

**CANBY CITY COUNCIL  
REGULAR MEETING  
OCTOBER 7, 1992**

Mayor Shawn P. Carroll presiding. Council members present: Keith Stiglbauer, Maureen Miltenberger, Scott Taylor (arriving at 8:14 p.m.), Terry Prince, Robert Smith and Walt Daniels.

Also present: Administrator Michael Jordan, City Attorney John Kelley, City Recorder Marilyn Perkett, Police Chief Jerry Giger, Public Works Director Rusty Klem, Diane Anderson, Lynda Hines, Steven Cramer and Cheryl Stark.

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 SESSIONS:** \*\*Councilman Daniels moved to approve as distributed the minutes of regular meeting, September 16, 1992; and special meeting, September 23, 1992. Motion seconded by Councilman Smith and approved 5-0.

**CITIZEN INPUT ON NON-AGENDA ITEMS:** Lynda Hines, 617 Knights Bridge Road, addressed the Council on behalf of friends and neighbors of Dr. George Kabacy, urging the Council to consider an ordinance to restrict "picketing" in residential areas in Canby. Mrs. Hines said that Dr. Kabacy and his family are being harassed by picketers. Mrs. Hines further stated that abortion is legal in the State of Oregon and she felt the picketers were unjustifiable in residential areas that preclude individuals from their own privacy and personal convictions.

Attorney Kelley noted that the City had received a request from Dr. Kabacy about six months ago to implement such an ordinance. Dr. Kabacy, at that time, provided a copy of a model ordinance from Wisconsin, with case law to uphold it. However, Mr. Kelley said he had talked with Jim Coleman, an attorney now in private practice, who implied this type of ordinance might be hard to defend due to the liberal State of Oregon Constitution. Attorney Kelley said if a criminal action happens then action can be taken, however, at this time if there is merely "peaceful" picketing, nothing can be done.

The Council was polled and the general consensus was for Attorney Kelley to pursue other legal opinions on the issue, as well as preparing a model ordinance.

Diane Anderson, Barlow resident, said she would like to see Canby set a precedent in this matter so families could enjoy "privacy" in their own homes.

Mayor Carroll commended three Police Officers, Ed Stelle, Dennis Swanberg and Ray Fillis on some recent exemplary police work performed.

**SEWER PLANT PROJECT UPDATE** - Curt McLeod reviewed a graphic map of what the proposed new plant will look like in two years. Mr. McLeod said they are still meeting with DEQ and will have final plans to them by the end of November.

Councilman Smith asked if odor control has been a part of the proposed project. Mr. McLeod said they are "re-thinking" some of their earlier plans on odor control due to problems with a couple area plants. However, odor control is a consideration.

**COMMUNICATIONS:** Letter from Molalla Fire District - Administrator Jordan reviewed

a letter from Corkey Webb, Fire Chief of Molalla, regarding their concerns for an area in their jurisdiction that uses Canby's "9-1-1" emergency phone number and must be relayed to C-Com in Oregon City. They did indicate that Canby Telephone and U.S. West are trying to resolve this issue.

Chief Giger said that Canby Telephone serves between 60-70 square miles, and Canby Police dispatches about 50 of those miles. So far, they have had no problems or delays in transferring to C-Com. In fact, the Chief said when a 9-1-1 call comes into dispatch, the name, location and service agency appears on a screen and they can send that information on to C-Com who does not have this same capability, which is actually better for citizens.

Recorder Perkett read a thank you note from David Cole, Canby Telephone Association, regarding the recent CTA Classic and the support received from the City.

**NEW BUSINESS:** Accounts Payable - \*\*Councilman Prince moved to pay accounts payable in the amount of \$152,699.18. Motion seconded by Councilman Smith and approved by roll call vote, 5-0.

Local Building Board of Appeals Members - Administrator Jordan explained that this five member board has been in existence for many years, however, used seldom. Three of the existing members, John Beck, Al Moore and Hugh Harper have consented to remain on the board. Dick Morse is out of town and will be contacted upon his return. One more member is needed and Mr. Jordan encouraged the Council to seek someone in the industry to sit on this board. At this time, there are no appeals to be presented, however, due to the development volume in the City, it is suggested that we be prepared to initiate the appeals board if necessary.

Street Vacation, Knights Bridge Road - Rusty Klem, Public Works Director, informed the Council that the City had received a petition from Ron Tatone to vacate the right-of-way of the old alignment of Knights Bridge Road. The original thinking was for the City of Canby to proceed with vacation of the Old Knights Bridge Road even though it is a County road within the City limits. However, after discussing the issue with the County, it has been suggested that the City of Canby first pursue ownership of the road, which will take six to eight weeks, then pursue the street vacation.

\*\*Councilman Daniels moved to instruct the City to initiate acquisition of the Old Knights Bridge Road from Clackamas County. Motion seconded by Councilman Prince and approved 6-0. (Councilman Taylor had arrived at 8:15 p.m. during the discussion of this issue.)

Budget Committee Appointment - Administrator Jordan reminded the Council that another budget committee member is still needed and after the Canby Herald ran another story on the subject, we received a letter of interest from Burt Lindsay.

\*\*Councilman Prince moved to appoint Burt Lindsay to a three year term on the City Budget Committee, with his term expiring in July, 1995. Motion seconded by Councilman Smith and approved 6-0.

**ORDINANCES & RESOLUTIONS:** Ordinance No. 880 - Administrator Jordan stated that this is the seconded reading for an ordinance that authorized the new Library roof.

\*\*Councilman Taylor moved to adopt Ordinance No. 880, AN ORDINANCE AUTHORIZING THE MAYOR AND CITY RECORDER TO EXECUTE A CONTRACT WITH MC DONALD AND WETLE, INC. FOR THE PURPOSE OF INSTALLING A ROOF SYSTEM ON THE CANBY PUBLIC LIBRARY; AND DECLARING AN EMERGENCY. Motion seconded by Councilman Daniels and approved by roll call vote, 6-0.

Ordinance No. 881 - Administrator Jordan reminded the Council that this ordinance on abandoned vehicles had been the topic of a prior workshop session.

Attorney Kelley reviewed the significant changes that were being proposed:

Eliminate the words "*AND REPEALING*" from the title.

Section 1, (A) - the words "*fifteen (15) days within any one twelve (12) month period*" were added to this area regarding private property.

Section 1, (B) - was regarding public property and this is an entire new section with time frame being "*in excess of forty-eighty (48) hours*".

Section 2 - the words "*beyond fifteen (15) day limit*" and "*completely enclosed within a building*" were added.

Section 3 - added the word "*building*", as being where vehicles should be housed.

Section 4 - regarding the penalty, the following is new language: "*A second or subsequent violation with a twelve (12) month period shall be, upon conviction thereof, punishable by a fine of not less than five hundred dollars (\$500.00), (the remainder of this paragraph was eliminated) nor more than one thousand dollars (\$1,000.00). Each day a violation exists is a separate offense and may be punished as such.*"

Section 5 - regarding private property. "*for a period of time longer than fifteen (15) days within any one twelve (12) month period.*" and also the words of "*emergency repairs*" were added.

Councilman Taylor asked if some of the wording would be defined, specifically the words "rusted" and "wrecked". Attorney Kelley cited other jurisdictions that used those words.

Councilman Taylor asked why Section 5, had a \$1,000 figure and the wording regarding each day punishable as a separate offense. Attorney Kelley said usually the Judge will fine only on one incident, the rationale for the wording was that a second and mandatory fine would encourage people not to continue doing it more than once. Councilman Taylor said he disagreed with this and felt we should trust the system and Judge on this issue.

Mayor Carroll polled the Council to see how many wanted to eliminate the words "rusted" and "wrecked" from the ordinance.

Councilor's Stiglbauer and Miltenberger wanted to see the words "rusted" and "wrecked" eliminated from the ordinance.

Councilman Prince wanted to see only the word "rusted" eliminated from the ordinance.

Councilor's Smith and Daniels felt it was fine the way it was presented.

**\*\*Councilman Prince moved that Ordinance No. 881, AN ORDINANCE AMENDING CERTAIN SECTIONS OF THE CANBY MUNICIPAL CODE 10.08, RELATING TO ABANDONED VEHICLES, with the following corrections: the word "**rusted**" be eliminated from Section 1, (B); and Section 4, eliminate all the words after the figure of \$500.00, i.e., "nor more than one thousand dollars (\$1,000.00). Each day a violation exists is a separate offense and may be punished as such." Also, the ordinance is to come up for final action on October 21, 1992. Motion seconded by Councilman Daniels and approved 4-2, with Councilor's Taylor and Miltenberger voting nay.**

**UNFINISHED BUSINESS:** None presented.

**OTHER REPORTS OR ANNOUNCEMENTS:** Administrator Jordan reminded the Council of the October 14th Budget Meeting at 7:30 p.m., however, the special Council meeting at 7:00 p.m. has been canceled since the resolution for the sewer bonds will not be ready at that time.

Administrator Jordan informed the Council that five neighborhood meetings have been scheduled: October 19, 26 and 27, and November 9 and 10.

The October Clackamas County Cities meeting will be held in Sandy on October 22nd, anyone wishing to go should let the business office know.

Mr. Jordan also noted that the annual League of Oregon Cities Convention will be November 14-17, and urged people to sign up by October 19th with the business office.

Councilman Prince requested that, in the future, staff provide copies of "old ordinances" along with new ones that are being submitted for consideration.

Mayor Carroll congratulated Councilwoman Miltenberger on her recent marriage and wished her happiness.

- ACTION REVIEW:**
1. Re-activate the Building Board of Appeals.
  2. Appoint Burt Lindsay to a three year term on the City Budget Committee.
  3. Execute the contract for the new Library roof, by Ordinance No. 880.
  4. Make corrections to Ordinance 881, and post it for second reading.

**\*\*Councilman Prince moved to go into Executive Session under ORS 192.660 (1)(d), regarding labor negotiations; (1)(h), regarding pending litigation; and (1)(i), to evaluate a City employee performance. Motion seconded by Councilman Stiglbauer and approved 6-0.**

Mayor Carroll recessed the regular session at 8:55 p.m., to go into Executive Session in the Police Department conference room.

Mayor Carroll reconvened the regular session at 10:23 p.m., and immediately adjourned the regular session.

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## EXECUTIVE SESSION OCTOBER 7, 1992

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

Mayor Carroll called the session to order at 9:00 p.m. in the Police Department Conference Room.


ORS 192.660 (1)(h) - Attorney Kelley updated the Council on the following pending litigation cases: Rinkes, Torgeson and Elementary School District LUBA case.

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

ORS 192.660 (1)(d) - Police Department labor negotiations were discussed.

Mayor Carroll adjourned the session at 10:20 p.m.

  
Marilyn K. Perkett  
City Recorder

  
Shawn P. Carroll  
Mayor