

**CANBY CITY COUNCIL
REGULAR MEETING
APRIL 15, 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, Public Works Director Rusty Klem, City Recorder Marilyn Perkett, Librarian Beth Saul, Aquatics Director Scott Nelson, Assistant City Planner Jim Wheeler, Curt Clawson, Betsy Ross, Don & Cindy Delzer, Linell Mehlesen, Blaine & Susan Barnett, Bill Pulver and Cam Sivesind.

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 all members present for a quorum.

MINUTES OF PREVIOUS SESSION: **Councilman Daniels moved to approve as distributed the minutes of regular session, April 1, 1992. Motion seconded by Councilman Prince and approved 6-0.

CITIZEN INPUT ON NON-AGENDA ITEMS: Betsy Ross addressed the Council to remind them of the Easter weekend activities sponsored by the Chamber. The Easter egg hunt starts at 11:00 a.m. at the fairgrounds, the parade will be at noon and other activities will be throughout the day in the downtown and Wait Park areas.

PUBLIC HEARING: Street Vacation on S. Elm Street - Mayor Carroll reviewed the procedure for the hearing process.

Mayor Carroll asked the Council if anyone had any conflict of interest. All members expressed none.

Mayor Carroll asked the Council if there had been any exparte contact. All members expressed none.

Mayor Carroll opened the hearing at 7:35 p.m.

Staff Report - Jim Wheeler, Assistant City Planner, explained that the area to be vacated is the eastern portion of the S. Elm Street extension right-of-way. (He used a map to further designate the portion to be vacated.) Mr. Wheeler said the applicant is proposing to do a land swap with DAC Income Realty Fund for another small corner piece, and then realign S. Elm Street for access to the Village on the Lochs, which accesses off S. Elm Street. The revision in the enabling ordinance deals with the timing of the dedication to the City and vacation of the property.

The three conditions of ORS 271 have been met: 1) consent of the owners of the requisite area has been obtained; 2) notice has been duly given; and 3) the public interest will be prejudice by the vacation of such street parts thereof.

Councilman Smith asked what the triangle piece of land north of the proposed area would be used for. Mr. Wheeler said it belongs to DAC Income Realty Fund property, not part of the right-of-way, and that piece of land will be part of the land swap and used by DAC for RV storage.

Rusty Klem said that Dave Nelson had done some preliminary excavations and will swing

the road to the left to avoid some property disputes, however, with the proposed vacation the disputes will be resolved.

Mr. Wheeler added that the proposed curved alignment of S. Elm Street allows for more useable space in development.

Proponents: None presented.

Opponents: None presented.

Mayor Carroll closed the hearing at 8:41 p.m.

****Councilman Prince moved that Ordinance No. 876, AN ORDINANCE VACATING A PORTION OF THE SOUTH ELM STREET EXTENSION RIGHT-OF-WAY, be posted according to the Charter and come up for final action on May 6, 1992. Motion seconded by Councilman Smith and approved 6-0.**

COMMUNICATIONS: Administrator Jordan reviewed a request from the American Legion Post # 122, to hold an auction in the Southern Pacific parking lot between N. Fir and Elm Streets on Sunday, June 7th, starting at 9:00 a.m. The auction is to raise funds for the 1992 American Legion Baseball Team.

****Councilman Daniels moved to grant the request from the American Legion Post # 122, to use the parking lot between N. Fir and Elm Streets for an auction on Sunday, June 7th, starting at 9:00 a.m. Also, to coordinate their activities with City staff. Motion seconded by Councilman Stiglbauer and approved 6-0.**

NEW BUSINESS: Accounts Payable - **Councilman Prince moved to approve payment of the accounts in the amount of \$92,866.88. Motion seconded by Councilman Smith and approved by roll call vote, 6-0.

ORDINANCES & RESOLUTIONS: Resolution No. 503 - Administrator Jordan explained that this resolution was necessary to allocate a transfer of funds that was approved at the last meeting.

****Councilman Prince moved to adopt Resolution No. 503, A RESOLUTION AUTHORIZING TRANSFER OF FUNDS IN BUDGET LINE ITEMS TO BALANCE THE 1992-92 BUDGET. Motion seconded by Councilman Smith and approved unanimously, 6-0.**

Resolution No. 504 - Administrator Jordan noted that this resolution was drafted to establish an advisory committee for General Canby Day which is to be sponsored by the City.

****Councilman Daniels moved to adopt Resolution No. 504, A RESOLUTION ESTABLISHING AN ADVISORY COMMITTEE FOR GENERAL CANBY DAY FOR THE PURPOSE OF COORDINATION OF THE ANNUAL EVENT WITHIN CANBY; AND TO BE KNOWN AS THE GENERAL CANBY DAY ADVISORY COMMITTEE. Motion seconded by Councilman Prince.**

Mayor Carroll asked if the budget for this event would be reviewed under the budgeting process as an outside agency. Mr. Jordan indicated that the committee will present a budget to the City for information and advice, essentially the group will run on its own. Mr. Jordan said that in the next City budget process we may create an incoming and outgoing line item for expenditures for the General Canby Day event.

**Vote on the motion was for approval, 6-0.

Appoint General Canby Day Advisory Committee - Administrator Jordan reviewed the list of candidates that Diane Anderson had submitted to the City for the proposed committee, along with some suggestions for ex-officio members.

Mayor Carroll said that Ms. Miltenberger asked to be added as an ex-officio member of the committee.

**Councilman Taylor moved to appoint the following members to the General Canby Day Advisory Committee: Diana Precht, Chamber of Commerce; Susan Cazier, Merchant's Association; Diane Anderson and Janet Haskins, Canby Art Association; Carol Meeuwssen, Community Education; Barry Lucas, Booster Club; Becky Davis, Canby Prevention Team; Dirk Borges, Canby Utility Board; Scott Taylor, Canby High School; and Peggy Sigler, Canby Heritage League and their terms to be decided as prescribed in Resolution No. 504. Also, liaison members to be Council members Terry Prince and Maureen Miltenberger, Police Chief Jerry Giger and Fire Marshal Jack Stark. Motion seconded by Councilman Prince and approved 6-0.

Decision on Social Gaming Ordinance - Administrator Jordan reviewed a memo from Attorney John Kelley regarding requested information from the Attorney General's Office. The AG's office indicated that a Lotto Permit is required for things such as bingo, raffles and lotteries; casino nights are not permitted under any ordinance "unless" participants are offered a chance to play for free and any money paid is to be considered a donation; and Black Jack is not legitimate under any ordinance.

Councilman Daniels pointed out that since he arrived late at the last workshop on this issue, he had listened to the tape.

Councilman Smith declared a conflict of interest and asked to be excused from the discussion of this matter before the Council.

Councilman Stiglbauer said his opinion was that staff did not have the time to monitor or police the matter. Also, the state disallows so much, he felt an ordinance would be almost ineffective.

Mayor Carroll reported that the Council had received a list of twenty-eight names from the Latter-Day Saints Church that were opposed to the ordinance; and a message from Julie Anderson, 1125 N.E. 11th, who is also opposed to implementing an ordinance. Mayor Carroll said he had previewed a 30 minute video that the group had asked to be presented for consideration and it had a wide array of facts on the affect of family life in respects to gambling.

Councilman Taylor indicated that this was a "hard topic" and he had trouble with the fact that the State of Oregon has gambling rights in the City. He expressed concern about the atmosphere or attitudes sometimes created around gambling, in particular with alcohol use and late night, which creates drinking and driving and an environment that encourages that situation. However, with the knowledge of a variety of social gaming that currently exists in the City, there is a sense that if we want to legalize a "friendly" game of cards at a small wager, he would like to see it limited in regards to hours and the association with alcohol.

Councilman Prince felt at first we would be assisting charitable and religious organizations, however, he felt an ordinance would not cover their activities and because of that he finds it difficult to support an ordinance.

Councilman Daniels felt it would be difficult to try to "police".

****Vote on the resolution was 6-0, for approval.**

Resolution No. 505 - Administrator Jordan explained that IRS regulations as of January 30, 1992, required the proposed resolution for reimbursement bonds. Basically, the City needs to be reimbursed for expenditures that are made prior to the anticipated issuance of the Sewer Bonds. The Sewer Bonds are scheduled to be issued in January or February of 1993. Mr. Jordan pointed out the following expenditures that will come under the reimbursement bonds: Brown & Caldwell, for Wastewater Treatment Facilities Plan and Rate Study - \$47,000; and Curran-McLeod for Wastewater Treatment Plan Improvements Design, \$218,100 and for Supplemental Facilities Plan Preparation, \$37,720. The total reimbursement bonds will be \$302,820.

****Councilman Daniels moved to adopt Resolution No. 505, A RESOLUTION AUTHORIZING REIMBURSEMENT BONDS FOR EXPENDITURES PAID PRIOR TO DELIVERY OF THE SEWER BONDS. Motion seconded by Councilman Taylor and approved 6-0.**

UNFINISHED BUSINESS: Decision on LOC Dues - Administrator Jordan reminded the Council that he was to research information about the volunteer aspects of the League of Oregon Cities dues structure. Specifically, the volunteer contribution of \$600 for Water Program fee, \$100 for the amicus legal fund and \$309.21 for the Tax Reform project by LOC/AOC. Mr. Jordan talked with the accountant for the League and found out that the Water project amount was considered mandatory. Also, since the actual deadline for paying is not until the end of June, it is too early to know how many cities will participate in the volunteer contributions. Mr. Jordan said he also conveyed the Council's recommendation to incorporate the voluntary contributions into the annual dues structure. Staff recommended paying all three of the voluntary contribution requests.

Councilman Stiglbauer asked what other services the City receives for our annual dues of \$3,092.10. Mr. Jordan reviewed some of the services: the League represents the City in various legislative issues; provides a number of training programs, one which he and Beth Saul will be attending next week is on the American Disabilities Act; provides various model ordinances; provides survey analysis on various issues; and provides lobbying efforts on behalf of Oregon Cities.

Councilman Taylor expressed a concern about paying the amicus and tax reform contributions, but approved paying the "mandatory" Water project portion.

Councilman Prince asked to be kept advised as to the intent and what is happening in the various programs.

****Councilman Taylor moved to pay the 1992-93 League dues of \$3,092.10 and the voluntary contribution of the Water Project amount of \$600, for a total of \$3,692.10. Motion seconded by Councilman Daniels.**

Councilman Prince said that he felt the \$100 for amicus legal funds was most reasonable for legal representation. Mr. Jordan gave an example of a current case that is being represented under this amicus fund: the League is preparing a paper for the tax court regarding a challenge on the viability of a storm drainage fee by the City of Gresham, as a tax under Measure 5.

Councilman Taylor said he did not like the structure of the fee schedule and felt it was not good business. Mr. Taylor said if it is a serious business and if it is something they believe in, it should be part of the dues structure. He felt legal things could not be funded with that type of philosophy.

Councilwoman Miltenberger said she appreciated all input on the matter. She agreed that we could provide some time lines, however, she felt that passing an ordinance might open up doors that we might not want to open up. Since Canby is a "family oriented community", she was concerned about the message we would be giving to our children and felt it was something we would not want to do at this time.

Administrator Jordan explained that it is now the Council's decision whether to direct staff to bring back an ordinance and what should be in it; or choose not to implement any ordinance at all.

Mayor Carroll then polled the Council to ask if staff should be directed to pursue drafting an ordinance.

Councilman Stiglbauer - no.

Councilwoman Miltenberger - no.

Councilman Taylor - yes.

Councilman Prince - no.

Councilman Daniels - no.

Mayor Carroll thanked everyone for attending the meetings and expressing their input on the social gaming issue.

OTHER REPORTS OR ANNOUNCEMENTS: Swim Center Update, Scott Nelson - Mr. Nelson indicated that attendance at the Swim Center is up about 20% and they are very busy. He outlined their schedule and activities:

*the pool opens at 5:45 A.M. for lap swim and video tapes are used as well as the staff on deck; the lap swims are 3 times a day Monday through Friday and 2 times a day on weekends.

- * Senior Adult Recreation Swims have exercises, socializing and therapy, which includes several amazing recovery stories. Molalla Senior Center is now attending our facility.
- * the water exercise classes utilize a variety of pool equipment.
- * schools come in for lessons starting at 9:00 a.m., some of the schools outside of our area are Carus, Colton, Mulino, Molalla, Schubal, Clark and Mt. Angel.
- * afternoon swim lessons are available and they are signing up for summer classes now. Mr. Nelson urged everyone to "Sign Up Now!", classes are rapidly filling.
- * the Swim Team has started their sessions, they have three coaches and the first two weeks are a free trial.
- * evening exercise classes are on Tuesday and Thursday by demand. Evening recreation swims are Monday, Wednesday and Friday. Adult lessons are schedule on Tuesday and Thursday and very popular.
- * the adult time is in the evening from 8 to 9 p.m., and they also have a Master Swim Program.

Mr. Nelson also reported that the Recreation and Parks Committee has decided not to present any issues to the voters, based on the recent survey. However, they will be meeting

with Clackamas County to explore some other ideas.

Scott reported that the advisory board is presently working on a 12 Year Plan for the facility.

Councilman Stiglbauer asked about the ozonator. Mr. Nelson indicated that a draft proposal by the State Director has been prepared and they will meet for comment on the document.

Councilman Daniels commended Mr. Nelson and his staff for the work at the Swim Center and said he has heard nothing but good comments about the pool. Mayor Carroll echoed Mr. Daniels comments.

Beth Saul informed the Council that the City Centennial Committee is meeting regularly and currently has a logo contest in progress. The deadline for submitting logo's is April 30th.

Recorder Perkett reported that packets are now available for those seeking an elected office in the November election.

ACTION REVIEW: 1. Ordinance No. 876, will be posted and come up for final action on May 6th.
2. Assist the American Legion in preparing the parking lot for an auction on June 7th.
3. Transfer funds in the budget required by Resolution No. 503.
4. Notify General Canby Day Advisory Committee of appointments.
5. Resolution No. 505, regarding reimbursement bonds will be implemented.
6. Forward payment to LOC as directed.

**Councilman Taylor moved to go into Executive Session under ORS 192.660 (1)(i), to evaluate the employment performance of the chief executive officer. Motion seconded by Councilman Prince and approved 6-0.

Mayor Carroll recessed the regular session at 8:40 p.m. to go into Executive Session. The regular session was reconvened at 9:45 p.m.

Mayor Carroll announced that he would be out of town from May 2 to May 19th. Mayor Carroll asked if the budget would be completed by then. Councilman Prince said the next meeting would be to discuss only options.

Councilman Taylor reported that all of the departments heads are putting together a budget that reduces it to the level of "shutting the doors" and, if in that scenario, what would happen in terms of contracting with other agencies. These proposed scenario's will be in various levels in regards to cuts. Councilman Taylor suggested this would take at least a meeting or two, and from that concept they would begin to build back up to the level of service we can financially provide.

Councilman Taylor suggested that we are under no specific time line regarding the budget, we could turn in the present budget on July 1st and then prepare an amended budget later, if it changes.

Councilman Stiglbauer said that most of the outside agencies are now "assuming" that the City will continue to provide funds. However, he suggested we may need to make hard decisions on what funding is important.

Mayor Carroll also reported that our first "Community Forum Meeting" has been scheduled for April 28th, at the Elm Street Inn at 7:00 p.m., upstairs. Also, one has been scheduled for April 29th, 7:00 p.m. at the Canby Adult Center. Councilman Taylor suggested that they be assigned to certain meetings.

Councilman Prince said there seemed to be the perception that the City is hard to deal with regarding some construction, citing the recent construction of Hot Off The Press complex. He said he wasn't sure what the problems were, however, they seemed to indicate they were not treated well at City Hall during their building process. Mr. Prince said we need to address the perception, if we expect to encourage industrial building. Mayor Carroll said that perception was there, however, he said it has been taken care of by Administration.

Mayor Carroll also noted that Mr. Jordan has been working with a firm that might locate on N. Baker on the site where Canby Disposal had proposed a prior development. The prospective firm would employ about 100 employees and it looks favorable. Also, McDonald's is reviewing a site on S. Birch and 99E, however, there is an environmental issue with the site. There are also a couple firms interested in developing in our industrial area near Boyer Metal Fab near the Logging Road.

Councilman Daniels suggested that some of the "hear-say" comments may have some validity but some are just a repeat of past problems.

Councilman Taylor suggested that we may be responding in our own best interest, so we should be sure of what is happening. He also suggested we should review where the comments are originating.

Councilman Prince reiterated the fact that we can not act on "hear say", but with specifics, including names and issues.

Mayor Carroll also reported that many of our businesses are upset because of the enforcement of our sign ordinance.

Mayor Carroll informed the Council that he and Mr. Jordan had recently lunched with the new Canby Utility Board Manager, Dirk Borges from Montana, and he will invite him to attend the next meeting to meet the Council.

Mayor Carroll adjourned the regular meeting at 10:07 p.m.

EXECUTIVE SESSION APRIL 15, 1992


Present: Mayor Carroll, Councilors Taylor, Smith, Daniels, Prince, Stiglbauer and Miltenberger.

Mayor Carroll opened the session at 8:50 p.m., in the Police Department Conference Room.

ORS 192.660 (1)(i) - The Council evaluated the job performance of the City Administrator.

Mayor Carroll adjourned the session at 9:42 p.m.


Marilyn K. Berkett, City Recorder


Shawn P. Carroll, Mayor