

CANBY CITY COUNCIL

REGULAR MEETING

AUGUST 6, 1980

Mayor Robert E. Rapp presiding. Councilmembers present: Beryl Brown, Beauford Knight, Richard Nichols, Bill Pulver, Robert Swayze and Robert Westcott.

Also present: Administrator Harold A. Wyman, City Planner Stephan Lashbrook, Public Works Director Ken Ferguson, Public Works Supervisor Bud Atwood, Treasurer Myra Weston, Attorney Wade P. Bettis, Secretary Marilyn Perkett, Chief Richard Seigler, Oregonian Reporter Pat Jeffries, Journal Reporter Tom Oxley, Canby Herald Editor Steve Frederick, Duane Lee, David Bury, Gary Pope and Richard Morse.

Mayor Rapp called the Regular Meeting to order at 7:39 p.m., followed by the flag salute and roll call of Council.

\*\*Councilwoman Brown moved to approve as distributed the minutes of Regular Meeting July 16, 1980. Seconded by Councilman Nichols and approved unanimously.

CITIZEN IN-PUT ON NON-AGENDA ITEMS: Mr. Gary Pope, who had the previous evening been nominated at the Caucus for a Councilperson position, withdrew his name from the nomination due to a misunderstanding about City Charter requirements for residency. Mr. Pope asked that he be considered at a later date if a Council opening should become available.

ORDINANCES & RESOLUTIONS: Attorney Bettis read by title only for the second reading, Ordinance No. 679, and Administrator Wyman presented the affidavit of posting. \*\*Councilman Swayze moved that Ordinance No. 679, AN ORDINANCE AMENDING ORDINANCE NO. 556 AS AMENDED, ESTABLISHING REGULATIONS FOR THE EXTENSION AND REPAIRS OF SEWER SIDE LATERALS, ALLOWING VARIOUS FEES TO BE SET BY RESOLUTION OF THE CITY COUNCIL, AND DECLARING AN EMERGENCY, be passed and become part of the laws of the City of Canby. Seconded by Councilman Pulver and carried 6-0 by roll call vote.

Attorney Bettis read in full for first reading Ordinance No. 682, at which time Councilman Westcott stepped down from the Council due to a conflict of interest in this matter as previously stated. \*\*Councilman Swayze moved that Ordinance No. 682, AN ORDINANCE ASSESSING VARIOUS LOTS, PARCELS AND TRACTS OF PROPERTY FOR STREET AND SANITARY SEWER IMPROVEMENTS MADE OR BEING MADE TO NORTHWEST THIRD AVENUE AND NORTHWEST BAKER DRIVE IN LID NO. 9; DIRECTING THE ENTRY OF ASSESSMENTS IN THE DOCKET OF CITY LIENS; PROVIDING FOR NOTICE THEREOF; AND DECLARING AN EMERGENCY, be properly posted according to City Charter and second and final reading be September 3, 1980, after 7:30 p.m. Seconded by Councilman Nichols. Councilman Knight questioned the wording in Section 4, "improvement to and upon," he felt there were no improvements upon the parcel. It was explained that this is legal terminology and referred to the benefits of improvement. Motion carried 5-0. Attorney Bettis noted that after approval of the Ordinance a new format for procedure in Bancroft Bonds, never done in Oregon and composed by Mr. Bettis, will be instituted on this LID. The Bancroft Bonding Act provides that a 7% limit be charged for installments on assessments. Also, a few years ago a law was made permitting the City to sell Bancroft Bonds at 10%. Therefore, on the assessment bonding application form, that the property owners sign, they will agree to pay no less than 7% and not more than 10% and pay the amount the City has to pay for the bonds plus 1/2% for processing and administering.

August 6, 1980

Ordinance No. 683 was read by Attorney Bettis in full for first reading. \*\*Councilman Westcott moved that Ordinance No. 683, AN ORDINANCE AMENDING THE ZONE MAP OF THE CITY OF CANBY (Application of City of Canby re Willamette Green No. II, R-2 (Medium Density Residential) to R-2/PUD (Medium Density Residential/Planned Unit Development) zone), be posted and second and final reading be September 3, 1980, after 7:30 p.m. Seconded by Councilman Pulver. Richard Morse questioned if this would overload the capacity of the sewage plant and cause a moratorium in other developments. He was told the PUD would actually lessen the density. Motion carried 6-0.

Attorney Bettis read Resolution 283. \*\*Councilman Swayze moved that Resolution 283, RESOLUTION PRESCRIBING MONTHLY RATES TO BE CHARGED FOR SEWER SERVICES, be passed. Seconded by Councilman Westcott and approved unanimously.

Mayor Rapp called for a short recess at 8:30 p.m. The Regular Meeting was reconvened at 8:45 p.m.

COMMUNICATIONS: Administrator Wyman read a letter from Helen Puls, 545 N. Locust St., requesting the Council to permit her to keep chickens in the city limits and also that she did not wish a "kennel permit" but only raised her pups to sell to a pet store. Mr. Wyman further explained that the city had received two complaints regarding the noise from the rooster and also that a citation had been issued to Mrs. Puls from the Police Department. Council will postpone action on this matter until Mrs. Puls has appeared in court and a decision rendered, she will be notified.

A "thank you note" from the Louie Cole Family for the remembrance from the City was read by Mr. Wyman.

Administrator Wyman read a letter from Winston Kurth, Clackamas County, which noted that they will give consideration to the overlay of S. Ivy Street if funds become available and keep it in mind for next year's program. Councilman Pulver questioned whether the condition of the street would last that long. Mr. Ferguson noted that sections will possibly need repair before then. Mr. Ferguson will again write to Mr. Kurth and suggest they strongly consider the street before it has deteriorated to much.

Mr. Wyman read a letter from Attorney Bettis which offered a \$200.00 contribution on behalf of he and his wife, Miriam, to establish a fund for rewards for identification of vandals of City property. Mayor Rapp commended Mr. Bettis and felt it an excellent opportunity for the City to establish this fund. He also noted that the "special toilet paper holders" were in use and so far, they are effective. The Mayor suggested that the City also contribute \$200.00 to increase the fund. \*\*Councilman Nichols moved that a SPECIAL FUND be established forthwith, for the purpose of rewards to be paid to those furnishing information identifying vandals causing damage to City property, particularly City Parks, and according to the intent and tenor of the letter to the Council by City Attorney Bettis, dated July 17, 1980. Seconded by Councilwoman Brown and carried unanimously. At this time Attorney Bettis handed over his \$200.00 check to the Mayor. \*\*Councilman Swayze moved that the City of Canby, from a source to be established by the City Administrator, contribute \$200 to this fund. Seconded by Councilman Pulver and carried 6-0. \*\*Councilman Swayze moved that a committee of one businessman in the City of Canby, one policeman and the City Administrator to administer payment of these funds on City property vandalism. Seconded by Councilman Nichols and carried unanimously. Mr. Ferguson noted that signs could be placed in the parks regarding this matter.

Administrator Wyman read a letter from Jack Hollenbeck, Canby Sports Center, again asking Council permission to use Wait Park as a finishing area for their Second Annual Fair Run. \*\*Councilman Swayze moved that the Canby Sports Center be allowed to use Wait Park on August 15, as their finish area for the Annual Fair Run and their letter be attached to the minutes. Seconded by Councilman Westcott and approved 6-0.

Administrator Wyman read a letter from the St. Patrick's Church commending Stephan Lashbrook, Bob Godon and Ginny Shirley for their assistance and cooperation regarding their building program. Mayor Rapp directed staff to include this letter in the personnel file of the above mentioned.

NEW BUSINESS: \*\*Councilman Knight moved that the accounts be paid in the amount of \$81,380.71. Seconded by Councilman Nichols and approved 6-0 by roll call vote. Council discussed that Dale Industries payment of \$138,988.17 was approved and paid, however, it did need to be approved by Council action again to be disencumbered. Also, the print-outs that Council had, showed an error in the water bond figures and therefore, a \$33 difference occurred which will be noted to the City Bookkeeper. \*\*Councilman Knight moved that \$49,359.61 be approved for payment from the Clackamas County Treasury water bond fund and the \$138,988.17 be accepted, as shown on the print-out, as a method for disencumbering and which was approved for payment on July 16, 1980, and subsequently paid. Seconded by Councilwoman Brown and approved 6-0 by roll call vote.

Administrator Wyman read a staff memo regarding payment of 6 inch sewer laterals in LID #10 and asking Council decision whether to pay for Mr. Morse's laterals, \$7,295.95, from the sewer improvement fund or to include the cost of these laterals in the LID. Councilman Westcott noted that with the passage of Ordinance #679, however not in effect when LID #10 was initiated, it will require payment for installation charges of laterals in addition to the connection fees. Mayor Rapp felt at this time, the City was in a position where we will probably be forced to pay these costs out of sewer reserve fund for Mr. Morse and at the time of hook-up we will receive the current rate of payment back plus cost of laterals. Mr. Morse pointed out that his letter, read earlier by Mr. Wyman and asking the City to pay the lateral charges, was dated November 28, 1979. He also noted that he was "fairly well assured" although not guaranteed that the City would pay for the laterals that he did not request to be installed. Councilman Westcott pointed out that the new Ordinance #679 actually answers his letter, the city pays for the laterals out of the sewer reserve fund and if he never uses them he never pays for them. \*\*Councilman Swayze moved that the \$7,295.95 for 6 inch sewer laterals to the Morse property on N.E. Territorial and N. Locust be paid out of the sewer reserve fund and be reimbursed through Ordinance #679. Seconded by Councilman Pulver and approved 6-0. At this time Mr. Morse also questioned the Council about a problem a few months ago when the sewer was installed at a deeper depth than normal and what relief the participants of the LID would get? He also reiterated the fact that the sewer bid was \$40,000 to \$30,000 over estimate and also the fact that the participants in the LID were asked for a large sum of money to participate in the paving of N.E. Territorial. The Council relayed to Mr. Morse that the depth of the sewer problem had been resolved earlier (Note: see minutes of October 3, 1979), however, they still plan for a committee to resolve the problem of non-participants who benefit from the sewer. Mayor Rapp did commend the LID participants for their share of the paving of N.E. Territorial. Mayor Rapp directed staff to set up a committee for early in September to work on the resolution of the non-participants that are benefitted by the sewer. Mr. Morse volunteered for the committee along with Mr. Ferguson, Mr. Atwood and Councilman Westcott. Mr. Morse also requested, from the City, a letter stating the value of the sewer laterals for his future reference.

Mayor Rapp requested a short recess at 9:50 p.m. and reconvened the Regular Meeting at 10:05 p.m.

Mr. Ferguson read the staff memo regarding the emergency procedure in case of a Natural Disaster. He noted that the County is in the process of preparing an Ordinance on this matter. Mayor Rapp suggested we set up a committee and use someone "in house" with immediate authority to head the committee. Those suggested for the committee were, two each from the following: Canby Telephone Association, Fire Department, Police Department, Medical Profession, Schools and Public Works Department. This needs to be done soon, however, no time limit was set.

Ken Ferguson reported on the elimination of the S. Elm Street sanitary sewer lift station. Installed in 1971, cost estimates of malfunctions for the lift station is about \$10,000. Staff recommended installing a ten-inch sewer main from the existing manhole on S.W. 6th and S. Elm Street to S.W. 2nd Avenue and S. Elm Street. Staff requested Council to call for bids, staff cost estimate is \$20,000. \*\*Councilman Westcott moved that the City Engineering department be instructed to prepare plans and specifications and preliminary estimates for costs for the elimination of the S. Elm Street sanitary sewer lift station. Seconded by Councilman Swayze and approved 6-0.

Administrator Wyman reviewed with the Council his suggestions for special rates for senior citizens for sewer charges. The Council wished to consider this matter at a workshop to be held on Wednesday, August 27, 1980.

Mr. Wyman read a staff memo with his proposals for a tax base. Mayor Rapp suggested we maintain the same proposal submitted in May. \*\*Councilman Nichols moved that the dollar figure for the tax base submitted at the May, 1980 Primary be resubmitted for a four year tax base, 1981-85, in the amount of \$1,753,389 on the November General Election ballot. Seconded by Councilman Swayze and approved unanimously.

Administrator Wyman reviewed quotes for a small hatch-back sedan, budgeted for in the 1980-81 budget, for use for the sewer plant operator and other jobs requiring only small tools. Staff recommended the Moak Chevrolet bid for \$4,045.31 for a Chevette Scooter. Councilmen Nichols and Pulver questioned the maintenance expenses and reliability of the car. Staff noted that had spoke with several individuals on this matter. \*\*Councilman Nichols moved that the Council accept staff recommendation for the quote from Moak Chevrolet, Canby, Oregon for \$4,015.31 for the Chevette Scooter and a copy of the quotes and cover letter be attached to the minutes. Seconded by Councilwoman Brown. Councilman Westcott questioned why we did not accept the lower bid. Mr. Atwood explained, for only a \$4.00 difference staff felt we should accept the quote from a tax paying member of the community and also the savings in fuel and labor for going out of town for maintenance far surpassed the \$4.00 difference in quotes. Motion carried 6-0 by roll call.

UNFINISHED BUSINESS: Administrator Wyman read a memo from City Planner Lashbrook regarding a request for time extension on the Marv Dack zone change from R-1 to R-2 on a site of about 15 acres of land south of the high school. Mr. Lashbrook noted that Attorney Henricksen had indicated he would appear at this meeting to make their request, however, neither Attorney Henricksen or Marv Dack were present and they both have been contacted. Councilman Westcott pointed out that there have been many misunderstanding on this matter and felt we should let the "clock run out" and they can start with a "fresh slate." \*\*Councilman Westcott moved that the request for a time extension on the R-2 Reversion Zoning for the Marv Dack property, which would and will reverse on December 31, 1980 without the conditions of that zoning having been met, be denied. Seconded by Councilman Knight. Councilman Nichols

questioned the fact that they had not submitted a formal request in writing. Mayor Rapp suggested that the motion be amended with the following: "moved that the verbal request as outlined in the staff memo of July 28, 1980, by City Planner Lashbrook.....", the maker of the motion and the second both concurred to this amendment. Motion was carried 6-0 by roll call vote.

Next on the agenda was the Order denying the annexation for the Estate Eight Development Company. \*\*Councilman Swayze moved that the Council approve the proposed Order for denying the annexation for the Estate Eight Development Company for approximately 16.59 acres and the Mayor be authorized to sign the Order and a copy be sent to the Portland Metropolitan Boundary Commission and a copy to the attorney for the applicant. Seconded by Councilman Pulver and approved by roll call 5-0, with Councilman Swayze abstaining due to the fact he was absent during the original voting on the denial.

OTHER REPORTS AS REQUIRED OR NEEDED: The scheduled Public Works Labor Contract, due to the fact the Council did not previously have copies of this it will be postponed until the next meeting.

Mayor Rapp requested Council permission for the participants of the Girls Oregon State 13-15 Fastpitch Softball Tournament to be allowed overnight camping in the Canby Community Park on August 8, 9, 15, and 16. They will be presenting written requests with names and number in party that will stay overnight. \*\*Councilman Westcott moved that permission be granted for the out of town participants for the Girls Softball Tournament to stay overnight in the Canby Community Park on August 8, 9, 15 and 16, 1980, and their request with names and number in party be submitted in writing. Seconded By Councilman Nichols and approved 6-0.

Administrator Wyman noted two items to the Council: the south section of Maple Street Park has the playground equipment installed and is being heavily used and also that the new fire truck for \$62,000 is here and ready for use.

Administrator Wyman also noted that he will be hiring back Mr. Carl Bremer for Animal Control on a parttime basis and Chief Seigler has indicated his officers will patrol once a week for parking control. Council felt the latter would be very good public relations for the Police Department and community.

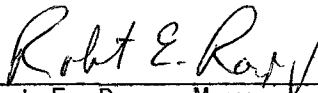
Councilman Swayze brought up the letter received from Attorney John Ryan referring to former Judge Roger Warren and requesting a hearing. \*\*Councilman Swayze moved that the Mayor respond to this letter in the following: "Mr. Roger Warren was appointed a Canby city officer (municipal judge) to serve at the pleasure of the Council (see Canby Charter Chapter III, Section 9) and no reason was required or given for his removal. (See the same Charter provisions and also *Graziano v. City Council of Canby*, 35 Or App 271 (1978).) Seconded by Councilman Pulver and approved unanimously.

Ken Ferguson brought up the request from Ron Tatone for a different sewer line alignment than what was granted two years ago that will serve Willamette Green II. Mayor Rapp suggested Mr. Ferguson negotiate with Mr. Tatone regarding his problem on N. Locust and N.E. 15th Avenue for the fill dirt.

August 6, 1980

Councilman Westcott brought up the requested Bicycle Ordinance by Chief Seigler. The Chief wishes to institute a bicycle licensing program. Council consensus was to follow through with the program now in existence for engraving an identification number on the bicycles. Mayor Rapp suggested no formal action but to request the Chief to send the Council some figures regarding the existing program and also suggested a good "Bike Safety Program."

Mayor Rapp adjourned the Regular Meeting at 11:15 p.m.

  
Robert E. Rapp, Mayor

  
Harold A. Wyman, Administrator/Recorder