

CANBY CITY COUNCIL
REGULAR MEETING
JUNE 5, 1991

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

Also present: Administrator Michael Jordan, City Attorney John Kelley, Attorney Don Stark, City Recorder Marilyn Perrett, Swim Center Director Scott Nelson, Librarian Beth Saul, Police Chief Jerry Giger, City Planner Bob Hoffman, City Treasurer Virginia Biddle, Estle Harlan, Fred Kahut, Roger Reif, Mark Triebwasser, Linda Mihata, Mavourn Stuart, Don, Scott & Joe Peterson, Anna Phillips, Jeff Wuorio, Chris Curren and Tamara Maher.

Mayor Carroll called the regular session to order at 7:00 p.m.

****Councilman Prince** moved to go into executive session under ORS 192.660 (1)(h), regarding pending litigation. Motion seconded by Councilman Daniels and approved 6-0.

Mayor Carroll recessed the regular session at 7:01 p.m., to go into executive session in the Canby Police Department. Mayor Carroll reconvened the regular session at 7:30 p.m.

The flag salute and meditation were observed.

Roll call showed the entire Council to be present.

MINUTES OF PREVIOUS SESSION: ****Councilman Daniels** moved to approve as distributed the minutes of regular session, May 15, 1991. Motion seconded by Councilman Smith and approved 6-0.

Mayor Carroll said "greetings" to the third grade class of Mrs. Vande Keift, who he had promised to acknowledge during this meeting on T.V.

CITIZEN INPUT ON NON-AGENDA ITEMS: None presented.

PUBLIC HEARINGS: 1991-92 State Revenue Sharing - Mayor Carroll reviewed the public hearing process and asked for any conflict of interest or exparte' contact of the hearing body. None was voiced.

Mayor Carroll opened the public hearing at 7:36 p.m.

Staff Report: City Treasurer Biddle reviewed this fund, noting we would receive about \$30,000 for expenditures for the next fiscal year.

No proponents or opponents were present to testify.

Mayor Carroll closed the public hearing at 7:37 p.m.

****Councilman Prince** moved that Ordinance No. 862, AN ORDINANCE DECLARING THE CITY'S ELECTION TO RECEIVE STATE REVENUES FOR 1991-92 FISCAL YEAR, be posted and come up for final action on June 19, 1991. Motion seconded by Councilman Daniels and approved 6-0.

1991-92 City Budget - Mayor Carroll asked the hearing body if there was any conflict of interest or exparte' contact and none was voiced.

Mayor Carroll opened the hearing at 7:40 p.m.

Staff Report: Treasurer Biddle reviewed the proposed budget for the next fiscal year, pointing out that the entire budget was \$4,439,509 and a total of \$1,323,406 property taxes to be levied.

No proponents or opponents were present to testify.

Mayor Carroll closed the public hearing at 7:42 p.m.

****Councilman Prince moved to adopt Resolution No. 476, A RESOLUTION ADOPTING BUDGET AND MAKING APPROPRIATIONS FOR THE 1991-92 FISCAL YEAR. Motion seconded by Councilman Daniels and approved 6-0.**

Annexation of .84 Acres, Richard Kraxberger Applicant - Mayor Carroll again asked the hearing body if there had been any conflict of interest or exparte' contact, none was voiced.

Mayor Carroll opened the public hearing at 7:44 p.m.

Staff Report: Bob Hoffman, City Planner, reviewed the annexation application of Richard Kraxberger to annex .84 acres. This parcel has one single family resident on it and is contiguous to the Watson annexation that was approved at the last meeting. If annexed it will be zoned M-1 Light Industrial. The Metropolitan Boundary Commission has agreed to add Mr. Kraxberger's request to the Watson annexation.

No proponents or opponents were voiced.

Mayor Carroll closed the public hearing at 7:47 p.m.

****Councilman Daniels moved to adopt Resolution No. 475, A RESOLUTION APPROVING ANNEXATION TO THE CITY OF CANBY, CLACKAMAS COUNTY, OREGON (APPLICATION OF RICHARD KRAXBERGER) OF APPROXIMATELY 0.84 ACRES. Motion seconded by Councilman Smith and approved 6-0.**

COMMUNICATIONS: Administrator Jordan informed the Council that the City had received a telephone request from the American Legion requesting permission to hold their annual Flag Burning Ceremony in Wait Park on June 14th. Mr. Jordan noted that last year's request from the American Legion was also for permission to make this a permanent calendar event each year without having to file a formal request, the minutes of that meeting reflected the same information. The City had never returned to them with an answer to this request.

After Council discussion, the general consensus of the City Council was to create a "blanket" agreement with a City Policy that would make the applicant for the park make their request in advance so the City staff would have the time to revoke or make conditions to any request. Staff will draft a policy to return for Council consideration.

NEW BUSINESS: Accounts Payable - **Councilman Prince moved to approve payment of accounts payable in the amount of \$149,817.76. Motion seconded by Councilman Stiglbauer and approved by roll call vote, 6-0.

Property Acceptance from Cedar Ridge - Planner Hoffman noted on a map the location of the track of land that Cedar Ridge was deeding over to the City, which is actually the bank and creek to the centerline, located behind Elmwood Mobile Home Park and the Assisted Living Facility. This was a condition of approval by the Planning Commission and the plans are to put a bike and pedestrian path on this bank.

****Councilman Prince moved to accept the dedication of land known as Track "A" as shown**

on page 16 (and which will become a part of the minutes of this meeting). Motion seconded by Councilman Taylor and approved 6-0.

LOC Request for Additional Funding - Administrator Jordan pointed out that the League of Oregon Cities invoice consisted of the annual dues; an annual additional volunteer funding of \$100.00 for the amicus legal fund; and a 10% surcharge of \$297.00, a voluntary contribution to assist in efforts to reform the state tax system due to the implementation of Measure 5.

****Councilman Taylor** moved to authorize the additional LOC request for a 10% surcharge of the annual dues for Local Government Replacement Revenues/Post -Ballot Measure 5. Seconded by Councilwoman Miltenberger.

Councilman Taylor asked Administrator Jordan if he was involved in this portion of the LOC request. Mr. Jordan said he was a member of the LOC Financial Subcommittee which will be heavily involved in helping in the restructuring of the Oregon taxation system and felt the requested money was reasonable.

****The motion on the floor passed 6-0.**

ORDINANCES & RESOLUTIONS: Ordinance No. 861 - Administrator Jordan explained that this was the final reading for an ordinance that executes a contract for the Birch Street engineering. ****Councilman Taylor** moved to adopt on final reading Ordinance No. 861, **AN ORDINANCE AUTHORIZING THE MAYOR AND CITY RECORDER TO EXECUTE A CONTRACT WITH CURRAN-MCLEOD, INC. FOR CONSTRUCTION ENGINEERING ON THE NORTH BIRCH STREET PROJECT.** Motion seconded by Councilman Daniels and approved by roll call vote, 6-0.

Ordinance No. 863 - Administrator Jordan explained that this Ordinance was to amend an old ordinance about sidewalk displays, specifically, for serving food and beverage on sidewalk tables.

Attorney Kelley read two primary sections of the ordinance, the one for exemptions and permits and one regarding the penalty.

Councilman Prince asked about advertising. Mr. Kelley said he didn't consider advertising when drafting the ordinance.

Scott Peterson, 294 N.W. Second Avenue, addressed the Council regarding their business, Parson's Canby Pharmacy, and the fact that they have tables with umbrellas and chairs on the sidewalk in front of their business for serving beverages. Mr. Peterson felt that their display was creative, had character and added color to the City. He said they had been harassed by the City over the issue and implied that it was hard to compete against larger firms. He said they needed the support of the City Council and City Hall "bureaucrats". Mr. Peterson said that their tables were 39 inches, as well as the ones at the Ice Cream store, the proposed ordinance suggested 30 inch tables. He also requested that we delete the proposed annual permit. And finally, he noted that they were seeking help to say "no to bureaucracy".

Don Peterson, 294 N.W. Second Avenue, informed the Council that he was on an economic development committee that has met two or three times a year, and he felt economic development was an "attitude". Mr. Peterson said the City Hall staff "has less than a positive attitude". He said that two hours after he had put his tables and chairs outside that the City Recorder had come down to his store and said they had to come down; he received a letter delivered by a uniformed policeman regarding the umbrella's; and yet another hand delivered letter by a policeman regarding his insurance. Mr. Peterson implied that the City

of Canby's sign ordinance is more restrictive than it needs to be. He also reiterated the need to be competitive with larger businesses.

Councilman Taylor said that in his nine years on the Council he felt the City staff was one that was most cooperative; were pro-business and pro-City; and he personally took affront to being labeled as a "bureaucrat".

Councilman Prince said that he appreciated the Peterson's for their effort to be competitive in business, however, he felt the City was acting under rules and public rights. He said it was not the intent of the Council to put any business in the position of not being able to be competitive, only that this particular sidewalk issue be "safe" for the citizens.

Mayor Carroll also reiterated the fact that the City had an excellent staff and he was concerned about the term "bureaucrats" and felt that we are all doing the best that we can.

Councilman Stiglbauer noted that he and Mr. Jordan had checked out the tables yesterday and there seemed to be no obstruction problem.

Several Councilor's felt that the ordinance should be revised to allow for both a width and height clearance that was adequate for pedestrian passage and safety.

Anna Phillips, 134 N. Grant of the Ice Cream Store, asked the Council why did they indicate only two tables. She was planning to expand her business and would probably like more. She also pointed out that their individual insurance would provide coverage for any safety problems and wondered why the Council was telling them, the business owners, what they could and could not do. She reiterated the fact that this helped to make the downtown area more attractive.

The Council instructed the Attorney to revise the ordinance and not specify the number of tables or chairs; make the minimum clearance standards be appropriate for pedestrian safety and passage, including wheelchairs; and to leave in the section regarding the permits.

Resolution No. 474 - Administrator Jordan explained that this resolution was a requirement for a state loan for the sewer plant facilities and construction projects.

****Councilman Prince moved to adopt Resolution No. 474, A RESOLUTION AUTHORIZING THE CITY OF CANBY, COUNTY OF CLACKAMAS, OREGON, TO APPLY FOR AND RECEIVE A STATE REVOLVING FUND (SRF) LOAN. Motion seconded by Councilman Smith and approved 6-0.**

Resolution No. 476 - Treasurer Biddle explained that this was a housekeeping measure to transfer funds to balance the current budget. ****Councilman Daniels moved to adopt Resolution No. 476, A RESOLUTION AUTHORIZING TRANSFER OF FUNDS IN BUDGET LINE ITEMS TO BALANCE THE 1990-91 BUDGET. Motion seconded by Councilman Prince and approved 6-0.**

Resolution No. 478 - This resolution was regarding a rate increase for the garbage service.

Estle Harlan, 2202 S.E. Lake Road Milwaukie, representing Fred Kahut's Canby Disposal Service addressed the Council to explain the requested rate increase. Ms. Harlan explained that Metro had implemented a \$13 per ton increase and they were requesting a \$1.05 per can per month increase and Metro will be adjusting this annually. Also, to bring the operation to a 2.2% break-even point for the owner, they are requesting a general increase. The total increase would be \$1.75 per can per month.

Councilman Taylor said he understood the pass-through increase, however, he wondered if the additional increase was justified or could it be effective management concerns.

Ms. Harlan indicated that if we considered the rates of other communities then we could use that as a measurement for Canby's requested rates. Ms. Harlan said that the yard debris recycling program will not start until the first of the year and currently Clackamas County is testing various containers.

****Councilman Taylor moved to adopt Resolution No. 478, A RESOLUTION AUTHORIZING AN OVER-ALL GARBAGE COLLECTION RATE INCREASE AND A PASS-THROUGH OF INCREASED DISPOSAL FEES AND ESTABLISHING A NEW RATE SCHEDULE.** Motion seconded by Councilman Prince and approved 6-0.

UNFINISHED BUSINESS: Swim Center Hardship Rates - Scott Nelson informed the Council that he had used other swim facilities, as well as the school free lunch program guidelines, in researching this issue. The Advisory Board made a recommendation as to what guidelines to follow for the reduced rates. Mr. Nelson said that since he had been at the pool, there had never been an instance when a reduced rate had been requested. They will evaluate the new system in a year to see if it is working. ****Councilwoman Miltenberger moved to accept the following hardship rate for the Canby Swim Center:** 1. You or your family are on food stamps and/or; 2. Your family is on Aid for Dependent Children (ADC); or 3. You or your family make less money than what is listed on the Income Chart on the application form. Also, verification will be made with a Food Stamp Card, an ADC Case Number, tax statements or pay stubs. Motion seconded by Councilman Daniels and approved 6-0.

Appoint Planning Commission Member - ****Councilman Prince moved to appoint Tamara Maher to the Planning Commission, with her term expiring in December, 1992.** Seconded by Councilman Smith and approved 6-0.

Tamara Maher, 603 S.W. 13th Avenue, briefly addressed the Council and said she was very interested in the commission and will work hard for them.

OTHER REPORTS OR ANNOUNCEMENTS: Chief Giger informed the Council that the new 1991 Chev Caprice had arrived and they were wishing to change the colors of police vehicles to black and white, instead of the present blue and white. After a poll of the Council it was recommended that the police vehicles remain blue and white.

ACTION REVIEW:

1. Send Kraxberger Annexation resolution to Metro.
2. Accept the dedication of land from Cedar Ridge.
3. Send requested funds to LOC.
4. Implement engineering project with Curran-McLeod.
5. Re-draft the sidewalk display ordinance.
6. Implement new garbage rate increase.
7. Implement new hardship Swim Center rates.
8. Welcome new Planning Commission member.

****Councilman Taylor moved to go into Executive Session under ORS 192.660 (1)(e), to negotiate real property; (1)(h), regarding pending litigation; and (1)(i), to evaluate a City employee.** Motion seconded by Councilman Prince and approved 6-0.

Mayor Carroll recessed the regular session at 9:35 p.m. to go into Executive Session. The regular session was reconvened at 10:52 p.m. and immediately adjourned.

EXECUTIVE SESSION
JUNE 5, 1991
FIRST SESSION

Present: Mayor Carroll, Councilors Stiglbauer, Prince, Smith, Taylor, Daniels and Miltenberger, Attorney Kelley, Administrator Jordan, Attorney Don Stark, Chris Curren and Jeff Wuorio.

Mayor Carroll called the session to order at 7:01 p.m. in the Police Department Conference Room.

ORS 192.660 (1)(h) - The session was to discuss pending litigation regarding the City of Canby and the Mike Rinkes case.

Mayor Carroll adjourned the session at 7:28 p.m.

JUNE 5, 1991
SECOND SESSION

Present: Mayor Carroll, all five Councilors, Attorney Kelley and Administrator Jordan.

Mayor Carroll called the session to order at 9:48 p.m. in the Police Department Conference Room.

ORS 192.660 (1)(h) - The Council discussed possible litigation regarding the issue of number of tenants allowed to occupy one residential dwelling.

ORS 192.660 (1)(e) - The Council discussed the possible sale of City owned property.

ORS 192.660 (1)(i) - The Council discussed evaluated the Municipal Judge's performance and contract.

Mayor Carroll adjourned the session at 10:51 p.m.


Marilyn K. Perkett
City Recorder


Shawn P. Carroll
Mayor

