

CANBY CITY COUNCIL

FEBRUARY 3, 1982

REGULAR MEETING

Mayor Robert A. Swayze presiding. Councilmembers present: David Anderson, Beryl Brown, Lee Funrue, Michael Gabrion, Bill Pulver and Gary Sowles.

Also present: Administrator Harold Wyman, City Attorney Wade Bettis, Treasurer Myra Weston, Public Works Supervisor Bud Atwood, Secretary Marilyn Perkett, CUB Manager Stephan Lashbrook, Steve Nousen, S. Smith, C. Blecka, Gordon Pearson, Brian Peters, Lonnie Robinson, Dan & Sue Weber, John Howe, Howard Green, Merle McLaren, Janice Brunson, Edna Anderson, John Tatone, Davidy Bury, Cessy Boetz, Pat Haphey, Planning Commission Chairman Fred Kahut, Daryl Peterson, Barbara Miller, Bob Westcott, Earl Oliver, Larry Granfield, Larry Cole, Pacific Mutual representatives Bud Robinson and Virgil Cavagnaro, and approximately 35 boys from Cub Scout Pack 505.

Mayor Swayze called the regular meeting to order at 7:30 p.m., followed by the flag salute. Before silent meditation, Mayor Swayze announced the death of former Councilman Leonard Taylor in Brawley, California, and asked those present to join in a moment of silence in honor of Len Taylor.

\*\*Councilwoman Brown moved to approve as distributed the minutes of special meeting, January 18th, and regular meeting, January 20th, with the following correction on the minutes of January 20th, page one, paragraph three, the date in the last sentence should be JANUARY 23. Motion seconded by Councilman Gabrion and carried 6-0.

CITIZEN INPUT ON NON-AGENDA ITEMS: Mayor Swayze welcomed the many young men from Boy Scout Troop 505, who were in attendance to present the City with seven large barrels they had decorated for use in the City parks. Lonnie Robinson made the presentation to the Mayor and also offered any civic assistance the Council may need from the Troop. The Mayor requested all the boys to introduce themselves to the Council.

Mayor Swayze recessed the regular meeting to go into Public Hearing on the request for Vacation of Entry to Willamette Valley Country Club at 7:41 p.m.

Attorney Bettis assisted by directing the hearing. Mr. Bettis read the request of street vacation, dated September 29, 1981, from Fred Stefani, President of the Board of Directors of the Willamette Valley Country Club. Mayor Swayze inquired if anyone present had any objections or questions to the proposed vacation. None was voiced and it was noted that Merle McLaren, presiding President of the Country Club was present. Bud Atwood, Public Works Supervisor, confirmed that the consent of the owners of the requisite area had been obtained and on file. Affidavits of both postings and publishings were presented. The next step was Council determination whether the public interest will be prejudiced by the proposed vacation, the Council offered no discussion or comment. The last step was for Council determination whether or not the vacation will substantially affect the market value of the adjoining property, and if so, determine the amount of damages to be paid to such property owners. Council felt no objection and it was noted that City Hall had received no notice of objection.

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Mayor Swayze closed the Public Hearing at 7:50 p.m., and immediately reconvened the regular meeting.

\*\*Councilwoman Funrue moved to approve the petition of street vacation of the Willamette Valley Country Club and that the City Attorney be directed to prepare the appropriate ordinance. Motion seconded by Councilman Pulver. Councilman Anderson declared a conflict of interest being a proprietary member of the Club and abstained from voting. Motion passed by roll call vote, 5-0, with one abstaining. Administrator Wyman informed the Council that 6 or 7 lots adjacent to the area will go into open space designation until development at which time the back taxes will be paid. Mr. McLaren indicated he understood this matter.

ORDINANCES & RESOLUTIONS: Attorney Bettis read Ordinance No. 713 in full for first reading. \*\*Councilman Pulver moved that Ordinance No. 713, AN ORDINANCE PERTAINING TO THE CONSTRUCTION, ALTERATION, REPAIR AND MOVING OF BUILDINGS WITHIN THE CITY OF CANBY, OREGON; ADOPTING POLICIES OF FIRE SAFETY STANDARDS AND STANDARDS OF BUILDING CONSTRUCTION; PROVIDING PENALTIES FOR VIOLATIONS; REPEALING ORDINANCE NOS. 336 AND 684; AND DECLARING AN EMERGENCY, be properly posted and come up for second reading after 7:30 p.m., on Wednesday, March 3, 1982. Motion seconded by Councilman Gabrion and carried 6-0 by roll call vote.

Ordinance No. 714 was read in full for first reading by Attorney Bettis. \*\*Councilwoman Funrue moved that Ordinance No. 714, AN ORDINANCE AUTHORIZING CONTRACT WITH RICHARD OF ROCKFORD, INC. FOR PURCHASE OF SEWAGE TREATMENT PLANT AERATION EQUIPMENT; AND DECLARING AN EMERGENCY be posted and come up for final reading after 7:00 p.m. at a special meeting on February 23, 1982. Motion seconded by Councilman Gabrion. Mr. Atwood pointed out that on page one, paragraph 3 and last paragraph, it should read TWO 25 HP OXY JETS. Motion carried by roll call vote 6-0.

COMMUNICATIONS: Mayor Swayze requested the Council, as they left this evening, to be sure and thank Myra Weston for her many years service as the Chamber Secretary, she was acknowledged at a Chamber Luncheon on Tuesday, February 2. At this time, Administrator Wyman read a thank you note from Mrs. Weston for the recognition from the present and former Mayors and Council's and for the flowers and tray presented her at the luncheon by Councilwoman Brown on behalf of the City.

Administrator Wyman read a letter of thanks from Howard Barlow for the flowers sent by the City after his accident.

A note of thanks from Dorothy McCormick, Loaves and Fishes Manager, was read by Mr. Wyman thanking the City for support and financial assistance.

Mr. Wyman read a letter from Dick Morse requesting the Council to accept a check in the amount of \$2328.84 for payment of interest due on the annexation fee for his recently annexed property on Locust and Territorial and also requesting to pay the interest annually. Attorney Bettis noted that in accordance with the Ordinance the annexation fee was due and payable immediately upon annexation and therefore the Council had no choice in the issue. Mr. Bettis also said it imposes a burden on the tax payers when the City could not utilize that money to invest to offset budget expenditures. Attorney Bettis recommended returning the check with a letter noting that it was his responsibility for full payment in accordance with Section 7 of Ordinance No. 579, which the City Administrator read to the Council.

NEW BUSINESS: \*\*Councilwoman Funrue moved to approve payment of accounts payable in the amount of \$78,123.66, seconded by Councilman Pulver and approved 6-0 by roll call vote.

\*\*Councilwoman Funrue moved to pay various bills pertaining to the water treatment expansion in the amount of \$86,510.47 from warrant from the Clackamas County Treasury drawn on the 1979 Water Bonds. Seconded by Councilman Sowles and approved 6-0 by roll call ballot.

Administrator Wyman presented 12 applications requesting one year renewal on their liquor licenses and also a one day special event liquor license for St. Patrick's Church for March 7th, all applications had been approved by both the Police Chief and the Fire Chief. \*\*Councilman Sowles moved to grant approval for a one year liquor license renewal for the following: Roth's IGA Foodliner, Hiway Market, El Gazebo Tavern, 7-11 Store, Canby Home Discount Store, Canby House Restaurant, Grand Central Station, Willamette Valley Country Club, Giusseppe's Pizza Parlor, Cutsforth's Thirftway Market, American Legion Post No. 122 and The Country Cupboard, and also a one day special event liquor license for the St. Patrick's Church for the annual spaghetti dinner on March 7, 1982, from 11:30a.m. to 5:00 p.m. Seconded by Councilman Gabrion and approved unanimously.

Attorney Bettis presented a letter dated December 31, 1981, from County Counsel, Michael Montgomery, along with a contract regarding the renewal of a jail contract between the City and County. Attorney Bettis questioned whether the City was prepared to handle the anticipated increases in prisoner board of \$20.00 on February 1, 1982; \$23 on July 1, 1982; and \$26.45 on February 1, 1983. Mayor Swayze expressed concern over the increases due to the fact the County had passed a special serial levy a year ago for a large amount of money for the Sheriff Department. Attorney Bettis also pointed out that it is the City's responsibility to assume health care needs and burial needs for prisoners. Administrator Wyman noted that all felony cases and a few violent cases were sent to district court and the rest of the cities were being handled in Municipal Court. Mayor Swayze instructed the City Attorney to draft a letter requesting a "break down" of costs necessitating the increase in fees before signing the contract.

Mayor Swayze called for a short recess at 8:30 p.m. and reconvened the regular meeting at 8:41 p.m.

UNFINISHED BUSINESS: \*\*Councilman Anderson moved to remove from the table Ordinance No. 712, seconded by Councilwoman Funrue and carried 6-0. Councilman Anderson felt that Ordinance No. 690 should be sent back to the Planning Commission for review and noted that inadvertently an omission in the set back section had been left out. He pointed out that Canby has some of the strictest requirements for set backs of the surrounding cities. In referring to a letter from Roger Reif in the December Council packet recommending an amendment to the zoning ordinance on set backs, Councilman Anderson questioned how Ordinance No. 712 occurred since it was a waste of City money for unnecessary Ordinances. Attorney Bettis said that Public Works felt it was a needed item and Ordinances were covered under his retainer. Councilwoman Brown withdrew her motion to approve Ordinance No. 712, with approval from the second of the motion, Councilman Pulver. Fred Kahut, Planning Commission Chairman felt the Commission could act soon on this issue and felt it needed review. Stephan Lashbrook, agreeing with Mr. Anderson, also noted that LCDC staff plans to review the Canby Comp Plan and Ordinance in March. Mr. Atwood suggested making provision of enforcement in the amendment. \*\*Councilman Anderson moved that the Planning Commission thoroughly review, update and revise the set back section of Ordinance 690 and enforcement provision of Ordinance 712 be included. Seconded by Councilwoman Brown and approved unanimously. Attorney Bettis pointed

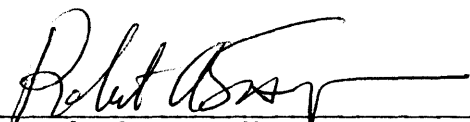
out that Ordinances are drafted by direction of the Council or staff and also initiated by his office and it is just as easy to send them to the Council in a final draft for review. Mayor Swayze requested the Council to further review Ordinance 690 for any further amendments. Attorney Bettis pointed out that Council should also act on Ordinance No. 712. \*\*Councilman Pulver moved that Ordinance 712, AN ORDINANCE REQUIRING BUILDING SETBACK REVIEW APPLICATIONS; AND PRESCRIBING PENALTIES FOR FAILURES TO FILE OR PAY FEES as submitted to the Council on January 20, 1982, be rejected as an inappropriate Ordinance. Seconded by Councilwoman Funrue and approved 6-0.

At this time, Bud Robinson and Virgil Cavagnaro, representatives from Pacific Mutual, addressed the Council regarding the City retirement program. The Council questioned the large increase projected by Pacific Mutual. Mr. Robinson pointed out that when the City picked up the 3% employer share as a contract negotiated item, this was a 25% increase. Also, the projected figure of \$107,000 increase for 82-83 by Mr. Chapman was an estimate. Mr. Robinson and Mr. Cavagnaro had reviewed the City's plan and came up with \$92,000, a \$15,000 savings over the earlier estimate. Mayor Swayze questioned how the company arrived at their figures. Mr. Robinson noted that several factors were considered. Such as, the mandated cost required by the state for uniform personnel; the increase in salaries; picking up the employees share as a contract item; and number of employees. He also pointed out that when the employees share was picked up by the City that money became immediately vested. Some Councilmembers were concerned whether the retirement plan could be a bid item and were told it was their money and they could request other bids. Mr. Robinson also noted that the administrative fee last year was \$4,167.20 with a fund balance of \$264,000. The actuary reports are on file in the City business office and a new one will be available in March.

Attorney Bettis addressed the Council regarding CATV, informing them that his office had worked up a short cut approach to authorize staff and Council to draw up specifications and if Canby Telephone Association could not meet them within 15 days then they would be up for competitive bids and if CTA did accept them then a proper ordinance would be drafted. However, a recent Supreme Court decision involving Bolder, Colorado, has changed this approach. Mr. Bettis recommended the City put out competitive bidding process, subject to CTA right of first refusal and engage a specialist in the CATV area. Mr. Bettis also noted that the "bottom line" is that the City cannot give an exclusive franchise and can't go the route anticipated, we have to be careful so we're not in violation of the Sherman Anti-Trust Act. Larry Cole, CTA, suggested that we incorporate portions of the County, he noted that CTA now has the right to serve the County in their telephone serving area. Mr. Lashbrook reminded the Council that Les Page, CATV consultant, is under contract with the City. Mayor Swayze requested the Mr. Page be contacted for a CATV workshop session on February 17, after the regular meeting.

\*\*Councilman Pulver moved to go into Executive Session under ORS 192.660, Subsection 1, subsection h, to consult with counsel concerning the legal rights and duties of a public body with regard to current litigation or litigation likely to be filed, seconded by Councilwoman Funrue and approved 6-0.

Mayor Swayze recessed the regular meeting at 10:01 p.m. to go into Executive Session. The regular meeting was reconvened by Mayor Swayze at 10:36 p.m. and immediately adjourned.

  
Robert A. Swayze, Mayor  
Harold A. Wyman, Administrator/Recorder