed out Canby as being in very good position in most all of these categories. He said that essentially, at the end of our fiscal year, we have approximately four months of fund balance left, which means we have a good internal control structure.

Councilman Taylor said he preferred the usual executive summary report and questioned why the audit made several references of a difference of "generally accepted accounting principles". Mr. Dethman said it is because the audit must be done on an accrual basis and we actually budget on a cash basis, which is acceptable.

Consider Police Personnel Assignment - Police Chief Giger reminded the Council that the budget committee had approved an additional detective for narcotics investigations, as well as a D.A.R.E. Officer and dispatcher. All three positions have been filled. However, after 18 months later, Chief Giger feels that the patrol is more important at this time and more cost effective. He suggested having the proposed narcotic officer kept in uniform and utilize one or two shifts per week from the D.A.R.E. Officer to best fits current needs.

The Council suggested polling the Budget Committee members to make sure they approved of the change prior to a commitment. This will be on the March 4th agenda.

LGPI Contract - Administrator Jordan explained that LGPI had raised their fees effective July 1, 1991, and due to an oversight had failed to have the City sign an agreement with the new fees defined.

City staff called Cascade Employers for a fee comparison and found their fees to be \$55 per hour for labor negotiations plus incidental travel expenses. No clerical or travel time is assessed, however, the annual membership fee is \$735.

Mr. Jordan reminded the Council that the City had chose to pursue LGPI services when Don Schafer, formerly with Cascade Employers, changed his affiliation to LGPI. Mr. Jordan was not sure, however, but he did not believe LGPI assessed the City for clerical or travel charges.

The Council suggested reviewing other agencies for a better rate and finding out why LGPI had such a high increase. This will be on the March 18th agenda.

**ORDINANCES & RESOLUTIONS:** Resolution No. 499 - Councilwoman Miltenberger introduced Ann Almgren, a co-worker from Clackamas County Social Services, who is presently a member of the task force working with the Hispanic youth.

Ms. Almgren informed the Council that the intent is to keep the children involved in activities and occupied so they do not pursue "gang" activities. She implied that they must work with the entire family to achieve their goals. Lee Elementary School will be used as a site to hold classes and gym activities; and two teachers will also be used for various training programs.

Several Council members expressed that they felt this was a good program.

**\*\*Councilman Daniels moved to adopt Resolution No. 499, A RESOLUTION ENDORSING HISPANIC YOUTH AT RISK PROJECT TO A VARIETY OF YOUTH FUNDING ORGANIZATIONS, seconded by Councilwoman Miltenberger and approved 5-0.**

Resolution No. 500 - Administrator Jordan explained that this Resolution is to correct an error in an earlier one, the general fund did not have each department listed separately.

**\*\*Councilman Daniels moved to adopt Resolution No. 500, A RESOLUTION ADOPTING BUDGET AND MAKING APPROPRIATIONS FOR THE 1991-92 FISCAL YEAR.** Motion seconded by councilman Smith and approved 5-0.

**UNFINISHED BUSINESS:** None presented.

**OTHER REPORTS OR ANNOUNCEMENTS:** Mayor Carroll explained that Beth Saul was ill and her department update will be reset.

Rusty Klem asked the Council to consider authorizing approval of a Stipulation and Final Order received from DEQ recently. If approved, the document should allow us ten (10) more points on our application for a State Revolving Fund loan. Mr. Klem said the parameter we have to meet for discharges to the Willamette River will be broadened so the sewer plant will not continue to be in violation of the NPDS permit, if we follow the set forth schedule. He said the summer discharge permit is 2.2 times higher than the current permit and the winter permit is 2.5 times higher than our current permit. Mr. Klem said the document is subject to renegotiation if necessary, for instance if the March election is unsuccessful. Mr. Klem was confident we could meet the schedule as follows: submit Facility Plan to the Department by March 31, 1992; submit design of facility improvements by October 1, 1992; commence construction of facility improvements by April 15, 1992; and complete construction and comply with all permit limits in effect by June 1, 1994. He also pointed out that the document provides that if we fail to comply with the proposed schedule, we will cease allowing new connections.

Councilman Prince asked what other changes might occur in the document.

Mr. Klem said he hopes to incorporate into the document, a new provision of Federal Law, a Single Event Process Upset. For example, when it rained so hard yesterday that we had a washout at the treatment facility, they would recognize that we cannot stay in permit under those conditions. These type of things are allowed once every two months and not considered a permit violation.

Councilman Taylor asked how many points were possible. Mr. Klem said the rating system was on 100 points, with the approximately 40 points being the impact on the receiving stream (Willamette River) and we only received 8 points in that category. We rated fairly well in the other four categories.

Councilman Taylor questioned what would happen in the event of a delay due to unexpected costs, we don't have the money to get it done or perhaps changed consultants. Mr. Klem said they will not recognize those type of delays manufactured by us or our engineers.

**\*\*Councilman Prince moved to authorize the Mayor to sign the Stipulation and Final Order presented by DEQ to extend our permit limits.** Motion seconded by Councilman Daniels.

Councilman Taylor reviewed the essential contents of the contract, which also included a section saying we could be fined \$500 for each violation of the compliance schedule.

**\*\*Motion passed 5-0.**

**ACTION REVIEW:** 1. Contact City Budget Committee Members regarding Police Department personnel assignments, returning with results on March 4th.

2. Research LGPI labor negotiation contract, returning with results on March 18.
3. Implement Resolution's No. 499 & 500.
4. Sign DEQ Stipulation and Final Order.

Mayor Carroll informed the Council that we still have a position to fill on the City Budget Committee.

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

Mayor Carroll recessed the regular session at 9:16 p.m. to go into Executive Session in the Police Department. The regular meeting was reconvened at 10:13 p.m.

Mayor Carroll said a Sewer Forum is Thursday, February 27th.

The Committee to pass the sewer bond issue is meeting this Saturday morning at 10:00 a.m. at Cutsforth's to pass out lawn signs.

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

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EXECUTIVE SESSION  
FEBRUARY 19, 1992

Present: Mayor Carroll, Councilor's Taylor, Daniels, Miltenberger, Prince and Smith, John Kelley, Don Stark, Michael Jordan and Cam Sivesind.

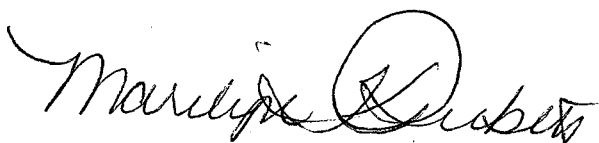
Mayor Carroll opened the session at 9:23 p.m. in the Police Department Conference Room.


ORS 192.660 (1)(h) - The Council reviewed the Rinkes case with Attorney's Stark and Kelley.

A pending appeal case involving Todd Pizzuti was discussed.

ORS 102.660 (1)(e) - The Council discussed property for a South Side Park facility.

Mayor Carroll adjourned the session at 10:09 p.m.

  
Marilyn K. Perkett  
City Recorder

  
Shawn P. Carroll  
Mayor