

CANBY CITY COUNCIL

REGULAR MEETING

AUGUST 2, 1989

(Televised Live on Channel 5.)

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

Also present: Administrator Michael Jordan, City Attorney John Kelley, Police Chief Jerry Giger, Library Director Beth Saul, Public Works Director Rusty Klem, Public Works Supervisor Roy Hester, Swim Center Director Scott Nelson, City Recorder Marilyn Perkett, Wayne Lindall, Mary Kyle McCurdy, Doug Poppen, Fred Thielen, Stan Eischen, Dave Dally, Earl Oliver, Fred Stefani, Matt Knoblauch and Andy Sloop.

President Taylor called the regular session to order at 7:30 p.m., followed by the flag salute and meditation.

**Councilman Carroll moved to approve as distributed the minutes of regular session July 19, 1989, seconded by Councilman Stiglbauer and approved 6-0.

CITIZEN INPUT ON NON-AGENDA ITEMS: None presented.

NEW BUSINESS: **Councilman Smith moved to approve payment of accounts payable in the amount of \$407,898.01, seconded by Councilman Carroll. Councilor Daniels noted that the large amount was due to the purchase of a wood chipper and a building for a new library. Motion approved 6-0 by roll call vote.

Attorney Kelley reviewed the appeal process with the Council, regarding the Willamette Valley Country Club Appeal on conditions set forth by the Planning Commission on their Conditional Use Permit. Kelley noted that only argument on the record can be heard and that the Council must make a decision based upon one or more of the following: 1) the commission did not correctly interpret the requirements of the Land Development and Planning Ordinance, the Comprehensive Plan, or other requirements of law; 2) the commission did not observe the precepts of good planning as interpreted by the Council; and 3) the commission did not adequately consider all of the information which was pertinent to the case.

Councilman Smith declared a conflict of interest and asked to be excused from taking part on both Willamette Valley Country Club issues.

Attorney Mary Kyle McCurdy, representing the Country Club, presented the following argument on the three conditions set on the Conditional Use Permit:

1) the Club change address from Country Club Drive to Maple Street - current address has been in long use and familiarity for over 20 years, is on all documents used by club, and is common practice for such entities across the country to use Country Club Drive.

2) Maple Street to be curbed, sidewalks installed and the street improved from the existing payment to curb - did not meet Municipal Code 16.88.140(C); no phased improvements were before the commission, only the remodeling of the existing lounge; citing case Nollan v. California Coastal Comm'n, they felt this was a burden imposed on the club to pay for this improvement; that there is no authorization for these conditions in the City's Municipal Code or comprehensive plan; citing Municipal Code Sections 16.50.010 and 16.50.040, Ms. McCurdy maintains the membership will not increase, it is froze at 500 membership and felt that both sections were violated; and that the club wanted to keep the park-like setting at the entry and not remove any of the trees.

3) the staff will consider all input from other jurisdictions as conditions of approval - they felt staff should not be delegated the power to add additional conditions

Councilor Stiglbauer questioned if the Club was considering a new water line, as suggested by the Fire Marshal and was told they did not feel this was a condition.

Councilor Carroll asked if this was a phase project and was told it was for only the lounge.

Mr. Klem noted that the phased plan that was submitted consisted of a lounge, new pro shop, additional restaurant facilities and cart shed. The Conditional Use Permit would encompass all of the phase so the Club would not have to return to the commission. Also, Mr. Klem noted that only one tree would be affected by the requested curb and sidewalks.

Administrator Jordan questioned if the limited 500 members included social members and was told no it did not.

Attorney Kelley noted that he might need time to review the cited Nollan v. California case. Mr. Kelley added that the third condition was somewhat unusual since the commission usually was specific.

Fred Thielen, Club Manager, addressed the Council stating that there was no formal agreement with the City regarding the submitted site plan and an encompassing Conditional Use Permit. Mr. Thielen stated that the membership voted down the three phase plan and only the remodeling of the lounge was to be done at this time.

President Taylor informed the Council they could either make a decision tonight or remand it back to the Planning Commission for consideration. After polling the Council verbally, **Councilman Daniels moved to remand the Willamette Valley Country Club Conditional Use Permit and the attached conditions back to the Planning Commission, specifically noted that condition three was unclear. The Commission to set it at the earliest date possible. Motion seconded by Councilman Carroll and approved 5-0

The Council next considered a request from the Willamette Valley Country Club to waive all or a portion of the sewer connection fee. Attorney McCurdy stated that the use of the sewer for the remodeling will not increase due to the limited 500 membership and despite their request they had no basis for this imposed fee. Public Works Director Klem noted that they reduced the fee from \$4,480 to \$4,460 based on the actual seating area as submitted by the club. However, the fee is set by resolution, and utilizing the lounge/tavern criteria instead of the restaurant, which would have set a higher fee, they recommended fee is \$3,360.00.

**Councilman Carroll moved to assess the Willamette Valley Country Club \$3,360 as a sewer connection fee in connection with proposed remodeling. Motion seconded by Councilman Stiglbauer and approved 5-0.

Scott Nelson reviewed a proposed City employee achievement awards program resulting from staff committee efforts. Mr. Nelson noted that the program would be for both management and non-management for high levels of performance. Also, anyone that receives Certificate of Merit would be eligible for the Employee or Manager of the Year Award. Mr. Nelson thanked Nancy Dale for designing the certificate. It was also suggested that the presentations be done at Council meetings and pictures in the local newspaper. **Councilman Daniels moved to accept the committee's recommendation and adopt the City Employee Achievement Awards Program as outlined. Seconded by Councilman Prince and approved unanimously.

ORDINANCES & RESOLUTIONS: Roy Hester, chairman of the Cemetery Committee, reviewed the proposed prices for the future mausoleum and noted that they were fairly close to Oregon City's price structure. **Councilman Carroll moved to adopt Resolution No. 432, A RESOLUTION SETTING PRICES AND RATES FOR SERVICES AND SPACES PROVIDED AT ZION MEMORIAL CEMETERY. Seconded by Councilman Smith and approved 6-0.

Administrator Jordan next reviewed Resolution No. 433, regarding sale of bonds for the proposed new library. Mr. Jordan explained that Bond Counsel had called with last minute additions to the document, regarding tax-exempt criteria and registrar criteria and therefor a new resolution was before the Council this evening. **Councilman Prince moved to adopt Resolution No. 433, A RESOLUTION OF THE CITY OF CANBY, COUNTY OF CLACKAMAS, STATE OF OREGON, AUTHORIZING THE ISSUANCE OF BONDS FOR THE PURPOSE OF FINANCING LIBRARY IMPROVEMENTS. Motion seconded by Councilman Carroll and approved 6-0.

UNFINISHED BUSINESS: Roy Hester requested permission to purchase a Hamlin Hydraulic Lift for the mausoleum. Mr. Hester said he could not find a local vendor, only the California vendor. This equipment is used to lift caskets up to high level tombs.

**Councilman Daniels moved to authorize purchase of the Hamlin Hydraulic Lift in the amount of \$10,952.50 plus approximately \$200 freight. Motion seconded by Councilman Smith and approved 6-0.

The Council next considered a request from the Cemetery Committee for a promotional "construction sale discount" for the mausoleum. They proposed a 10% discount on a cash only basis. **Councilman Daniels moved to approve the Cemetery Committee's promotional mausoleum sale of a 10% discount, commencing on the first day and last day of construction, on a cash basis only. Motion seconded by Councilman Smith and approved 6-0.

Roy Hester invited everyone to the ground breaking ceremony on Friday, August 4, at the cemetery.

Chief Giger briefly reviewed the final draft of cities response to the County Law Enforcement Blue Ribbon Committee recommendations. Matt Knoblauch, who served on that committee, told the Council he had not adequately reviewed the document, however, he did have some areas where he had concerns. President Taylor thanked Mr. Knoblauch for his services on this committee and noted that the main issue for forming this committee of dual taxation had not been resolved and perhaps more work needed to be done on the matter. **Councilman Carroll moved to authorize Mayor Kopelk's signature on the cities response to the Blue Ribbon Committee recommendations, and to forward the document to Pete Wall. Motion seconded by Councilman Prince and approved 6-0.

OTHER REPORTS OR ANNOUNCEMENTS: Mr. Klem informed the Council that the County Transportation Coordinating Committee is seeking elected officials to serve on the committee, if anyone is interest in applying.

ACTION REVIEW:

1. Remand W.V.C.C. appeal back to Planning Commission.
2. Purchase Hamlin Lift.
3. Implement mausoleum discount sale.
4. Implement City Awards Program
5. Mayor to sign Blue Ribbon document.

**Councilman Prince moved to go into Executive Session under ORS 192.660 (1)(h), to consult with counsel regarding litigation or litigation likely to be filed. Motion seconded by Councilman Smith and approved 6-0.

President Taylor recessed the regular session at 8:50 p.m. to go into Executive Session. The regular session was reconvened at 9:48 p.m. and immediately adjourned.

EXECUTIVE SESSION
AUGUST 2, 1989


Council President Taylor presiding. Councilors present: Daniels, Prince, Carroll, Stiglbauer and Smith. Absent: Mayor Kopelk.

Also present: Administrator Jordan, Attorney Kelley and Andy Sloop.

The session was called to order at 9:01 p.m., under ORS 192.660 (1)(h), to consult with legal counsel regarding litigations.

The Council discussed the following issues with the City Attorney: LUBA appeal filed by the Torgeson's; Kahut's transfer station; sign ordinance requirements; and a litigation case involving the Merrill's.

President Taylor adjourned the session at 9:48 p.m.


Marilyn K. Perkett, City Recorder


Scott Taylor, Acting Mayor