

CANBY CITY COUNCIL

REGULAR MEETING

MARCH 20, 1985

Mayor William Pulver presiding. Councilmembers present: David Anderson, Nancy Kopelk, Scott Taylor, Gary Sowles, Helen Brennan and Michael Jordan.

Also present: Administrator Bud Atwood, City Attorney John Kelley, City Recorder Marilyn Perkett, Chief of Police Jerry Giger, Steve Frederick, Betsy Ross, Joe and Sandra Haftorson, Earl and Sabina Oliver, Vien Tran, Joan Terrill, Betty Cruikshank, Sheri Ferrigno, Debi Terhaar, A.J. and Deve Swaim, Eugenia Smith and Mrs. Porter.

Mayor Pulver called the regular meeting to order at 7:30 p.m., followed by the flag salute and meditation.

Roll call of the Council showed a quorum present.

**Councilman Sowles moved to approve as distributed the minutes of regular session March 6, 19085, seconded by Councilwoman Kopelk and approved unanimously.

CITIZEN INPUT ON NON-AGENDA ITEMS: None voiced.

COMMUNICATIONS: Administrator Atwood read a letter from Winston Kurth, Clackamas County Department of Transportation, offering to transfer \$15,000 to the City of Canby for a two inch overlay on S.W. 13th Avenue for 1300 feet. Mr. Atwood pointed out that he had requested full street improvements, including curbs, sidewalks and storm sewers. The Administrator suggested that we contact the Elementary School District and, along with the City, offer to share the cost with the County for full improvements. This would be approximately \$25,000 for each of the three entities involved. Council concurred with Mr. Atwood's suggestion and asked that the school district be contacted first.

The Council next considered a letter from the County requesting a City representative to the County-Wide Economic Development Plan Advisory Committee. Councilman David Anderson volunteered to serve on the committee.

ORDINANCES & RESOLUTIONS: The Council first considered a resolution authorizing participation in a County/City

Transportation Committee, with Bud Atwood as the Canby representative. **Councilman Sowles moved to adopt Resolution No. 368, A RESOLUTION AUTHORIZING PARTICIPATION AND REPRESENTATION IN THE CLACKAMAS COUNTY/CITIES TRANSPORTATION COMMITTEE. Motion seconded by Councilman Jordan and approved 6-0.

Administrator Atwood briefly review Resolution No. 369, endorsing the Metropolitan solar access and explained that this was not a commitment but would allow for participation. **Councilman Taylor moved to adopt Resolution No. 369, A RESOLUTION ENDORSING A PROPOSAL FOR A METROPOLITAN AREA SOLAR ACCESS, motion seconded by Councilwoman Kopelk and approved 5-1, with Councilman Sowles voting nay.

NEW BUSINESS: **Councilwoman Kopelk moved to approve payment of accounts payable in the amount of \$226,182.92, seconded by Councilman Taylor and approved by roll call vote 6-0.

The Council next considered a special event liquor license application from the Canby Bowl for their annual bowling tournament. **Councilman Sowles moved approve the application of the Canby Bowl for a special event liquor license for April 20, 21, 27, 28, May 4, 5, 11, 12, 18, 19, June 1, 2, 8 & 9, from 7:00 a.m. to 2:30 a.m. Motion seconded by Councilman Jordan and approved 6-0.

Application by the Clackamas County Fair Board for a special event liquor license was considered. ** Councilman Anderson moved to approve the Clackamas County Fair Board special event liquor license application for the Coronation Ball on March 30, 1985, from 7:30 p.m. to 1:00 a.m. Motion seconded by Councilman Sowles and approved unanimously.

The Council next considered a request from the owners of the Gold Garden Restaurant for a hard liquor license for a new establishment to be constructed on the Hiway Lumber property. It was noted that the Council could not give an official grant until the establishment is built and the proper O.L.C.C. forms are presented, however, the Council was poled and the unanimous consensus was that they would see no problem with granting such a request at the proper time.

A contract for 911 Services with the City of Barlow as considered by the Council. Chief Giger explained that they were in our 911 area and received monies and had no means for expenditure of the funds, which must be for 911 purpose only, therefore, the contract was prepared. ** Councilman Taylor moved to authorize signing of the 911 Telephone Service and Excise Tax Agreement between the City of Canby and the City of Barlow. Motion seconded by Councilwoman Brennan and approved uanimously.

Mayor Pulver called for a short recess at 8:02 p.m., reconvening the regular session at 8:10 p.m.

The Council next heard the appeal of Sandra Haftorson on her application for a Conditional Use Permit for a beauty shop in her residence at 1280 N. Oak Street. Mayor Pulver cautioned that this was not a Public Hearing and no new testimony could be received, however, arguments on the record could be heard by the hearing body.

PROPONENT: Bob Miller, Attorney from P.O. Box 1609, Beaverton, Oregon, represented the applicant, Sandra Haftorson. Mr. Miller referred to the Finding of Fact from a memo dated February 6, 1985: 1) the site is a Low Density, R-1, however, it does comply with the Comprehensive Plan on allowing for this requested type of Conditional Use; 2) there will be no alteration to the characteristics of the site; 3) all public utilities are available; and 4) there will be no change to the neighborhood. Mr. Miller also noted that access is acceptable. Only one operator will be utilizing the two chairs and even with the tanning booth, the applicant suggests that she will have only 5 to 6 customers a day, therefore, not creating a large traffic flow contrary to the staff report of 16 trips daily. Mr. Miller pointed out that a previous applicant had received a Conditional Use for a beauty shop due to medical reasons and this applicant is requesting the permit for financial reasons. Attorney Kelley requested that Mr. Miller address the three points of which the Council must make their decision. Mr. Miller addressed them as follows: 1) they did not correctly interpret the requirements of the Comprehensive Plan, as it does allow for this type of home occupation Conditional Use; and 3) they misinterpreted the information specifically to traffic flow, at best, the applicant states there would be only 8 vehicles per day. Councilmen Sowles and Jordon both expressed a potential traffic concern, specifically with the tanning booth in the proposed facility.

OPPONENTS: Sherri Ferrigno, 1240 N. Oak, addressed the Council noting that this was a "friendly neighborhood", however, they were concerned about the additional traffic, specifically due to so many children in the area. Also, the applicant would be allowed to operate with a family member, and they felt her brother may become an operator. Debi Terhaar, 1100 N. Oak, noted that due to the year-around school system there were many children in the area at all times and she reiterated the fact that they did not want a business in their residential neighborhood. Joan Terrill, 1385 N. Oak, commented on the fine job the Planning Commission did addressing the issue, she felt a business would affect the re-sale value of homes.

Mr. Swaim, 1295 N. Oak, reiterated his concern over the increase of traffic and questioned, if her business would improve above her suggested few customers a day, would the neighborhood have a recourse then.

Mrs. Terrill also asked if this wouldn't set a precedent for other business. Attorney Kelley informed her that each application is considered on it's own merits.

Eugenia Smith, 1270 N. Oak, pointed out that she goes to a tanning booth in town, at another establishment, and they are very booked up and she has trouble getting an appointment.

Betty Crukshank, 1355 N. Pine, emphasized the applicant gave no guarantee as to limit of customers, and Saturday is a very popular day for this time of business, creating traffic on a day when many children were in the area.

REBUTTAL: Bob Miller, Attorney for the applicant, pointed out that the permit is non-transferable; traffic was not the kind of volume anticipated; there would be no other family members as operators, only one operator; and felt the applicant meet all the requirements and should be granted the Conditional Use Permit.

Mr. Atwood pointed out that the conditions the Planning Commission set forth were only suggestions and the Planning Commission did consider the Comprehensive Plan and all zoning regulations when making their decision. Once again, City Attorney Kelley cautioned the Council as to what they were to base their decision. **Councilman Sowles moved that the City Council uphold the decision of the Planning Commission to deny the applicant, Sandra Haftorson, 1380 N. Oak, a Conditional Use Permit to operate a beauty shop at her residence for the following reasons: 1) the Planning Commission did correctly interpret the requirement of the Land Development and Planning Ordinance, the Comprehensive Plan, or other requirements of law, specifically in regards to the availability of commercial zones; 2) the Planning Commission did observe the precepts of good planning; 3) the Planning Commission did adequately consider all the information pertinent to the case; and 4) there is a potential for a traffic problem, specifically with a tanning booth, and this is a concern for safety reasons. Motion seconded by Councilwoman Brennan. During the discussion period, Councilman Taylor felt the precept of good planning were addressed in keeping commercial and residential in the proper zoning. Councilman Jordon pointed out that he felt the Planning Commission adequately addressed the issue and, to provide a fair and equitable environment for business to exist and in granting Conditional Uses for economic or business oriented criteria then other business would also have to be considered for economic distress purposes to maintain a fair and equitable environment.

Roll call vote on the motion on the table was for approval 6-0.

UNFINISHED BUSINESS: None presented.

OTHER REPORTS: Mayor Pulver reminded Council of the Council workshop/planning session on April 6th, Old Town Hall, 9:00 a.m. for Council and 10:30 a.m. for Council and Department Heads. Mrs. Cutsforth will provide lunch for a fee and then turn over the proceeds to the Canby Public Library.

Councilman Taylor thanked the Council for helping with the Budget Committee campaign. Councilman Jordon noted that he sent sixteen letters to the various churches.

**Councilman Sowles moved to go into Executive Session under ORS 191.660 (11) (b) and (1) (h), seconded by Councilwoman Kopelk and approved 6-0.

Mayor Pulver recessed the regular session at 9:32 p.m. to go into Executive Session. The regular session was reconvened at 10:35 p.m.

**Councilwoman Kopelk moved that the City by a gift certificate for Pat McNamee, who is retiring after 27 years as a volunteer for the Fire Department, in the amount of \$30 from the Chez Moustache, seconded by Councilman Jordan and approved unanimously.

Mayor Pulver adjourned the regular meeting at 10:37 p.m.



William F. Pulver, Mayor



Marilyn K. Perkett, City Recorder