

CANBY CITY COUNCIL

REGULAR MEETING

JUNE 7, 1989

(Televised live on channel 5.)

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

Also present: Administrator Michael Jordan, City Attorney John Kelley, Public Works Director Rusty Klem, Public Works Supervisor Roy Hester, Swim Center Director Scott Nelson, Library Director Beth Saul, Police Chief Jerry Giger, City Recorder Marilyn Perkett, Estle Harlan, Brian Schaefer, Michael, Linda and Tina Shoop, Rex Samples, Mark Triebwasser, Dorothy Eyman, Vic and Debbie Goudima, Sally Boonstra, Mavourn Stuart, Fred Kahut, Carol Meeuwssen, Marv Dack, Bob Graham, John Beck, John Shurts, Ray Reif, and John and Sandy Torgeson.

Mayor Kopelk 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.

**Councilman Daniels moved to approve as distributed the minutes of special meeting, May 13, 1989 and regular meeting, May 17, 1989. Motion seconded by Councilman Taylor and approved 5-0.

CITIZEN INPUT ON NON-AGENDA ITEMS: Mayor Kopelk welcomed a new citizen to Canby, the new daughter, Tayna Rose, of Councilor Stiglbauer and his wife Sally.

PUBLIC HEARING - Mayor Kopelk called the public hearing to order at 7:34 p.m., on the proposed Kraxberger Annexation and instructed the audience on the hearing procedures.

STAFF - Rusty Klem briefly reviewed the application, a 3.53 acres parcel located east of N. Pine between 11th Place and 13th Circle. Mr. Klem noted that there was no opposition to the application at the Planning Commission and they recommended approval subject to the following: all development and recording costs are to be borne by the developer when the property is developed; all City and service provider regulations are to be adhered to at the time of development; and access to the Molalla Forest Road is not possible at this time.

APPLICANT - Not present.

PROPONENTS - None.

OPPONENTS - Rex Samples, 1105 N.E. 13th Circle, addressed the

Council expressing his concern of the condition of N. Pine Street and the burden of additional traffic on this particular street. He also noted that he particularly liked the Fir trees located on the property, however, his biggest concern was the recent burning of poison oak which has caused a great deal of personal inconvenience.

Councilman Taylor noted that at the time of development some of Mr. Samples concerns could be addressed to the Planning Commission.

Mr. Klem said that the County, since Pine is a County road, would allow a two inch overlay which is not sufficient for the street. However, Pine Street is high in priority on the Capital Improvement Program.

Administrator Jordan also said he had approached Clackamas County about the burning and nothing could be done.

Mike Shoop, 1144 N. Pine, addressed the Council saying that both he and his wife have had poison oak for two weeks due to the continuous two day burning and it was most offensive in their private home. Mr. Shoop requested that they not burn, but haul off the debris.

Councilman Prince, who lives next to the subject property, said he was disappointed that the developer would not cooperate when he requested that the burning be halted.

Mayor Kopelk asked if anyone else wished to address the Council, hearing none, the public hearing was closed at 7: 50 p.m.

Mr. Klem said that Mr. Kraxberger was in his office today and noted his intent to haul off remaining debris.

Mayor Kopelk requested that Administrator Jordan discuss the issue with Mr. Kraxberger.

****Councilman Taylor moved to accept the recommendation of the Planning Commission, adopting their findings of fact and restrictions, adopting Resolution No. 428, A RESOLUTION APPROVING ANNEXATION TO THE CITY OF CANBY, CLACKAMAS COUNTY, OREGON (APPLICATION OF KRAXBERGER CONSTRUCTION) OF 3.53 ACRES. Motion seconded by Councilman Daniels and approved 5-0.**

COMMUNICATIONS: Administrator Jordan read a letter from the American Legion Post 122, requesting their annual use of Wait Park on June 14th, 7:00 p.m. to burn flags. The City Council gave unanimous approval.

Administrator Jordan read a memo from Joanne Spaulding, Canby Art Association, requesting use of Wait Park for General Canby Day on July 4, and specifically the blocking off of the streets around the park. The Council gave their support and approval of the request. Mayor Kopelk noted that any City official that wished to ride in the parade were welcome.

NEW BUSINESS: **Councilman Daniels moved to approve accounts payable in the amount of \$42,321.71, seconded by Councilman Taylor and approved 5-0 by roll call vote.

The Council next considered the request for a liquor license for the Lost Dollar Saloon, formerly the El Gazebo under new ownership. OLCC will make the final approval. **Councilman Stiglbauer moved to approve the liquor license for the Lost Dollar Saloon as requested. Motion seconded by Councilor Smith and approved unanimously.

A request to purchase a copy machine was reviewed by the City Council. It was noted that City staff had tried several machines and made reference checks prior to recommending their selection. **Councilman Daniels moved to approve the staff recommendation to purchase a Sharp 8500 from American Business Machines, not to exceed \$8,700. Seconded by Councilman Prince and approved 5-0.

Scott Nelson, Swim Center Director, requested Council clarification on the role of the Swim Center Advisory Board in regards to fund raising, noting that the City Attorney could find no legal reason why the board could not participate in money issues. Mr. Nelson presented three options: reorganization of a Friends of the Pool group for fund raising for equipment; line item expenditures in existing Building Reserve Fund; and separate Swim Center Reserve Fund. The City Council gave a general consensus that the Swim Center Board could do essentially whatever they felt comfortable with in regards to setting up fund raising projects.

Estle Harlan, consultant for Canby Disposal, addressed the Council requesting a garbage rate increase to cover increased cost of disposal at the River Bend Landfill. The increase will be \$1.10 per can for residents, however, Canby rates are still the lowest in the metro area. Ms. Harlan said that Mr. Kahut's increase is about \$13.32 per ton, noting when asked, approximately 52 household cans equal one ton. **Councilman Taylor moved to approve the increase by adopting Resolution No. 429, A RESOLUTION AUTHORIZING A GARBAGE COLLECTION RATE INCREASE FOR PASS-THROUGH OF INCREASED DISPOSAL FEES AND ESTABLISHING A NEW RATE SCHEDULE. Motion seconded by Councilor Prince. Marv Dack addressed the Council requesting that the Council review Mr. Kahut's violation of City codes at his transfer station and "ask him to clean up his act before approving the rate increase." Councilor Taylor noted enforcement methods should take care of the violations. Question was called for, motion passed 5-0.

ORDINANCES & RESOLUTIONS: **Councilman Taylor moved that Ordinance No. 833, AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF CANBY, COUNTY OF CLACKAMAS, OREGON; AND DECLARING AN EMERGENCY, application of Marv Dack, be approved and become part of the laws of the City of Canby, seconded by Councilor Prince and approved by roll call vote, 5-0.

Attorney Kelley suggested that the Council wait until after the

Executive Session to consider Resolution No. 427, regarding an election for bond approval for a new library.

UNFINISHED BUSINESS: The Council reviewed a memo from Roy Hester, recommending the low bid from Coast Crane for a wood chipper. **Councilman Daniels moved to authorize purchase of a wood chipper from Coast Crane, not to exceed \$13,602. Seconded by Councilor Stiglbauer and approved 5-0.

The Council briefly reviewed the request by Karen Rider, Court Clerk, and Judge Jon Henricksen for an additional half day per month, and additional one hour each week for Municipal Court. Councilor Taylor requested that the City sometime in the future, research the possibility of night court. **Councilor Daniels moved to authorize the increase in Judge Jon Henricksen salary per month of \$200, due to the increase court time; a letter of approval to be attached to the Judge's contract. Seconded by Councilor Taylor and approved 5-0.

The Council next considered the appeal by John Torgeson of a Planning Commission decision made at the June 10, 1989, public hearing ordering Mr. Torgeson to cease his gravel operation due to a reversal of the 1986 City Administrator decision to issue Mr. Torgeson a non-conforming use for gravel extraction on his property.

STAFF - Attorney Kelley noted that former Administrator Atwood based his decision to issue the non-conforming use on an excavation history Torgeson had submitted. The non-conforming use was litigated at LUBA and remanded back to the Planning Commission for public hearing on June 10, 1989. Attorney Kelley said that the effective zone date of June, 1963, and level of operating use at that time, was to be considered. It was in 1964 when Torgeson-Dietz purchased the property for gravel extraction, therefor the Administrative decision was in error and there is no legal right for a non-conforming use. Mr. Kelley reminded Council that their decision must be based entirely upon the record as per Municipal Code Section 16.88.140 (C),

Sandy Torgeson, 34815 S. Dickie Prairie Road, Molalla, addressed the Council alleging that the public hearing was held illegally; the Council did not adequately review all the records, specifically, she requested they listen to a the audio tape; that Mr. Dack was allowed to remove evidence items from the records; and therefore requested a continuance of the appeal, noting that if the City would have honored their request to withdraw their non-conforming use application this would all have been concluded.. Attorney Shurts objected to the continuance and stated that Mr. Dack had borrowed some tapes and had returned them to City Hall.

Attorney Kelley agreed that the Council should each have a copy of the tape of the public hearing prior to making a decision. Mayor Kopelk continued the Torgeson appeal until June 21, 1989.

OTHER REPORTS OR ANNOUNCEMENTS: Administrator Jordan announced

street overlay projects on June 13 & 14, with street closures on N. Elm from N.E. First to Fifth and N.W. Third from Elm to Cedar.

Chief Giger announced that Ed Stelle, Canby Police Reserve Officer, graduated Saturday night from the Clackamas County Sheriff's Academy as number one academically.

ACTION REVIEW: 1. Contact Mr. Kraxberger about debris at his annexation site off Pine Street.
2. Order new copy machine.
3. Authorize Pool Board to fund raise as they wish.
4. Check Mr. Kahut's garbage operation.
5. Implement additional Municipal Court day.
6. Order new wood chipper.
7. Investigate possible night court.
8. Make tapes for Torgeson appeal and distribute to Council.
9. Send congratulations letter to Ed Stelle.

**Councilman Taylor moved to go into Executive Session under ORS 192.660 (1)(e), regarding purchase of real property.

Mayor Kopelk recessed the regular meeting at 9:20 p.m. to go into Executive Session. The regular session was reconvened at 10:50p.m.

**Councilman Taylor moved to adopt Resolution No. 427, A RESOLUTION PROVIDING FOR A SPECIAL ELECTION TO BE HELD IN THE CITY OF CANBY, CLACKAMAS COUNTY, OREGON, ON THE 27TH DAY OF JUNE, 1989, FOR THE PURPOSE OF SUBMITTING TO THE QUALIFIED LEGAL VOTERS OF SAID CITY THE QUESTION OF A GENERAL OBLIGATION BOND FOR A CITY LIBRARY. Motion seconded by Councilman Prince and approved 4-0. (Councilman Daniels had declared a conflict and was not present.)

Mayor Kopelk adjourned the regular session at 10:55 p.m.

EXECUTIVE SESSION

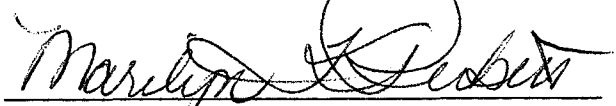
JUNE 7, 1989

Present: Mayor Kopelk, Councilors Prince, Taylor, Smith, Stiglbauer and Daniels part of the time as noted below. City Administrator Jordan, City Attorney Kelley, and part of the time Attorney Ray Reif.

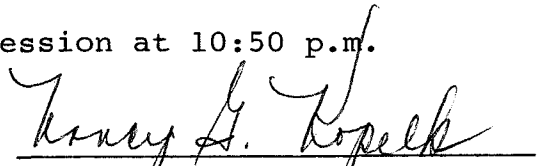
Mayor Kopelk called the executive session to order at 9:32 p.m. under ORS 192.660 (1)(e), to discuss possible purchase of property for a new library site.

At 10:04 p.m., Councilor Daniels and Attorney Reif joined the session, leaving at 10:26 p.m. Again, at 10:48 p.m., Daniels and Reif joined the session, leaving at 10:49 p.m.

Mayor Kopelk adjourned the executive session at 10:50 p.m.



Marilyn K. Perkett, City Recorder


Nancy G. Kopelk, Mayor