

CANBY CITY COUNCIL

REGULAR MEETING

MARCH 4, 1981

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

Also present: Administrator Harold Wyman, Public Works Director Ken Ferguson, Public Works Supervisor Bud Atwood, City Planner Stephan Lashbrook, City Attorney Wade Bettis, Treasurer Myra Weston, Secretary Marilyn Perkett, Utility Board Members Robert Westcott and Richard Garvey, John Tatone, Floyd Watson, Attorney Roger Reif, John Arends, Ralph Bonadurer, David Bury, Dean Rowley, Kim Wallis, Jerry Gustaveson, Herald Editor Steve Fredrick, Chief Richard Seigler, David Anderson and Duane Lee of Lee Engineering.

Mayor Swayze called the Regular Council Meeting to order at 7:30 p.m., followed by the flag salute and a moment of silent meditation. Roll call of Council followed.

**Councilwoman Brown moved to approve as distributed the minutes of Regular Meeting, February 18, 1981, with the following corrections: Page 3, paragraph 3, the correct spelling is SHINN and after the word encouraged it should read, "them to accept". Page 4, paragraph 4, Mr. Westcott's term will expire in December, 1983 not 1981, and the top of the page, the fire was December, 1980, not 1981. Seconded by Councilman Gabrion and approved 5-0.

CITIZEN INPUT ON NON-AGENDA ITEMS: David Bury, addressed the Council expressing his "outrage" of the investigation of State Senator Richard Groener as a waste of taxpayers money.

Myra Weston, speaking as a "private citizen", read a statement requesting the Council to reconsider the appointment of Robert Westcott to the Canby Utility Board that was made at the February 18, 1981, Council meeting. Mrs. Weston cited the following reasons in her statement: a business associate and newest member of the City Council nominated Mr. Westcott; Mayor Swayze assured the senior member of the Utility Board a few weeks ago, "he should not worry over the possibility of the appointment of the two-term Councilman"; former Mayor Rapp assured the board that the new member should be someone other than the one named; former Councilman Westcott on December 19, 1979, nominated a church colleague and new-comer to Canby to the board, "are we sanctioning a clique?"; the newest appointee of the Utility Board at the February 24, 1981, meeting nominated his December, 1979, choice for the board to be chairman with only one year of experience; Mr. Giger's 22 years of city service to the community was cited ; the present Mayor on January 3, 1979, nominated Mr. Giger to the Utility Board and now this board member chooses to resign rather than be a member of a "rubber stamp board"; our association with BPA must not be jeopardized; two others were considered for appointment to the board and one was quoted as saying, "he was talked out of consideration by the man who gained the appointment saying how difficult it was"; and Mrs. Weston stressed that "politics of this kind Canby doesn't need."

Mayor Swayze addressed Mrs. Weston's comments in the following manner: he pointed out no conflict of his nominating Mr. Giger and his subsequent resignation;

he did not assure Mr. Giger that Mr. Westcott would not be appointed, however, he did assure him that he would go with a 100% approval of the Council and no split vote, and the entire Council did approve Mr. Westcott's appointment; he saw no conflict due to the fact that Mr. Garvey and Mr. Westcott attend the same church; he saw no conflict of Mr. Sowles being a business partner of Mr. Westcott's and pointed out that Councilman Sowles, being a sworn Councilman, is authorized to make motions; even though Mr. Westcott nominated Mr. Garvey as board chairman he noted that all three members have this right to speak and make decisions; he took position against Mrs. Weston's inference that "Mr. Westcott will not go along with the BPA"; and he felt we owed Mr. Westcott some "respect and dignity" as an 8 year Councilman and give him a chance to prove he's a good Canby Utility Board Member.

Mr. Sowles, stating he was a business partner of Mr. Westcott, felt he, Mr. Westcott, was a man of integrity and after 8 years of service to the Council he had respect for his ability. He asked the Mayor, and polled the Council except for Mrs. Brown who he didn't know to well, if they had any objection of his nominating Mr. Westcott for the Utility Board and they all concurred without hesitation. He felt the he had no conflict of interest and that it was a good appointment and saw no reason to rescind his motion.

Mayor Swayze also commented that he had spent a great deal of time with Mr. Giger the previous night and tried to talk him out of resigning.

Councilman Pulver pointed out that he had no choice, as he was not confronted by anyone or informed of anyone else willing to assume the position of Utility Board Member. He based his vote on Mr. Westcott's performance as Councilman.

Mr. Westcott addressed the Council and stated, " I never talked to anybody, for or against, talking anybody in or out of the office. I don't know what's being referred to here."

Mayor Swayze asked the Council if they wished to reconsider. The Council showed no intent to reconsider and the Mayor closed the matter.

Mayor Swayze called for a brief recess before going into the Public Hearing at 7:50 p.m.

Mayor Swayze opened the Public Hearing at 8:00 p.m. for the applicant Juhr & Sons for Zone Change from R-1 to R-2/PUD and he briefly reviewed the procedure of a public hearing for the audience.

City Planner Lashbrook reviewed the items in the record for the zone change. The subject property is located south of Knights Bridge Road, abuts the north side of the Canby Village Apartments and he noted the applicants intend to proceed with plans to construct additional senior citizen housing along the same lines as now exist in the Canby Village Apartments. Mr. Lashbrook's recommendation was to adopt the findings of fact of the Planning Commission and approve the zone change subject to the condition of approval of the Planning Commission.

APPLICANT - John Arends, representing Juhr & Sons, emphasised that this was an extension of the Canby Village Apartments, which is three years old, and noted a need for more units. Mr. Arends noted that the architect was present to review the plans, however, Mr. Lashbrook felt it wasn't necessary at this time.

PROPOSERS - David Bury, 360 S. Township, felt there is a need for this sort of development in the City and questioned if this would be all one tax lot. Mr. Lashbrook explained it would be divided into several different tax lots.

OPPOSERS - None was voiced.

REBUTTAL - None was voiced.

Mayor Swayze closed the Public Hearing at 8:10 p.m.

Councilman Sowles questioned the density of the development. Mr. Lashbrook explained it followed the standard R-2 zoning of one unit for the first 5,000 sq. ft. and an additional unit for each 2,500 sq. ft., which is below the maximum density allowed for the area. There is quite a bit of common area, but not a lot devoted to outdoor recreation due to the lack of need. Councilman Pulver questioned the setback regarding the frontage. Mr. Lashbrook pointed out that part of the proposal was that it would be a condominium concept with individual ownership, not all rentals, this is the reason for zero setbacks. Councilman Sowles felt there was a public need, it is close to city services and complied with the Comprehensive Plan. Mayor Swayze noted that during the first phase he had some doubts because of the schools, baseball fields, etc., however, it has proven itself and the design is an asset to the City.

Mayor Swayze reconvened the regular meeting at 8:15 p.m. **Councilwoman Brown moved to approve the zone change for the applicant Juhr & Sons from R-1 to R-2/PUD and adopt the findings of fact of the Planning Commission subject to the following condition: "Zone Change to remain valid for a period of one year within which the applicant must apply, and receive approval, for the complete Planned Unit Development. If such Planning Commission approval is not received within the one year period, or if it is received but the applicant fails to meet the time limits for completion specified at the time of approval, the zoning shall automatically revert to R-1 (Low Density Residential) without the necessity of any special action by the Planning Commission or City Council. Seconded by Councilman Pulver. Mr. Lashbrook questioned the applicant if they understood the condition which they said they did. Motion carried 5-0.

At this point in the meeting Mayor Swayze requested Chief Seigler to introduce the two new officers recently hired in the Police Department, Kim Wallis and Jerry Gustaveson. Mr. Wyman also informed the Council that as of March 1, 1981, Dorothy Patterson has been hired as the Municipal Court Clerk.

ORDINANCES & RESOLUTIONS: Attorney Bettis read in full for first reading Ordinance No. 695. **Councilwoman Funrue moved that Ordinance No. 695, AN ORDINANCE AUTHORIZING CONTRACT FOR PURCHASE OF VACUUM SWEEPER be properly posted and second and final reading be on April 1, 1981, after 7:30 p.m. Seconded by Councilman Gabrion and approved unanimously. Administrator Wyman pointed out that in the minutes of February 18, 1981, Mr. Atwood stated that advertising had been done in the Daily Journal of Commerce, and this was incorrect, it was the local Canby Herald.

COMMUNICATIONS: Mayor Swayze apologized to Mr. Dean Rowley for having misplaced his letter and asked him to explain his request to the Council. Mr. Rowley, 940 N. Maple Lane, requested assistance from the City in removing poplar trees from his property, noting they have caused sewer problems with the neighbors and also breaking up the street in front of his house. He's had a bid of \$3,000, which is quite expensive and therefore is asking for City assistance. Mayor Swayze passed around pictures of the problem area. Mr. Atwood suggested that the City lay down the trees in the front of his property and give Mr. Rowley a period of time to re-

move the tree remains. **Councilman Pulver moved that the City Public Works Department assist Mr. Rowley of 940 N. Maple Lane, by laying down the trees in front of his residence and boring holes in the stump for root killer and that Mr. Rowley be given 45 days to remove the remains and Mr. Rowley will give the City written permission to cut the trees down and bore holes in the stump for the root killer. Seconded by Councilwoman Brown. Mr. Rowley questioned if the trees were on City property, whose responsibility were they. Mr. Wyman noted that by City Ordinance all trees in the right-of-way planted by the owner are their responsibility. Motion carried 5-0.

Administrator Wyman read a letter from the Clackamas Board of Commissioners requesting the proper signatures on the 1981-82 County Jail Agreement, noting an increase to \$26.00 daily from \$8.25. Mr. Wyman recommended not signing the agreement and noted that county/city officials and police chiefs are meeting on this issue. Chief Seigler forecast approximately 197 prisoner days for next year, which would amount to \$5,160 under the new rate. It was the consensus of the Mayor and Council not to sign the agreement at this time, also the Mayor suggested that each Councilmember call the County Commissioners regarding this issue.

Administrator Wyman read a letter of thanks and appreciation from the Beauford Knight family. Mayor Swayze reminded the Council of the good work Mr. Knight did for the City and if anyone had a little time to stop by and say hello to Mrs. Knight.

The next item of business, a trailer permit request by Mrs. Gomske, had been withdrawn.

Administrator Wyman read a letter from Canby Utility Board regarding a new proposal of sending their monthly billings out on postcards. Fred Egger outlined the savings, and noted that lack of privacy being the only disadvantage and requested Council reaction to this proposal. Mr. Wyman pointed out that this would also benefit the City as a savings since the sewer charges are billed on the same billing. The Council consensus was in favor of the proposed postcard billing for the Canby Utility Board.

Mr. Wyman read a letter from Floyd Watson, 24215 S. Skylane Drive, Canby, requesting permission to permit the family to bury the cremated remains of his sister in an already purchased plot of a family member and forfeit the \$75.00 opening and closing fee. Mr. Atwood was opposed to this, noting that the fee also covered bookwork, perpetual care and did not want to set a precedent. Councilman Sowles questioned Mr. Watson to whether this would create a hardship. Mr. Watson said it was a personal family matter and not necessarily a money matter. The consensus of the Council was not to set a precedent, however, they did sympathize with the issue Mr. Watson presented but felt the Ordinance should be enforced. (NOTE: Councilman Gabrion left the Council chair at 8:50 p.m., due to an emergency.) **Councilman Pulver moved that the request of Mr. Floyd Watson to defer the \$75 opening and closing cost and privately bury the cremains themselves be denied, also not wishing to set a precedent, however sympathy was extended. Seconded by Councilwoman Brown and carried 4-0.

Administrator Wyman read a letter from Duane Lee, Lee Engineers, proposing engineering services to investigate the discharge problems at the sewage treatment plant. He outlined the services to be provided and suggested the City implement

a municipal pre-treatment program prior to DEQ direction. They proposed to start the work immediately. Mr. Ferguson noted that on February 11, 1981, the plant was upset by unknown substances for two days and to this date they don't know where it is coming from. Mr. Ferguson has requested the Police Department to be on alert in case someone is dumping directly into manholes. He felt we should start a monitoring system immediately, for which they need Mr. Lee's expertise, and on an hourly basis. Mr. Lee suggested the following corrections on his letter providing the provisions of service: page two, third paragraph, second sentence after City of Canby insert - "as needed and as requested by him". Also forth line from the bottom on the same paragraph after City Attorney insert - "if and as requested by the City Engineer". Mr. Ferguson noted that as much in-house work as possible will be done in his office. It was suggested by the Council to set a fee of \$1,000. Canby Herald Editor, Steve Frederick, questioned what substance was making the problems. Mr. Ferguson noted that DEQ is making tests and we have received no word on them, however, the substance is high in PH. It was also explained that if the violator were caught the ordinance provides for a cost recovery and also provisions for the industry to monitor at their own cost. Mr. Ferguson noted three industries in the City with waste water: Mod Com, Package Containers and Globe Union. **Councilwoman Funrue moved to accept the agreement between Lee Engineers and the City of Canby, with the changes outlined by Mr. Lee to include the City Engineers requests of necessity, and for a sum not to exceed \$1,000 as outlined in exhibit "A". Seconded by Councilman Pulver. Motion carried 4-0. Councilman Pulver requested that the Council be kept informed of the process on a frequent basis.

Mayor Swayze called for a short recess at 9:12 p.m. The regular meeting was reconvened at 9:20 p.m.

Administrator Wyman read a letter dated March 4, 1981, from Howard Giger, stating his resignation from the Canby Utility Board effective April 1, 1981. Mayor Swayze noted that he had discussed this with Mr. Giger and tried to persuade him to continue. Attorney Bettis suggested the resignation be accepted effective upon a new appointment. **Councilman Pulver moved to accept, with reluctance, the resignation of Howard Giger from the Canby Utility Board, effective upon the appointment of a new member. Seconded by Councilwoman Funrue and approved 4-0.

Administrator Wyman read a memo from Attorney Wade Bettis relative to the LDS Church. A deed was presented for recording for street right-of-way on S.W. 13th Avenue and S. Elm, also for consideration was an option for purchase of real property on a triangular piece of property across the S.W. corner of Church property. **Councilman Pulver moved to accept for recording the deed from the LDS Church for dedication of property for street right-of-way and also the option of purchase of Church property. Seconded by Councilwoman Brown and approved 4-0. Attorney Bettis noted that he needed a \$14.00 check for the recording fee.

Mr. Wyman read a letter from Attorney Bettis stating that no Resolution was needed regarding the City audit since no deficiencies were cited by the auditor.

NEW BUSINESS: **Councilwoman Funrue moved to pay accounts payable in the amount of \$29,962.53. Seconded by Councilwoman Brown and approved 4-0 by roll call vote. **Councilwoman Funrue moved to pay a bill to McDonald Engineering from the 1979 water bond on a warrant from the Clackamas County Treasury in the amount of \$1,200. Seconded by Councilwoman Brown and carried 4-0 by roll call vote.

UNFINISHED BUSINESS: Mayor Swayze reminded the Council that three appointments were necessary, an open Council position and two Budget Committee members. He requested the Council to be ready to make the budget committee appointments on March 18th. Councilman Pulver nominated David Anderson for the open seat on the Council. **Councilman Sowles moved that nominations be closed. Seconded by Councilwoman Brown and approved unanimously. Mayor Swayze then welcomed the newest Councilmember, David Anderson, and Attorney Bettis performed the swearing of the oath. At this time Councilman Anderson took his seat on the Council. Mayor Swayze also noted that Councilman Anderson had previous commitments and would therefore miss the next regular meeting.

OTHER REPORTS AS REQUIRED OR NEEDED: Administrator Wyman presented a memo with attached documents requesting a wage increase for DuWayne Edmunds, sewage plant employee. The recommended increase is for \$75 per month, retroactive to January 1, 1981. **Councilwoman Brown moved to approve the merit raise of \$75 per month, retroactive to January 1, 1981, for DuWayne Edmonds. Seconded by Councilwoman Funrue and approved 5-0. (NOTE: With the appointment of Councilman Anderson the Council is again a voting body of five members.) Councilman Pulver expressed that in the future he would like to see these requests in the form of a letter in advance so they can be reviewed.

Administrator Wyman briefly reviewed the graphs the Council had received on the General Fund, Streets and Cemetery. He noted that he estimates that we will receive 91% of our receipts and also explained that we could run short by the end of the fiscal year.


The Council was given sample "flyers" advertising the March 31st Budget Election. The Council gave their approval and they will be used as advertisement preceeding the election.

At this time Mr. Lashbrook gave each Councilmember a copy of the proposed Comprehensive Plan and Land Development/Planning Ordinance for their review before the public hearing on Monday, March 9th.

Mayor Swayze reported to the Council that former Councilman Nichols is improving, however, is still in intensive care at the hospital.

Administrator Wyman also reported that Charles Tooley, Sewage Plant Operator, is back at work after a slight heart attack.

Mayor Swayze adjourned the meeting at 9:45 p.m.


Robert A. Swayze, Mayor


Harold A. Wyman, Administrator/Recorder