

CANBY CITY COUNCIL  
REGULAR MEETING  
JANUARY 19, 1983

Mayor Michael Gabrion presiding. Councilmembers present: David Anderson, Nancy Kopelk, Scott Taylor, William Pulver, Eugene Clift and Gary Sowles.

Also present: City Administrator Doug Zenor, City Attorney Wade Bettis, Recorder Pro Tem Marilyn Perkett, Public Works Director Bud Atwood, Police Chief Jerry Giger, Bookkeeper Virgnina Graham, Court Clerk Dorothy Patterson, Building Official Bob Godon, Myra Weston, Tom & Tim Tye, Roy Hester, Lonnie Park, Brian Swan, Bonny Shew, Dana Crouch, Dan Anderson, David Bury, Bob Westcott, Linda Smith and Diane Gonthier,

Mayor Gabrion called the regular meeting to order at 7:32 p.m., followed by the flag salute. During silent meditation, Mayor Gabrion asked those present to remember the family of John Stanbery, brother to Public Works employee Jerry Stanbery, John was fatally injured in an accident over the weekend.

Roll call of Council showed a quorum present.

\*\*Councilman Clift moved to approve as distributed the minutes of regular meeting January 5, 1983, with the following correction: add Councilman Clift's name as being present, Motion seconded by Councilman Anderson and approved unanimously.

CITIZEN INPUT ON NON-AGENDA ITEMS: Brian Swan, Canby High School student, presented a petition signed by 200 plus students requesting support for a recreational facility, specifically a movie theater to be ran by the Canby J.C.'s. Mayor Gabrion commented on the need for such facilities, however, expressed that the Council could not support a private enterprise.

ORDINANCES & RESOLUTIONS: Attorney Bettis read by title only for final reading, Ordinance No. 729, and the affidavit of posting was presented by the Recorder. \*\*Councilman Sowles moved that Ordinance No. 729, AN ORDINANCE AUTHORIZING CHANGES IN THE ENGINEERING SERVICES AGREEMENT BETWEEN THE CITY OF CANBY AND LEE ENGINEERING, INC. AND WITH REGARDS TO WORK IN PROCESS FOR IMPROVEMENTS TO THE CITY'S SEWERAGE SYSTEM, be approved and become part of the laws of the City of Canby. Motion seconded by Councilman Pulver and approved 6-0 by roll call vote.

COMMUNICATIONS: Administrator Zenor read a letter signed by Dale & Linda Smith, May Molinsky, Karen Oliver, Nadia & Pete Kashisky and Bill & Eunice Chase, regarding their concerns for changes in the present Ordinance concerning vicious animals. Linda Smith, addressed the Council regarding the specific matter of two dogs biting and chasing various people, this issue started in June, 1982 and went to Municipal Court on January 6, 1983. Chief Giger pointed out that the present Ordinance, lack of a local Dog Control Officer and less personnel at the County level made these situations difficult. Attorney Bettis suggested changes to the existing Ordinance, Council concurred and requested a copy of the existing Ordinance with some suggested changes for the next meeting. Councilman Pulver also requested the Attorney to give an approximate cost analysis of the issue.

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NEW BUSINESS: \*\*Councilman Sowles moved to approve accounts payable in the amount of \$26,137.06, seconded by Councilman Anderson and approved 6-0 by roll call vote.

\*\*Councilman Sowles moved to pay various bills pertaining to the water expansion project in the amount of \$9,942.35 from Clackamas County warrants issued on the 1979 Water Bonds, seconded by Councilman Clift and carried 6-0 by roll call ballot.

Administrator Zenor read a memo regarding need of appointments due to the new City Charter, Administrator, Municipal Judge, City Recorder and City Treasurer and also in accordance with ORS, a sixth Budget Committee member. Mr. Zenor recommended having the City Administrator being appointed Treasurer and Recorder and then deputizing Virginia Graham as Treasurer and Marilyn Perkett as Recorder. The rationale being, that with a small office staff, Mr. Zenor felt there should be one person responsible and in charge, however, the Deputies would be doing the day to day work and work directly under the Administrator and not the Council. Council held over the issue until the Executive Session when agenda item (C.) Position Responsibility/Salary Adjustment Recommendation, would also be discussed.

\*\*Councilman Pulver moved that the City Attorney, City Administrator and Judge Jon Henricksen prepare a proposed contract, in accordance with provision of the new City Charter, and for Jon Henricksen's services as Municipal Judge for the City of Canby. Motion seconded by Councilwoman Kopelk and approved unanimously. Attorney Bettis will bring the contract back to the Council for approval.

\*\*Councilman Pulver moved to appoint R. Douglas Zenor to the position of Canby City Administrator, to serve at the pleasure of the Council. Seconded by Councilman Clift and approved unanimously.

Mayor Gabrion noted the following as interested in serving on the Budget Committee: Joan Schettig, Howard Perkins and John Walrod. Councilman Sowles noted that Mr. Walrod, President of the First National Bank, is very interested in serving and well qualified. Mayor Gabrion noted that Mrs. Schettig should be commended for coming forth to offer her services. Councilman Anderson commented that he had spoke with Dorothy Knight, who was willing to serve on the Budget Committee, however, since so many names have been proposed, he would not actually submit her name. \*\*Councilwoman Kopelk moved to appoint John Walrod to fulfill the unexpired term, expiring in March, 1984, to the City Budget Committee, seconded by Councilman Taylor and carried 6-0. Mayor Gabrion informed the Council that he had received Mrs. Kopelk's letter of resignation from the City Budget Committee.

Administrator Zenor reviewed the Liquor License application of the St. Patrick's Men's Club, noting it had been approved by both the Police and Fire Departments. \*\*Councilwoman Kopelk moved to approve the beer and wine Special Event Liquor License application for the St. Patrick's Men's Club, Casino Night, for February 12, 1983, from 8:00p.m. to 12:00 p.m. Seconded by Councilman Anderson and approved unanimously.

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Administrator Zenor commented on the 1981-82 Audit, prepared by Harry Culp, CPA, noting it should be accepted by motion. Mr. Zenor also explained that some "housekeeping" corrections will be made and he will keep the Council informed. Councilman Taylor expressed a concern on accepting a document that he had not had time to review. Mayor Gabrion suggested holding the issue over until the next meeting.

Mayor Gabrion called for a short recess at 8:25 p.m., reconvening the regular meeting at 8:37 p.m.

Mayor Gabrion announced that we would not go into Executive Session, as wage negotiations must be done in an open meeting and this would be held over until the next regular meeting. Councilman Pulver expressed a concern regarding wage recommendations of personnel under the Public Works contract.

UNFINISHED BUSINESS: Tim Tye, Eagle Scout candidate, presented his ideas for the proposed "Harry Wyman Field" for Maple Street Park. Mr. Atwood concurred with the placement of the sign and Councilman Clift offered some materials for the preparation of the sign. \*\*Councilwoman Kopelk moved to approve Tim Tye's proposal for the "Harry Wyman Field" sign and to have him proceed with the project under the coordination of Mr. Atwood, Public Works Director. Seconded by Councilman Taylor and approved 6-0.

Administrator Zenor read a memo requesting the Council to make a decision regarding aquisition of the Fairbrother property for the proposed Neighborhood Park with Block Grant monies. Mr. Zenor reminded Council that the Council must make a written commitment regarding City funding on the proposed Park. Some Council members expressed a concern of passing budgets with park funding. Council requested the City Administrator to ask someone from the Community Block Grant program to come to the next Council meeting to answer questions and concerns of the Council.

Administrator Zenor informed the Council that the Annexation Ordinance is still in the process of being reviewed and hopefully within the next meeting, or so, staff will return to Council with recommendations regarding the ordinance.

Attorney Bettis reviewed the Estate Eight settlement letter from Attorney Victoria Short Baum. The letter of January 12, 1983 suggested a settlement of full payment upon sale of property or at time of application for zone change, or full payment by June 30, 1985 if the previous mentioned does not occur. Mr. Bettis noted that the City has no provisions to assess the applicant for attorney fees, however, Ms. Baum indicated, but did not commit, that they may make payment of accrued interest. Mr. Bettis indicated that his fee on the matter, "was probably in the neighborhood of \$1,000.00 and don't think it will exceed that", therefore, the accrued interest would pay for the attorney fees. Councilman Anderson asked Mr. Bettis if he would recommend to accept the Estate Eight proposal. Mr. Bettis

replied that it was a reasonable proposal and he felt comfortable with accepting the settlement and using it as a basis to contact the other delinquent annexation account. Council discussed provisions for the proposed new Annexation Ordinance to eliminate these situations. \*\*Councilman Anderson moved that the concept of the proposal of Estate Eight, as set forth by the letter from their attorney dated January 12, 1983, be approved and the City Attorney prepare an agreement to implement that proposal which would include the City's collection of attorney fees at a higher rate upon failure to pay the new agreement. Also, provide for the City's collection of attorney fees in the event of suit or action and that such agreement be drafted that it will be a covenant that will run with the land and therefore obligate all current and future property owners. And, they be required to pay in full, to date, interest at accrued 6% interest rate as provided by Ordinance # 579. Motion seconded by Councilman Pulver and approved 5-1, with Councilman Taylor voting nay. (A copy of the 1-12-83 letter from Victoria Baum is attached to these minutes.)

OTHER REPORTS AS REQUIRED OR NEEDED: Councilman Pulver requested staff to again contact the County Commissioners regarding the jail fees, this was done over a year ago with no reply.

Mayor Gabrion informed the Council that he had several names interested in the Canby Utility Board appointments, including a petition of 149 signatures endorsing Larry Housen for a position on the board. Mayor Gabrion recommended the following: 3 year terms, Bob Westcott and Richard Mosier; 2 year terms, Larry Housen and Jim Renner; and one year term, Neil Cournoyer. Council will consider the names and return to next regular meeting for appointments.

Mayor Gabrion adjourned the regular meeting at 9:36 p.m.

  
Michael L. Gabrion, Mayor

  
Marilyn K. Perkett, Recorder Pro Tem

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JACK L. ORCHARD  
JOHN W. LILJEGREN  
SUSAN M. QUICK

January 12, 1983

RECEIVED  
JAN 13 1983  
OF COUNSEL  
JAN M. KENNEDY

BETTIS

Mr. Wade Bettis  
Attorney at Law  
160 N. W. Third  
Canby OR 97013

Re : City of Canby v. Goetz, et al.  
Clackamas County, Circuit Court,  
No. 82-9-423

Dear Wade:

We have discussed the matter of the annexation fee with our clients and they have indicated that they would prefer not to litigate this issue if we can reach a satisfactory agreement regarding the timing of the payment of the fee.

During the annexation negotiations, there were numerous representations by City personnel that the annexation fee would not be due until the property was developed or there was an application for a zone change. Since future financial plans were based, in part, on these representations, the property owners are not prepared to make a lump-sum payment at this time. However, they would like to enter into a formal agreement with the City which would clearly establish the events which would trigger the payment obligation.

In general, our clients would agree to payment in full upon the sale of the property or at the time an application for a zone change is made. If neither of these events occurs prior to June 30, 1985, the fee will be paid at that time, regardless of the status of development plans for the property.

We believe that this proposal is a reasonable compromise. The stated purpose of the annexation fee is to equalize the burden for constructing and maintaining City services. Since

BALL, JANIK & NOVACK

Mr. Wade Bettis  
January 12, 1983  
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the property will not be utilizing or benefiting from such services until development occurs, the purpose of the Ordinance is satisfied. In addition, if the litigation is terminated, both sides will avoid incurring additional attorney fees and costs.

We look forward to receiving your response to our proposal.

Sincerely,

A handwritten signature in cursive script that reads "Victoria".

Victoria Short Baum

VSB/cb

cc: Estate Eight Development Company