

CANBY CITY COUNCIL

REGULAR MEETING

SEPTEMBER 4, 1980

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

Also present: Stephan A. Lashbrook City Recorder Pro Tem, Wade P. Bettis City Attorney, Public Works Director Ken Ferguson, Public Works Supervisor Bud Atwood, Treasurer Myra Weston, Secretary Marilyn Perkett, Attorney Roger Reif, Oregonian Reporter Pat Jeffries, DAR Representative Gertrude Glodoski, David Bury, Harold Weber, Tamra Muffenbier, Annette Adcock, Gary Sowles and Richard Garvey.

Mayor Rapp called the Regular Meeting to order at 7:32 p.m., followed by the flag salute and roll call of Council.

\*\*Councilwoman Brown moved to approve the minutes of Regular Meeting August 20, 1980 and Special Meeting August 27, 1980 as corrected by the following: On page 5 of the minutes of August 20, 1980, Dr. Kurt Schrader's name was mentioned three times in error the name should be JOHN MC CALL. Motion was seconded by Councilman Pulver and approved unanimously.

CITIZENS IN-PUT ON NON-AGENDA ITEMS: Gertrude Glodoski, representing the Belle Passi Chapter of the Daughters of the American Revolution, requested Mayor Rapp to read a proclamation for the week of September 17th through the 23rd as Constitution Week. Mayor Rapp delayed until later in the meeting in hopes that the Canby Herald Editor might arrive with his camera for publicity pictures.

COMMUNICATIONS: (Due to a short absence of the City Attorney the Mayor delayed Ordinances and Resolutions briefly.) Ken Ferguson, Public Works Director, read a memo concerning monthly sewer service charges for senior citizens. Staff recommendation was to leave the senior citizen rate at \$4.85 per month and raise the single family dwelling rate to \$6.72, also to require proof of senior age and total disability eligibility. Councilman Swayze pointed out that the motion made at the Special Meeting on August 27, should cover all this and reiterated on the motion: heads of household 65 years or older, the totally disable to maintain the \$4.85 per month and the single dwelling units to be \$6.80 per month. This action will stand and Attorney Bettis will prepare the proper wording for the requirements for the eligibility of the disabled.

ORDINANCES & RESOLUTIONS: Attorney Bettis read in title only for second and final reading, Ordinance No. 682. At this point Councilman Westcott stepped down from the Council due to a previously declared conflict of interest in this matter.

\*\*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 approved on second and final reading. Seconded by Councilman Pulver and approved by roll call 5-0, with Councilman Westcott abstaining.

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At this point, Attorney Bettis suggested that the Council appoint Mr. Lashbrook as Pro Tem City Recorder in Mr. Wyman's absence. \*\*Councilman Swayze moved that City Planner Stephan Lashbrook being appointed Pro Tem City Recorder from the commencement of this meeting until the return of Harold Wyman, City Recorder. Seconded by Councilman Nichols and approved unanimously.

Ordinance No. 683 was read by title only for the second reading by Attorney Bettis and the affidavit of posting displayed. \*\*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 passed on this second and final reading and become part of the zoning map of the City of Canby. Seconded by Councilman Swayze and approved 6-0 by roll call vote.

Resolution No. 285 was read in its entirety by Attorney Bettis. \*\*Councilman Swayze moved that RESOLUTION NO. 285, A RESOLUTION AUTHORIZING CANBY UTILITY BOARD TO ASSUME AND PERFORM WATER TREATMENT PLAN EXPANSION CONTRACT WITH JAMES M. MONTGOMERY CONSULTING ENGINEERS, INC. AND OTHER CONTRACTORS ON THE CITY'S WATER UTILITY IMPROVEMENT PROJECT be approved. Seconded by Councilman Westcott and carried unanimously.

COMMUNICATIONS: Mr. Lashbrook read a letter from Contractors, Inc., requesting permission to park a trailer in front of Knight School for emergency use. \*\*Councilman Swayze moved that the Contractors, Inc. request for permission to park a 10' x 52' trailer on N. Grant Street in front of Knight Elementary School be granted for the following reasons: 1) the school has been closed on two occasions because of the water damages caused by the leaking roof; 2) access to other parts of administration in the school should be in immediate access to the trailer; 3) there will be no blockage of the street due to the parking easement that is along that street, and this be approved until November 30, 1980. Seconded by Councilwoman Brown. Councilman Nichols noted that this is an unusual and emergency situation and in no way is the city setting a precedent. Mr. Ferguson noted that the Fire Marshal had also been asked to check out the trailer. Motion carried 6-0.

Councilman Westcott suggested that staff check the City Ordinances in relation to the building codes since the Fire Zone Code had been eliminated on July 1st.

NEW BUSINESS: \*\*Councilman Knight moved to approve accounts payable in the amount of \$35,013.18. Seconded by Councilman Nichols. Councilman Westcott pointed out that on page one of the print-out the third line should not be crossed out, the fifth line should be crossed out. Carried by roll call 6-0.

\*\*Councilman Knight moved that two bills to the Canby Utility Board be approved for payment from warrants drawn from the Clackamas County Treasury on 1979 water bonds. Seconded by Councilman Nichols and approved 6-0 by roll call vote.

Pro Tem Recorder Lashbrook read the Joint Agreement of Funding Contract with the Community School. \*\*Councilman Swayze moved that the Mayor on behalf of the City of Canby be authorized to sign the Joint Agreement of Funding for Canby Community School for the City's share of a total budget of \$26,000 for the fiscal year 1980-1981. Seconded by Councilman Knight. Councilman Westcott noted that he felt the school districts should in turn support the Community Pool. Motion carried 5-1 with Councilman Westcott voting nay.

Mayor Rapp called for a short recess at 8:22 p.m. and reconvened the Regular Meeting at 8:38 p.m.

#### UNFINISHED BUSINESS:

Next on the agenda was the Public Works Contract discussion. \*\*Councilman Knight moved to remove from the table the discussion on the Public Works Contract. Seconded by Councilman Westcott and carried 6-0. It was noted that Mr. Blair had not responded to the letter of adjustments that were suggested by the City Attorney. \*\*Councilman Knight moved to table the discussion on the Public Works Contract until such time as the interested parties come up with some suggestions or response to the City Attorney's letter. Seconded by Councilman Nichols and carried 6-0.

Regarding the appeal of Mrs. Helen Puls, 545 N. Locust Street, Mr. Lashbrook gave a short synopsis of her request for permission to keep chickens in the city limits and also the subsequent complaints and citation. Mayor Rapp opened the public hearing on the appeal for an animal permit at 8:45 p.m. The applicant, Mrs. Puls was not present to testify. Mr. Lashbrook read a letter from Mrs. Puls, July 25, 1980, which she requested the reconsideration for her permit to keep chickens that the City Administrator had previously denied. Mayor Rapp called for testimony from anyone wishing to speak as a proponent, none were voiced. Speaking as an opponent, Tammy Muffenbier, 566 N.E. Knott, contested that the rooster crowed all night and the chickens also, the many number of them seemed to draw flies. Annette Adcock also spoke as an opponent against the chickens and also the several dogs of Mrs. Puls. Mayor Rapp noted that at this time all we could deal with was the issue of the chickens. Miss Adcock submitted several pictures as an exhibit, after the Council viewed the pictures the consensus was that they would be of no value as an exhibit. Mayor Rapp closed the hearing at 9:53 p.m. Attorney Bettis read Section 3 of Ordinance No. 622 which was applicable in this matter. Councilman Nichols noted that he was chairman of the committee that drafted this Ordinance and it was specifically drafted at that time resulting from complaints on chickens. It was the intent that the burden then should be on the owner and also the intent for the court to handle these issues. Councilman Westcott noted that no proponents spoke in this matter. \*\*Councilman Westcott moved that the application of Mrs. Helen Puls, by her letter of July 25, 1980, to keep chickens within the city limits and for which a hearing was held on September 3, 1980, be denied. Seconded by Councilwoman Brown. Attorney Bettis suggested we set no time limit but give Mrs. Puls a reasonable time to comply with the request. Motion carried 6-0.

OTHER REPORTS AS REQUIRED OR NEEDED: Mr. Lashbrook reported on the issue with the LDS Church, he reported that the Church sought to be relieved of any improvements if an LID were instituted, however, at no point at Planning Commission meetings was the issue agreed upon to exclude the Church from any improvements. Attorney Bettis reported that he had spoke with Attorney Jim Bean, LDS Church Attorney, and their construction is complete, however, due to lien that has been filed by a sub-contractor they cannot get total clearance for dedication. Attorney Bettis will keep in contact with the Church Attorney attempting to resolve this issue.

Regarding the issue of correct placement of the American Flag in the Council Chambers, Councilman Nichols read Public Law 94-344, 94th Congress, S.J. Res. 49, July 7, 1976, Section 3, Subsection K, which stated that the American Flag should be on the right of the speaker. \*\*Councilman Pulver moved that Councilman Nichols be appointed to move the flag to its proper position. Seconded by Councilman Swayze and carried unanimously.

At this time Mayor Rapp read the Proclamation earlier presented by Mrs. Glodoski, proclaiming September 17 though 23 as Constitution Week and signed the document.

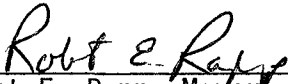
At this time, Attorney Bettis introduced Attorney Roger Reig to the Council and explained that Mr. Reif was attending to better acquaint himself with the Council and procedure since he would in the future be taking over for Mr. Bettis whenever

he retires, after some 27 years of service to the City.

Attorney Bettis informed the Council that a court date of September 15, 1980, had been set for the Grant Schiewe vs. City of Canby case. Mr. Bettis noted that it was important that City Engineer Ken Ferguson be present at this trial, therefore, Mr. Ferguson has rearranged his vacation to be available.

Councilman Westcott questioned the date of August 1, on a letter to the Canby Utility Board regarding street cuts. Mr. Ferguson noted that CUB would be replacing the water line on S. Douglas Street and made the effective date August 1, 1980, even though the letter was written on August 27, 1980 because he wanted to be sure and get a map from CUB on the S. Douglas Street project.

Mayor Rapp recessed the Regular Meeting at 9:27 p.m.



Robert E. Rapp, Mayor

Stephan A. Lashbrook, Pro Tem Recorder

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