

CANBY CITY COUNCIL
REGULAR MEETING
OCTOBER 2, 1991

Mayor Shawn P. Carroll presiding. Council members present: Keith Stiglbauer, Maureen Miltenberger, Terry Prince, Walt Daniels (arriving at 8:20 p.m.) and Robert Smith.
Absent: Scott Taylor.

Also present: Administrator Michael Jordan, City Attorney John Kelley, Police Chief Jerry Giger, City Recorder Marilyn Perkett, City Planner Robert Hoffman, Librarian Beth Saul, Public Works Director Rusty Klem, N. Friesen, K. Hurias, John Falkenstein, Maynard Nofziger, Doug Gingerich, Eugene Rascho, Ken Roth, Paul & Laurie Doty, David Dalley, and Planning Commission members Kurt Schrader, Hank Fenske, Linda Mihata and Tamara Maher.

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 of four members present.

MINUTES OF PREVIOUS SESSION: **Councilman Smith moved to approve as distributed the minutes of special meeting, September 11, 1991, and regular session, September 18, 1991. Motion seconded by Councilman Stiglbauer. Councilman Prince corrected the minutes of September 18, 1991, page 5, last paragraph, last sentence, the word "NOT" should be inserted before "to be considered". Motion for the amended minutes passed 4-0.

CITIZEN INPUT ON NON-AGENDA ITEMS: None presented.

PROCLAMATIONS: Public Power Week - Mayor Carroll proclaimed the week of October 6 - 12, 1991, as Public Power week and urged citizens to stop by the Canby Utility Board for more information.

Disability Employment Awareness Month - Mayor Carroll proclaimed the month of October as Disability Employment Awareness Month.

COMMUNICATIONS: Letter from Sharon Smith - Mayor Jordan informed the Council that we had received a letter from Sharon Smith resigning her duties on the Traffic Safety Commission.

Chief Giger explained that the Traffic Safety Commission studies concerns and requests regarding safety issues and traffic movement and makes recommendations to the Council on these matters.

Mayor Carroll asked that a letter of thanks be sent to Mrs. Smith and urged anyone interested in serving on the commission to contact the City.

FINDINGS: MLP 91-05/PUD 91-02, Stuart - Mayor Carroll asked the Council if they had any conflict of interest or exparte contact regarding this issue. Each Councilperson replied that they had none.

**Councilman Prince moved to adopt the Findings, Conclusions and Order of MLP 91-05/PUD 91-02 of Mr. Stuart, 1320 N. Holly. Motion seconded by Councilwoman Miltenberger and approved 4-0.

NEW BUSINESS: Accounts Payable - **Councilwoman Miltenberger moved to approve payment of accounts payable in the amount of \$72,730.28, seconded by Councilman Prince and approved by roll call vote, 4-0.

Mutual Aid Agreement with Clackamas County Sheriffs - Chief Giger explained that this document is long overdue and is a guideline for a working relationship between the Police Department and County Sheriff's Department. **Councilman Smith moved to authorize the Chief of Police to sign on behalf of the City of Canby, an Intergovernmental Agreement for Mutual Aid with the Clackamas County Sheriff's. Motion seconded by Councilman Prince and approved 4-0.

ORDINANCES & RESOLUTIONS: Ordinance No. 869 - Administrator Jordan explained that this ordinance was to be considered for final action regarding the sale of sewer bonds.

**Councilman Prince moved to adopt Ordinance No. 869, AN ORDINANCE AUTHORIZING THE MAYOR AND CITY RECORDER TO EXECUTE A CONTRACT WITH SEATTLE-NORTHWEST SECURITIES CORPORATION TO ACT ON BEHALF OF THE CITY OF CANBY AS THE INVESTMENT BANKER FOR THE ISSUANCE OF SEWER REVENUE BONDS FOR A TOTAL OF NOT TO EXCEED \$4,100,000; AND DECLARING AN EMERGENCY. Motion seconded by Councilman Smith and approved by roll call vote, 4-0.

Ordinance No. 870 - Administrator Jordan explained that this ordinance was to be considered for final action regarding the H.O.P.E. zone change.

**Councilman Smith moved to adopt Ordinance No. 870, AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF CANBY, COUNTY OF CLACKAMAS, OREGON FOR THE H.O.P.E. CORP., motion seconded by Councilman Prince and approved 4-0.

Ordinance No. 867 - Administrator Jordan explained that this ordinance, regarding System Development Charges, was set over from the last meeting due to a request from Attorney Roger Reif. Mr. Reif sent the City a letter outlining his many concerns regarding the content of the proposed ordinance.

Attorney Kelley pointed out two revisions in the ordinance since the Council had received their first copy: page 5, he had changed the interest rate from "10%" to "9%", however, he again wished to change the wording to read - "at the then existing legal rate per annum". Also, on page 2, top of the page, number 2, was changed from Section 8 to "Section 9".

PAGE 1 of Ordinance 867 - Attorney Kelley pointed out that Attorney Reif requested that the definition for "dwelling" be added to the ordinance. Page 1, after the term for Development, ADD the definition for "DWELLING" as stated currently in Municipal Code Section 16.04.200. Mr. Jordan read that particular definition into the record.

Hank Fenske, Planning Commissioner, noted that on page 1, the definition for "Land Use" should be entitled "Land Area". Attorney Kelley noted the correction.

Councilwoman Miltenberger asked that staff explain more about System Development Charges (SDC).

Administrator Jordan explained that 1989 Oregon Legislature adopted HB 2432 standardizing SDC fees. Prior to that time, various communities were using a variety of methods for fee collections and expenditures. The new standards will apply to all municipalities. The ordinance actually sets up the "frame-work" to implement the resolutions for the various methodologies and fees for various systems. SDC money can

only be spent on capital improvements that enhance the particular infrastructure for which it is designated, i.e., sewers, parks, etc.

PAGE 2 of Ordinance 867 - Attorney Kelley again pointed out that #2, on top of the page was changed to "Section 9", under "Qualified Public Improvement". An example of a "Qualified Public Improvement" is when someone builds on a street and has no sewer line to connect to on that street. As a condition they are required to build the sewer all the way to their subdivision and pay for it. That then becomes an improvement for the City and the developer will get a credit on the sewer connection fee or parks SDC for making that improvement.

Mr. Kelley explained the difference between an "improvement fee" and "reimbursement fee". The improvement fee is imposed for capital improvements to be constructed in the future; and the reimbursement fee is a charge based upon what has been developed in the past and in place.

Administrator Jordan explained that a SDC could be made up of both improvement and reimbursement fees, or one or the other.

Doug Gingerich, representing H.O.P.E., asked if fee structures have been developed and was informed they are still in draft form and may possibly be presented at the October 16th meeting. Mr. Gingerich asked if senior housing or non-profit corporations would be exempt from the proposed fee methodology. He was told there are no mention of such exemptions.

Attorney Kelley said the purpose of the methodology is to state how we arrive at the charge to be imposed, with the resolution stating the fee to be imposed.

PAGE 3 of Ordinance 867 - In response to Mr. Reif's letter, Attorney Kelley added the following wording in Section 7, (A), end of second sentence after words PUD, "a residential mobile or manufactured home park." Mr. Reif also addressed nursing homes, hotels, dormitories, however, these are considered commercial operations and they would not be required to pay parkland SDC's, only sewer connection fees will be assessed.

Doug Gingerich asked if assisted living was considered commercial and was informed it was commercial.

PAGE 4 of Ordinance 867 - Mr. Kelley suggested the following change on "D", second sentence, after the word "dedication", add "including improvements thereon"; and after the word "value" add the wording, "at the time it is dedicated to the City."

Councilman Prince questioned the wording of "separate instrument", in reference to recording PUD's. Attorney Kelley said that subdivisions have dedications that are binding with the platting, which is not always the case in a PUD. Therefore the need for a "separate instrument" for recording is necessary to make dedication to the City.

Doug Gingerich, referring to Mr. Reif's letter, noting that H.O.P.E. will be purchasing their land for development in segments which puts them in bad situation because of the requirement to make all dedications prior to final platting of 40% of the gross land area. Also, Mr. Gingerich pointed out that Section 7 (C) required expenses such as environmental audits, title searches recording fees, etc. be at the expense of the conveyer of the property, they felt the City should pay those expenses.

Mr. Kelley pointed out that the City would pay for one-half of an environmental audit, however, the conveyer will be responsible for recording fees, taxes, etc.

Mr. Hoffman noted that in the case of the H.O.P.E. development, the Commission did not require formal dedication of parkland to the City, so H.O.P.E. would not be subject to this particular paragraph.

Mr. Kelley said that the requirement of dedication prior to 40% of final platting is intended to cover a situation where a developer would develop some phases and walk away from the project before the final phase and thus not making proper dedications.

Kurt Schrader noted that the 40% was a compromise figure since most other communities require land dedications at the beginning of the project. Also, most all other communities have the developer pay "all" of the expenses in regards to dedication, such as recording, audits, etc.

Councilman Prince questioned environmental audits and was told it was for DEQ purposes and can be as high as \$15,000 depending what has been on the property in the past.

Mr. Kelley referred to Mr. Reif's letter regarding the requirement that all sites to be dedicated be "ready for full service", as being a hardship for some developers. Mr. Kelley suggested adding the following wording for this issue in Section C, paragraph 4: "In case of phase development, sites may be improved as each phase is developed rather than at the time of dedication."

Councilman Prince suggested that the City allow the developer a credit for one-half of his half of the environmental audit. However, Mr. Kelley informed the Council that for every authorized credit, that credited amount of costs must be made up elsewhere by raising charges to someone else. The Council decided against this suggested credit.

Hank Fenske reminded the Council that a level one audit usually is only \$1,500 and is the cost that we would be dealing with normally. However, if problems are discovered at level one, then the City should not be interested in that parcel for dedication.

PAGE 5 - No corrections other than the interest rate already corrected.

PAGE 6 - Doug Gingerich, in reference to Section 12, questioned if H.O.P.E. would be considered as an exemption since the project is non-profit and for seniors. The H.O.P.E. group consider this project as a public service to the community. Mr. Kelley pointed out that most other jurisdictions do not provide exemptions for low income or seniors. However, McMinnville provides an exemption, under Oregon State Law, based on income level. Mr. Kelley reiterated that for each credit or exemption allowed, the money must be made up by someone else.

Bob Hoffman remarked that charges can often make or break a project. He specifically noted that HUD projects often face funding problems and one option he proposed was the following addition under exemptions: "E. With City Council approval, housing specifically limited in occupancy to "Very Low Income" persons or families, as defined by the most recent HUD (Federal Housing and Urban Development Department) criteria, may also be exempted from the System Development Charges." He noted that current income levels for HUD criteria is for a family of four at \$19,400.

Councilman Prince felt that parks are a basic service for everyone's use and felt there should be no additional exemptions.

Kurt Schrader pointed out that a PUD is allowed a 15% density credit, in the case of elderly and handicapped that get a density bonus of 50% in any zone which does benefit these projects.

Mayor Carroll surveyed the Council regarding the proposed exemption for seniors or low income.

Councilman Stiglbauer agreed with Councilman Prince and felt everyone should pay their fair share.

Councilwoman Miltenberger felt we should encourage low income housing and add that exemption.

Councilman Daniels also wanted to include item "E" for low income housing if needed.

Councilman Smith agreed to the low income section for exemptions.

Councilman Prince reiterated his opinion to add no other exemptions due to financial problems for the future.

Administrator Jordan reminded that we can change the methodology if necessary to make adjustments according to various situations including construction costs, number of developments, changing of required parks, conditions, policies, etc.

Mayor Carroll noted that the vote of the Council was 3 in favor and 2 against adding the Section E, regarding low income exemptions.

Doug Gingerich, referring to Mr. Reif's letter, requesting that the Council consider 100% credit for private parks and recreation areas. He also noted that H.O.P.E. has dedicated more land than was actually required. He added that some events at the community center will be open to the public, as well as usage of other facilities from visitors to the area.

Attorney Kelley said the H.O.P.E. residents will probably use other City parks and facilities.

Kurt Schrader said the SDC's were not to be onerous to any one group and the goal was to spread the cost to all new residences. He also felt that we will see more and more private parks being developed. Mr. Schrader felt that 50% credit was adequate, specifically due to his research of other entities and their systems. He also questioned how functional the private facilities will be 20 years from now. He said Wilsonville recently took their private parkland credit out of the SDC proposal.

Linda Mihata, Vice-Chair of the Planning Commission, reiterated that this ordinance should apply to everyone and she felt 50% credit was adequate.

The unanimous consensus of the Council was to leave Section 13 on credits as is with no changes.

One other correction was the top of page 6, Section 12, (A), the dated is to be changed from October 2, 1991, to October 16, 1991.

PAGE 7 - No changes.

Doug Gingerich called attention to Mr. Reif's concerns about land transactions entered into prior to this ordinance; also if prior sewer connection fees already paid will be subject to SDC's.

Mr. Klem gave the example of a few years ago when a developer's subdivision sat for a period of time before development. The developer had already paid the sewer connection fees at \$600. When he started developing the connection fee had raised to \$1,200, he

was not required to pay an additional fee.

Mr. Jordan reiterated that the City will not impose two fees for any given charge. Also, there will always be a transaction in progress regardless of when these provisions are adopted. The SDC's are triggered on development, not transaction of property.

PAGE 8 - Only the dates of the readings and effective date were changed on this page.

****Councilman Prince moved that Ordinance No. 867, AN ORDINANCE ESTABLISHING SYSTEM DEVELOPMENT CHARGES FOR CAPITAL IMPROVEMENTS FOR WASTEWATER TRANSPORTATION, DRAINAGE, FLOOD CONTROL AND PARKS; SETTING FORTH STANDARDS AND CRITERIA; PROVIDING EXEMPTIONS AND CREDITS; ESTABLISHING AN APPEAL PROCEDURE; AND DECLARING AN EMERGENCY be properly posted as amended tonight and come up for final action on October 16, 1991. Motion seconded by Councilman Smith and approved 5-0. (Note that Councilman Daniels arrived at 8:20 p.m. midway into the discussion of this ordinance.)**

Resolution No. 486 - Recorder Perkett informed the Council that she recently attended the Oregon Recorder's Conference and learned that recent legislation, specifically HB 2974, required that state agencies appoint a Records Management Position.

****Councilman Daniels moved to adopt Resolution No. 486, A RESOLUTION APPOINTING THE POSITION OF OFFICE OF THE CITY RECORDER TO RECORDS MANAGEMENT. Motion seconded by Councilman Stiglbauer and approved 5-0.**

Resolution No. 487 - Administrator Jordan addressed this resolution, stating it would renew our membership with City/County Insurance for liability. Mr. Jordan explained that staff had researched other communities and found that other insurance agencies cannot compete with these "self-insurance" premiums.

****Councilwoman Miltenberger moved to adopt Resolution No. 487, A RESOLUTION AUTHORIZING MEMBERSHIP IN THE CITY/COUNTY INSURANCE SERVICES TRUST. Motion seconded by Councilman Daniels and approved 5-0.**

UNFINISHED BUSINESS: Chief Giger had reviewed the request by Canby Christian Church to relocate their annual Nativity Scene to N. Holly Street. Mr. Giger said this would be agreeable, in fact, it will be better at that location than as it was previously on N.W. Fourth. The church will be responsible for blocking off the front area with "No Parking" signs. The unanimous consensus of the Council was to approve the request from the church for relocation of their Nativity Scene.

Rusty Klem asked the Council if the second draft of his letter to the Clackamas County Transportation Department regarding planned road improvements was acceptable.

****Councilman Daniels moved to authorize the Mayor to sign, on behalf of the Council, a letter to Clackamas County Transportation in respect to the Council's concerns for County road improvements. Motion seconded by Councilman Prince and approved 5-0.**

OTHER REPORTS OR ANNOUNCEMENTS: Mayor Carroll informed everyone of the Clackamas County Mayor's Ball on Saturday, October 5, at the fairgrounds.

ACTION REVIEW:

1. Thank you letter to Sharon Smith.
2. Execute the following: Mutual Aid Agreement with Clackamas County Sheriff's Department; Contract with Seattle Northwest Securities for Bond Issuance; and H.O.P.E. zone change.

3. Amend the SDC ordinance and post for final reading.
4. Appoint City Recorder as Records Management Officer.
5. Send letter to CCTC regarding road improvements.

****Councilman Prince moved to go into Executive Session under ORS 192.660 (1)(e), to negotiate real property; (1)(h), regarding pending litigation; and (1)(i), regarding evaluation of a public employee. Motion seconded by Councilman Stiglbauer and approved 5-0.**

Mayor Carroll recessed the regular session at 9:38 p.m. to go into Executive Session in the Police Department Conference room. The regular meeting was reconvened at 11:14 p.m.

Mayor Carroll informed the Council that the memo he passed out from the Lake Oswego Mayor was an update on RUGGO'S, i.e., it is advising what is happening with Metro.

Councilman Prince brought up the idea of meeting to discuss the current budget and expenditures, specifically for proposed new hiring.

Administrator Jordan said the new hire salaries are in the budget, however, the Rinkes case may be a deciding factor. Mr. Jordan advised that under the new supplemental budget law, we can move 10% of a fund without the Budget Committee. In our case, if we need to re-budget for Rinkes we would be within the law. Mr. Jordan also informed the Council that staff is ready to hire an Assistant Planner, however, we will wait until after the Rinkes case. Pending the Rinkes case, a tentative date for a special session on the budget would be October 29th, 7:30 p.m.

Councilman Prince noted that we had four full time and one half time position to hire, pending the evaluation of the budget.

Mayor Carroll also requested that the Budget Committee be advised of any decisions made after the evaluation of the budget.

Mayor Carroll adjourned the session at 11:25 p.m.

**EXECUTIVE SESSION
OCTOBER 2, 1991**

Present: Mayor Carroll, Attorney Kelley, Administrator Jordan, Councilor's Smith, Daniels, Prince, Miltenberger and Stiglbauer, and Chief Jerry Giger for the last portion of the session.

Mayor Carroll called the session to order at 9:58 p.m. in the Police Department Conference room.

ORS 192.660 (1)(e) - Nothing was discussed this session.

ORS 192.660 (1)(h) - The Council first discussed the pending Rinkes litigation.

A litigation case with Boland and Jeans was discussed.

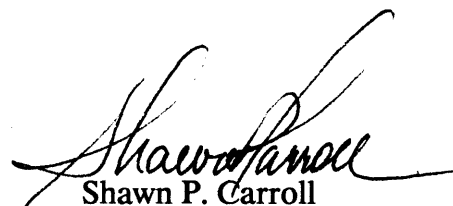
Attorney Kelley left the session at this time and Chief Giger came into the session.

ORS 192.660 (1)(i) - The Tim Skipper employment case was evaluated.

Mayor Carroll adjourned the session at 11:14 p.m.



Marilyn K. Perkett
City Recorder



Shawn P. Carroll
Mayor

PROCLAMATION

WHEREAS, The President of the United States of America, George Bush, during the signing of the Americans with Disabilities Act of 1990, declared, "The shameful wall of exclusion for people with disabilities is finally tumbling down"; and

WHEREAS, People with disabilities can now aspire to live a life of quality with tolerance and freedom from barriers of discrimination; and

WHEREAS, We the citizens of Canby take great pride in the heritage of our diversity fused with the oneness of our future as affirmed in our state motto, "She Flies with Her Own Wings"; and

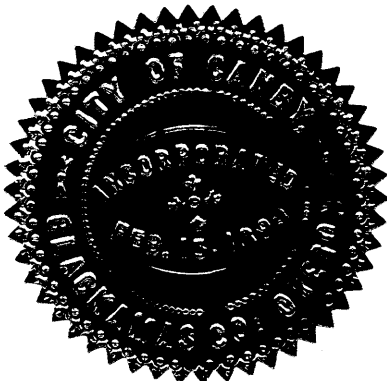
WHEREAS, We celebrate Canby's employers and others who recognize the abilities of our workers and not their disabilities.


NOW THEREFORE, I, Shawn P. Carroll, Mayor of the City of Canby, Oregon, hereby proclaim October, 1991, as

DISABILITY EMPLOYMENT AWARENESS MONTH

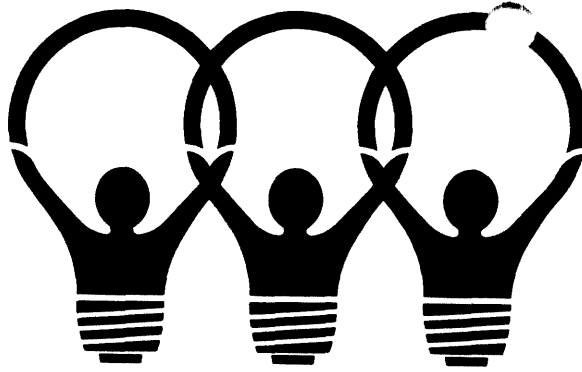
in Canby and encourage all citizens to join in this observance.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of Canby to be affixed this 2nd day of October in the year of our Lord One Thousand Nine Hundred and Ninety-One.




Shawn P. Carroll, Mayor

WE'RE PUBLIC POWERFUL !



WHEREAS, we, the citizens of Canby are proud of our choice to operate a community-owned, not-for-profit electric utility; and

WHEREAS, we, the citizens of Canby are both consumers and owners of our public power system and have a direct say in utility operations and policies; and

WHEREAS, the Canby Utility Board provides our homes, business, social service and local government agencies with reliable, efficient, and cost-effective electricity employing sound business practices designed to ensure the best possible service at the lowest possible rates; and

WHEREAS, the Canby Utility Board is a valuable community asset that contributes substantially to the well-being of local citizens through energy efficiency, customer service, environmental protection, economic development and safety awareness; and

WHEREAS, the Canby Utility Board is part of a community of 2,000 publicly owned electric utilities in the United States that through consumer-ownership ensure cost-cutting competition in the electric utility industry to the benefit of electric customers everywhere; and

WHEREAS, the American Public Power Association initiated Public Power Week in 1987, and it has proven a successful means to educate this community's consumers and the general public about public power's public service mission and community betterment goals.

NOW, THEREFORE BE IT PROCLAIMED, that the week of October 6-12 designated **PUBLIC POWER WEEK in Canby, in order to honor the utility, its consumer-owners, and its employees, who work together to provide the best possible electric service, and**

BE IT FURTHER PROCLAIMED that our community join hands with other public power communities across the nation and celebrate the benefits of public power to our local and national progress.

IN WITNESS WHEREOF, I have hereunto set my hand and cause the Seal of the City of Canby to be affixed this 2nd day of October in the year of our Lord, One Thousand Nine Hundred and Ninety-One.

Shawn P. Carroll, Mayor