

CANBY CITY COUNCIL

REGULAR MEETING

SEPTEMBER 7, 1988

Mayor William F. Pulver presiding. Councilors present: Nancy Kopelk, Scott Taylor, Shawn Carroll, Michael Jordan, Terry Prince and Walt Daniels (Mr. Daniels arrived at 7: 30 p.m.).

Also present: Administrator Stephan Lashbrook, City Attorney John Kelley, City Treasurer Virginia Biddle, Police Chief Jerry Giger, Librarian Beth Saul, Public Works Director Rusty Klem, Swim Center Director Scott Nelson, Bob Westcott, Roy Hester, John Bates, Bruce Edenferd, Don Rasmussen, Lorrie Smith, and Cheryl Celaya, and Julius Flater.

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

**Councilwoman Kopelk moved to go into Executive Session under ORS 192.660 (1)(h), to discuss litigation or litigation likely to be filed. Motion seconded by Councilman Carroll and approved 5-0.

Mayor Pulver recessed the regular meeting at 7:01 p.m. to go into Executive Session. The governing body retired to the City Administrator's office to hold their Executive Session. The Mayor reconvened the regular meeting at 7:30 p.m.

The flag salute and meditation was observed.

Roll call of the Council showed a quorum to be present.

**Councilman Taylor moved to approve as distributed the minutes of regular session August 17, 1988, and special session August 24, 1988. Motion seconded by Councilman Carroll and approved 6-0.

CITIZEN INPUT ON NON-AGENDA ITEMS: Julius Flater, 434 S.W. 4th Avenue, addressed the Council regarding an "eye sore" at 380 S. Fir. The subject property is very unkept and the building has been vacant for about 15 years. Councilwoman Kopelk said she had discussed this specific site with several staff members but nothing had been done. Mr. Flater also noted that the new street on S. Fir was very nice, however, the cement work was done very poorly. Mayor Pulver requested that staff investigate both of Mr. Flater's complaints to see what could be done about them.

PUBLIC HEARING: Mayor Pulver recessed the regular meeting at 7:35 p.m. to go into a public hearing on vacation of an alley between N.W. First and N.W. Second and N. Cedar and N. Douglas. Don Rasmussen, the applicant, is the owner of the subject property which is the proposed site of the new Post Office.

Rusty Klem, Public Works Director, recommended the street vacation

subject to a sit plan review and a ten foot utility easement. The Post Office will design the building and go out for bids, the post office will take up about one half of the block.

Don Rasmussen requested that the Council approve the vacation and noted that he would possibly develop the additional portion of the block later. Also, he saw no problem with granting the easement.

Opponents - none voiced.

Proponents - none voiced.

Mayor Pulver closed the public hearing at 7:46 p.m.

Administrator Lashbrook pointed out that Ordinance No. 822 had been prepared for the approval process of the alley vacation.

COMMUNICATION: None presented.

ORDINANCES & RESOLUTIONS: **Councilwoman Kopelk moved to approve on final reading Ordinance No. 823, AN ORDINANCE AUTHORIZING THE PURCHASE OF A TRUCK CRANE FOR THE PUBLIC WORKS DEPARTMENT, AND DECLARING AN EMERGENCY. Seconded by Councilman Daniels and approved 6-0 by roll call vote.

**Councilwoman Kopelk moved that Ordinance No. 822, AN ORDINANCE VACATING THE ALLEY IN THE PLATTED BLOCK BOUNDED BY NORTHWEST FIRST AVENUE, NORTHWEST SECOND AVENUE, NORTH CEDAR STREET, AND NORTH DOUGLAS STREET be properly posted and come up for final action on September 21st, seconded by Councilman Carroll. Councilman Prince suggested that the ordinance not be signed until the conditions have been met. AMENDMENT to the ordinance was to have the final reading and approval subject to site plan review, motion passed 6-0, by roll call vote.

Rusty Klem noted that the City had gone out for bids for a new sewer washer. The current 1974 washer was under capacity for the system and we need a high pressure washer. Roy Hester, Public Works Supervisor, suggested that the new washer would hopefully last 15 years and is used, on an average, continuously for six months of the year. **Councilman Daniels moved that Ordinance No. 824, AN ORDINANCE AUTHORIZING THE MAYOR AND CITY RECORDER TO EXECUTE A CONTRACT WITH COLUMBIA EQUIPMENT FOR THE PURCHASE OF A TRAILER MOUNTED SEWER CLEANER; AND DECLARING AN EMERGENCY be properly posted and come up for final action on September 21, 1988. Seconded by Councilman Prince and approved, 6-0.

NEW BUSINESS: The first order of business was an appeal filed by Lorrie Smith of a Planning Commission decision for a denial of a Day-care/Preschool/Kindergarten in a C-M Zone. Mayor Pulver noted that no new evidence or testimony could be entered and the Council decision must be based upon the record of past proceedings. The applicant Lorrie Smith, 6414 S. Zimmerman Road was present, however, her daughter Cheryl Celaya, 599 N. Pine would answer any questions.

Attorney Kelley instructed the Council that in order to overturn the Planning Commission's decision they must make one or more of the following findings: 1. that the commission did not correctly interpret the requirements of this title, the comprehensive plan or other requirements of law; 2. that the commission did not observe the precepts of good planning as interpreted by the Council; or 3. that the commission did not adequately consider all of the information which was pertinent to the case.

Councilor Kopelk noted that she felt the commission could not pass this as either an outright or condition use in the C-M Zone.

Administrator Lashbrook noted that staff could place conditions on the business license, or the City could initiate this as a conditional use in a C-M Zone as an amendment to the Comp Plan, however this would take time.

Councilman Taylor felt the commission did not properly interpret the regulations, specifically the sections in C-1 and C-2 that says "similar commercial uses as determined by the Planning Commission".

Cheryl Ceyla informed the Council that they had a waiting list of students, so hopefully they could "get on with this", and that they had made every effort to make it safe including fencing.

****Councilman Taylor moved that the decision of the Planning Commission regarding Day-care/Preschool/Kindergarten be reversed based on the fact that the Commission didn't correctly interpret the requirements of the zoning ordinance. Councilman Taylor stated that because section "R" under C-2 Zone provides for "similar uses as determined by the Planning Commission," he felt that Smith's business was similar to other businesses allowed in the zone (for example business college and dance studio). Because those businesses deal with people, including children, coming and going, they are similar to the proposed use. Further, Councilman Taylor stated that the proposed use meets all necessary safety and space requirements for a safe operation, and that it is in the public's interest to encourage new business of this sort. Motion seconded by Councilman Carroll. Mayor Pulver asked each Councilor to vote individually and give their reason for their ballot:**

Carroll - YEA, there is a need in the community and no safety problem, he personally viewed the site and felt the manufacturing areas created no problem.

Daniels - YEA, all conditions of safety adequate.

Kopelk - YEA, commission didn't correctly interpret the requirements.

Taylor - YEA, personally viewed the site and it has all necessary safety precautions.

Prince - YEA, it compiles with Chapter 16.22.010 # 11, 21 and 35.

Jordan - YEA, for all the reasons already stated.

****Councilman Jordan moved to instruct staff to begin the process of drafting an amendment to allow Day-care center in a C-M Zone**

as a condition u . . Councilwoman Kopelk suggested that the amendment be broadened to say "to put the condition use at the discretion of the Commission". Motion seconded by Councilman Daniels and approved 6-0.

****Councilman Carroll** moved to pay accounts payable in the amount of \$61,622.38, seconded by Councilman Prince and approved 6-0 by roll call vote.

Staff recommended that the Council approve the contract with LGPI to do a classification/compensation and performance appraisal study for the City for an amount not to exceed \$4,272. Mr. Lashbrook noted that he told the LGPI staff that it should be done by the end of the year. ****Councilman Daniels** moved to authorize the City Administrator to sign the agreement with LGPI to begin immediately with their Classification/Compensation Study. Motion seconded by Councilwoman Kopelk and approved 6-0.

UNFINISHED BUSINESS: Administrator Lashbrook briefly reviewed the progress of the acquisition of the logging road. At this point, we are preparing to sign agreements with Southern Pacific for the license to use the overpass over railroad property. Attorney Kelley pointed out some problems with the agreement concerning insurance liability. Staff and the City Attorney will do more research on the insurance questions and return to the Council at the next meeting, at which time Mayor Pulver asked that Council be ready to make a decision on the acquisition of the logging road.

The Council reviewed a memo regarding the cafeteria plan for health and welfare insurance for employees. However, the League of Oregon Cities will present a similar plan at the November convention at which time staff will review their plan.

OTHER REPORTS OR ANNOUNCEMENTS: Administrator Lashbrook informed the Council that staff had to turn in our tax base ballot measure and names of those running for office tomorrow at the County, which was earlier than expected. ****Councilman Taylor** moved to approve the tax base title and measure for the November ballot as presented by staff. Motion seconded by Councilman Daniels and approved 6-0.

Administrator Lashbrook informed the Council that the Elementary School District owed \$4,000, plus, for sewer connection fees for their modular classrooms, even though they have no plumbing facilities in the units. Mr. Lashbrook approved their opening the rooms for use without payment and this issue will return to the Council at a later meeting.

A memo was presented to the Council regarding the recruitment process for a new City Administrator due to Mr. Lashbrook's resignation. The Council agreed to advertise immediately and set a closing date of October 31, 1988. The League of Oregon Cities will review all applicants and narrow the field down to about ten, from which three to five finalists will be picked for interview. Mayor Pulver also informed the Council that he had

set a staff meeting for Friday, September 16 4:00 p.m., to discuss the transition and staff responsibilities.

Mr. Klem told the Council that, along with OCTS, four videos ten to twenty minutes long have been prepared to air prior to Council meetings. They include the parks and recreation, cemetery, police department, and Redwood Interceptor Project.

Councilman Carroll asked if the Cemetery Committee would continue working again, specifically on the mausoleum project. Roy Hester, Public Works Supervisor, will continue to work with the group.

Mayor Pulver reported that the Chamber of Commerce would have a "kick-off" membership drive breakfast on September 12, 1988, and urged people to attend and join.

ACTION REVIEW:

1. Start City Administrator recruitment process.
2. Review tax base measure with the state.
3. Research liability insurance for the logging road.
4. LGPI study will begin.
5. Crane will be delivered this week.
6. Research "eye-sore" at 380 S. Fir and the cement work on the new Fir Street project.

**Councilwoman Kopelk moved to go into Executive Session under ORS 192.660 (1)(i), to review performance of staff members. Motion seconded by Councilman Carroll and approved 6-0.

Mayor Pulver recessed the regular session at 9:20 p.m., to go into Executive Session. The regular meeting reconvened at 10:30 p.m., and immediately adjourned.

EXECUTIVE SESSIONS SEPTEMBER 7, 1988

Mayor Pulver presiding. Councilors present: Kopelk, Carroll, Prince, Taylor and Jordan. Councilor Daniels was absent.

Also present: City Attorney John Kelley.

Mayor Pulver called the Executive session to order at 7:04 p.m., in the office of the City Administrator under ORS 192.660 (1)(h), to discuss pending litigation in land use issues.

Mayor Pulver adjourned the Executive Session at 7:17 p.m.

SECOND EXECUTIVE SESSION SEPTEMBER 7, 1988

Mayor Pulver presiding. Councilors present: Daniels, Kopelk, Prince, Taylor, Carroll and Jordan.

Also present: Administrator Lashbrook, Librarian Beth Saul and Swim Center Director Scott Nelson.

Mayor Pulver called the Executive Session to order at 9:25 p.m., under ORS 192.660 (1)(i), to discuss employment-related performance of staff members.

Mayor Pulver adjourned the session at 10:30 p.m.


Marilyn K. Perkett, City Recorder


William F. Pulver, Mayor