

CANBY CITY COUNCIL

REGULAR MEETING

JULY 21, 1982

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

Also present: Acting City Administrator Robert E. Rapp, City Attorney Wade P. Bettis, Public Works Supervisor Bud Atwood, Treasurer Myra Weston, Recorder Pro Tem Marilyn Perkett, Jeanne Eyman, Steve Frederick, Deputy City Attorney Jennifer H. James, Attorney James Beam, David Bury, B.J. Smith, H.C. Ramberg and Trish Neiworth.

Mayor Swayze called the meeting to order at 7:35 p.m., followed by the flag salute. During the silent meditation, Mayor Swayze asked that those present remember Mr. Walter Dohrman, who recently passed away. Mr. Dohrman was quite active in the Loaves and Fishes program and often attended Council meetings.

**Councilwoman Brown moved to approve as distributed the minutes of regular meeting, July 7, 1982. Motion seconded by Councilman Gabrion and approved 6-0 by roll call.

CITIZEN INPUT ON NON-AGENDA ITEMS: City Attorney Wade Bettis introduced Ms. Jennifer H. James, his newly appointed Deputy City Attorney. Mayor Swayze welcomed Ms. James to the City.

Prior to starting the appeal process, Mr. Atwood read from Ordinance # 690, Article 7, 10.8.40: (B) and (C), explaining the new process which does not call for a public hearing and also the criteria needed to overrule the Planning Commission decision.

Mayor Swayze recessed the regular meeting at 7:44 p.m., to go into the appeal process of the Latter Day Saints Church expansion of their conditional use permit.

Bud Atwood, Public Works Supervisor, read the staff report regarding the LDS Church's appeal, noting the Planning Commission approved the LDS conditional use permit on June 14, 1982, with the condition that a waiver of remonstrance for street improvements on S. Elm Street and S.W. 13th Avenue be signed and recorded. Mr. Atwood explained that on April 30, 1974, a request of waiver of remonstrance for street improvements on S. Elm Street was a condition requested, however, the waiver was never received by the City. The Planning Commission ascertains that such waivers are needed to properly handle required street improvements.

James Beam, Attorney of the LDS Church, addressed the Council, expressing that the church felt it inappropriate to ask for a waiver of remonstrance for a condition of construction of a 12' x 20' storage building.

Mr. Bettis reminded the Council that if a waiver of remonstrance was not imposed on the church, they could defeat any chance of an LID in that area, noting that S. Elm and S.W. 13th would ultimately be improved partially due to the recent annexation in that area. Mr. Bettis was of the opinion that a waiver of remonstrance was a justifiable opportunity and fits within the authority of Ordinance 690. Mr. Bettis did note that a waiver does not mean that the church cannot object against the assessment amount of any future LID.

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Mr. Beam rebutted by responding that laws are provided for the remonstrance process and the church felt it inappropriate to ask for such a waiver as a condition on their proposed small building.

Mayor Swayze closed the appeal process and reconvened the regular meeting at 7:54 p.m.

Councilman Pulver questioned the type of explosives housed in the addition and was informed they were cleaning solvents.

When asked the use of the church, Mr. Beam noted that the church has 1,000 members using the church on Sundays and a one night per week activity night.

Councilwoman Brown felt the Council interest should be to protect the future of the city streets. Councilman Anderson concurred, however, he questioned the condition of the entrance to the church off S. Elm. Mr. Atwood explained that the entrance area on S. Elm needed to be recrowned.

Councilman Sowles felt that S. Elm Street and S.W. 13th Avenue should be two separate issues to consider and that we request the waiver for S.W. 13th.

**Councilwoman Brown moved that the City Council uphold the decision of the Planning Commission on the appeal of the Latter Day Saints Church expansion conditional use permit and reject the appeal, upholding the conditions set forth by the Planning Commission. Seconded by Councilman Anderson. Roll call vote was yea-3, Councilmen Anderson and Gabrion and Councilwoman Brown; nay-3, Councilmen Pulver and Sowles and Councilwoman Funrue. In accordance with the City Charter, Mayor Swayze cast the tie breaking vote and he cast a yea, making the final tally, yea-4 and nay -3. Mayor Swayze directed the City Attorney to prepare the appropriate order.

Mayor Swayze called for a short recess at 8:10 p.m., reconvening the session at 8:22 p.m.

ORDINANCES & RESOLUTIONS: Ordinance # 724 was read in full on first reading by Attorney Bettis. **Councilman Pulver moved that Ordinance # 724, AN ORDINANCE REPEALING SECTION 12 OF ORDINANCE NO. 668 GRANTING FRANCHISE TO CANBY TELEPHONE ASSOCIATION; AND PROVIDING AN EFFECTIVE DATE be properly posted and come up for final reading after 7:30 p.m. on August 18, 1982, Seconded by Councilman Sowles and approved 6-0.

Councilman Anderson questioned the progress of the CATV Ordinance. Attorney Bettis is in the process of reviewing it and by directive of the Mayor noted he would try to have it ready for the Council on August 9th in preparation for a reading on August 18th.

COMMUNICATIONS: Administrator Rapp read a letter from Don Schaefer, Cascade Employers Association, concurring that the Public Works Employees Association members are due a 5% wage increase effective July 1, 1982, in accordance with their contract.

NEW BUSINESS: **Councilwoman Funrue moved to pay the June 30, 1982 accounts payable in the amount of \$5,709.14, seconded by Councilman Pulver and approved by roll call 6-0.

**Councilwoman Funrue moved to pay the July 15, 1982 accounts payable in the amount of \$21,988.23, seconded by Councilwoman Brown 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 \$92,047.84 from Clackamas County Treasury warrants issued on the 1979 Water Bonds. Seconded by Councilman Sowles and approved 6-0 by roll call ballot.

Administrator Rapp read the Agreement between the City and Canby Rural Fire District for Council approval, explaining that no changes had been made since last year. **Councilwoman Funrue moved to approve the Agreement between the City and the Canby Rural Fire District, effective July 1, 1982, and to authorize the appropriate signatures. Seconded by Councilman Pulver and approved unanimously.

Administrator Rapp read a letter from PMALGBC reminding us that our assessment was due, or a one-quarter payment. The annual assessment for 1982-83, based on our population of 7,735, is \$774.00. Once again the Council discussed their disapproval of the issue. **Councilman Sowles moved to pay PMALGBC the City of Canby 82-83 assessment by quarterly payments on the last possible day of each quarter. Motion seconded by Councilwoman Brown and approved 4-2, with Councilmen Anderson and Pulver voting nay.

Administrator Rapp reviewed a new rate schedule for the Canby Swim Center for Council approval. Councilman Gabrion voiced his objection to a 25¢ fee for clothes checking. **Councilwoman Brown moved to approve as presented the proposed rate schedule for the Canby Swim Center effective August 1, 1982, and a copy of the schedule to become a part of the minutes of this meeting, seconded by Councilman Pulver and approved 5-1, with Councilman Gabrion voting nay.

Councilman Anderson brought up the subject of recrowning S. Elm Street near the LDS Church. Mr. Atwood noted that the City crew could do the job and revenue money was available. **Councilman Anderson moved to authorize the City crews to proceed with recrowning S. Elm Street near the LDS Church for an approximate figure of \$1,200. Seconded by Councilman Sowles and approved unanimously.

**Councilman Gabrion moved to appoint Mr. R. Douglas Zenor as Canby City Administrator effective August 16, 1982, seconded by Councilwoman Brown and approved unanimously. Mayor Swayze requested Attorney Bettis to prepare an agreement to be signed by the newly appointed administrator regarding dismissal by Council action.

UNFINISHED BUSINESS: Councilman Sowles brought up the issue of withholdings paid on the retainers of the Judge and City Attorney. Mr. Sowles felt we should check with other cities before making a commitment. Mayor Swayze informed the Council that he had checked with Gladstone, West Linn and Estacada and none of them pay withholding, they treat it as contract labor. Mr. Rapp noted that it was his understanding he was to comply with any position putting in over 600 hours, which he stated in his letter to Mr. Hoelscher and also assume that no delinquent fines would be imposed. Mr. Rapp also noted that the Attorney General's office cited our Charter provisions as being a City officer. Attorney Bettis noted that it would be a severe financial impact on him, the withholding would be substantial on his retainer when he considered his secretary, staff, paperwork and etc. and questioned how he would be compensated for the costs he must put out in withholdings. Councilman Anderson felt the Council was not adequately informed of the issue and also requested that a CPA be asked his opinion. **Councilman Pulver moved that the Assistant Attorney General, W.F. Hoelscher be advised by letter that the City's letter of July 16, 1982, was premature in that the City is still in the process of collecting facts, evaluating the matter, considering them in light of our Charter provisions and the code sections which Mr. Hoelscher cited in his letter to Mr. Rapp of June 18, 1982, as well as the position taken of other cities in the surrounding area and the precedence set in the past of the positions being contract labor. Motion seconded by Councilman Sowles and approved 6-0. Attorney Bettis also suggested using a computer process available

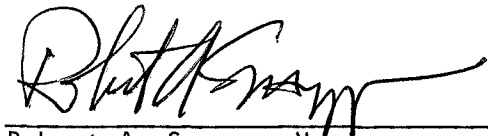
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at Lewis and Clark College which would be of some cost to the City. The research process returns several case histories and court decisions from all over the United States regarding the information fed into the computer. The Council preferred to wait before pursuing such a process.

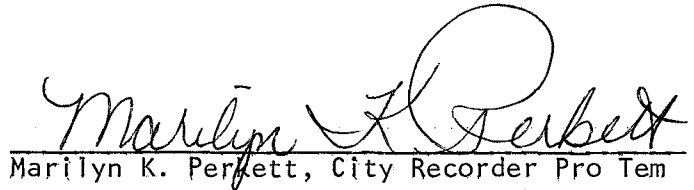
OTHER REPORTS AS REQUIRED OR NEEDED: The Council set Thursday, August 5, at 7:30 p.m. as the date for the nominating caucus for election of three council positions, Mayor and City Treasurer for the November election. Petitions will be due around August 20th and will be announced in the local newspaper as to correct date.

Administrator Rapp informed the Council that Globe Union battery plant had sent a check to the City to pay for the costs incurred during the recent sewage plant upset. Mr. Atwood is also working with the plant in preparing an ordinance addressing industrial waste.

Mayor Swayze adjourned the regular meeting at 9:29 p.m.



Robert A. Swayze, Mayor



Marilyn K. Perlett, City Recorder Pro Tem

CANBY SWIM CENTER
PROPOSED FEES
EFFECTIVE AUGUST 1, 1982

GENERAL ADMISSION

3 & under years of age	Free
Over 3 years of age	\$1.00
Family Night (1 or 2 people)	\$1.00 /each additional 75¢
Swim Team (AAU)	Membership <u>or</u> 50¢ per session

MEMBERSHIPS

One year Family	12 months = \$90.00	6 months = \$50.00
Single	12 months = 65.00	6 months = 37.50
Senior Citizen (single)	12 months = 37.50	6 months = 23.75
Senor Citizen (couple)	12 months = 60.00	6 months = 35.00

(Seniors must be 62 years of age and up)

One year membership (12 months) may be purchased in 3 equal payments due the same date in each of the first 3 months of the year of membership.

Clothes checking = 25¢ per person , Members FREE

PUBLIC INSTRUCTION (Lessons)

17 years of age and under	\$17.50 non-member	\$15.00 member (10½ hours)
Mom & Tot (child 4 years & under)	20.00 non-member	17.50 member (10½ hours)
Adult (18 yrs & up)	20.00 non-member	17.50 member (10½ hours)
Red Cross Life Saving	25.00 (all ages & non-member <u>or</u> member)	