

CANBY CITY COUNCIL

REGULAR MEETING

NOVEMBER 5, 1980

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

Also present: Administrator Harold A. Wyman, Deputy City Attorney Roger Reif, City Planner Stephan Lashbrook, Public Works Director Ken Ferguson, Public Works Supervisor Bud Atwood, Treasurer Myra Weston, Secretary Marilyn Perkett, Mrs. Beauford Knight, Duane Lee of Lee Engineering, David Bury, Planning Commission Chairman Fred Kahut, Chip Phelps, Oregonian Reporter Pat Jeffries, Canby Herald Editor Steve Frederick, Attorney Jon Henricksen, Gary Sowles, Brenda Lashbrook and Police Chief Richard Seigler.

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 as distributed the minutes of Regular Meeting October 15, 1980. Seconded by Councilman Nichols and approved unanimously.

Mayor Rapp extended his congratulations to the newly elected officials in attendance and welcomed them to our City Council.

CITIZENS INPUT ON NON-AGENDA ITEMS: None were voiced.

ORDINANCES & RESOLUTIONS: Attorney Reif read by title only Ordinance No. 684 for second reading and Administrator Wyman displayed the affidavit of posting. \*\*Councilman Westcott moved that Ordinance No. 684, AN ORDINANCE PERTAINING TO THE CONSTRUCTION, ALTERATION, REPAIR AND MOVING OF BUILDINGS WITHIN THE CITY OF CANBY, OREGON; ADOPTING BY REFERENCE UNIFORM BUILDING CODES AS THE CITY'S BUILDING CODE; PROVIDING PENALTIES FOR VIOLATIONS; REPEALING ORDINANCES NO. 590 and 661; AND DECLARING AN EMERGENCY be approved on final reading and become part of the laws of the City of Canby. Seconded by Councilman Swayze and carried 6-0 by roll call vote.

Ordinance No. 685 was read by title only on second reading by Attorney Reif. Mr. Wyman displayed the affidavit of posting. \*\*Councilman Swayze moved that Ordinance No. 685, AN ORDINANCE ASSESSING VARIOUS LOTS, PARCELS, AND TRACTS OF PROPERTY FOR STREET, STORM SEWER, AND SANITARY SEWER IMPROVEMENTS MADE OR BEING MADE TO NORTHEAST TERRITORIAL ROAD, NORTH JUNIPER STREET AND NORTH LOCUST STREET IN LOCAL IMPROVEMENT DISTRICT NO. 10; SPREADING THE ASSESSMENTS AND DIRECTING THE ENTRY OF ASSESSMENTS IN THE DOCKET OF CITY LIENS; PROVIDING FOR NOTICE THEREOF; AND DECLARING AN EMERGENCY be approved on final reading and become part of the laws of the City of Canby. Seconded by Councilwoman Brown and approved 6-0 by roll call.

Ordinance No. 686 was read by title only for final reading by Attorney Reif, with Administrator Wyman showing the affidavit of posting. \*\*Councilman Westcott moved that Ordinance No. 686, AN ORDINANCE AUTHORIZING PURCHASE OF WHEEL TRACTOR

BACKHOE-LOADER be approved on this final reading and become part of the laws of the City of Canby. Seconded by Councilman Swayze and approved 6-0 by roll call.

Attorney Reif read Resolution No. 289. \*\*Councilman Westcott moved that Resolution 289, A RESOLUTION MAKING APPROPRIATIONS OF BUDGETED FUNDS FOR THE 1980-81 FISCAL YEAR be approved. Seconded by Councilman Swayze and approved 6-0.

COMMUNICATIONS: Administrator Wyman read a letter from Duane Lee of Lee Engineering regarding Package Treatment Plants. It was the recommendation of the engineering firm that the Package Treatment Plant would not meet the needs of Canby, however, they were willing to arrange a work session with various suppliers to research this issue. Duane Lee told the Council that he will contact the various suppliers and come back to the Council with information so a workshop may be set.

Administrator Wyman read a memo from Duane Lee, Lee Engineering, regarding a meeting with DEQ. On October 28, a meeting with DEQ representatives, Chuck Clinton and Renato Dulay, also Bud Atwood, Charles Tooley, Ken Ferguson and Duane Lee was held regarding concerns of the DEQ to cite the City for various problems. DEQ accepted the city's intent to correct the flow meter problem and their concern regarding alleged illegal discharges was to request the city to obtain composite sample of the treatment plant effluent. Mr. Lee suggested waiting until DEQ commented on our proposed expansion facilities before pursuing the Phase IA and initiate a rate study. Mayor Rapp suggested we combine this matter in the workshop for the Package Treatment Plant. Councilman Westcott inquired about the composite sample equipment. Ken Ferguson noted that the Department felt they could build one of our own that would comply with DEQ standards.

Mr. Wyman read a memo from Ken Ferguson, Public Works Director, regarding quotes for a flow meter for the sewage plant. Two firms were contacted and one firm, Stead and Baggerly, quoted \$4,510.00 for equipment and installation supervision but not the actual installation. Beck Electric could be hired for the installation on an hourly rate for approximately \$350.00. \*\*Councilman Westcott moved that the recommendation of Public Works Director, Ken Ferguson, be accepted and the City Administrator be authorized to issue a Purchase Order to Stead and Baggerly, Redmond, Washington, as outlined in their letter of October 7, 1980, for a Flow Meter Recording and Chlorination System for the Sewage Treatment Plant in the amount of \$4,510, F.O.B., Canby. Seconded by Councilman Swayze and approved unanimously. Councilman Westcott noted that a Purchase Order could be issued for the work that Beck Electric will do on this project.

Administrator Wyman read a staff memo from Ken Ferguson outlining the status of the Sewage Treatment Plant Study. Mayor Rapp suggested this topic to be set for an agenda after Council holds the previously suggested workshop on the sewage plant.

Mr. Wyman read a staff memo from Judy Hogland, Bookkeeper, with figures on estimated figures on savings with a proposed offset printing machine. The Canby Utility Board is interested in a 50/50 purchase and sharing of use for the proposed machine. The Council briefly discussed the proposal and felt more information was needed for a valid judgement. Mr. Wyman will come back to the Council with more information.

At this time in the meeting, 8:25 p.m., Mayor Rapp called for a short recess. The Regular Meeting was reconvened at 8:48 p.m.

NEW BUSINESS: \*\*Councilman Knight moved to pay accounts payable in the amount of \$60,205.78. Seconded by Councilman Nichols and approved 6-0 by roll call vote. \*\*Councilman Knight moved to pay a bill to James Montgomery Engineers in the amount of \$3,594.12, to be paid on a warrant drawn from the Clackamas County Treasury on 1979-80 water bonds, and noting Councilman Westcott, liaison with the Utility Board, had signed the bill. Seconded by Councilman Nichols and approved by roll call vote 6-0.

Administrator Wyman read the staff memo from Ken Ferguson with the results of the bid opening on the South Elm Street Sanitary Sewer. \*\*Councilman Nichols moved that the recommendation of the Public Works Department be approved to accept the low bid from Northwest Underground for \$19,963.50 and the City Attorney be directed to draft an Ordinance. Seconded by Councilman Knight. Councilman Pulver questioned the experience of the firm. Mr. Ferguson explained about their pre-qualifications and listed some other cities in Oregon where they have completed projects. Motion carried 6-0. Mr. Ferguson informed the Council that a field staking crew for the construction site would be necessary for approximately 1½ days. He has received quotes from three companies from \$40 to \$45 an hour. \*\*Councilman Westcott moved to accept the bid from Pacific Surveys, which has a local office, for \$40 an hour for survey and ground staking. Seconded by Councilman Swayze and approved 6-0.

UNFINISHED BUSINESS: City Planner, Stephan Lashbrook, read a staff memo regarding improvement conditions for the Marv Dack property developmnt. Mr. Lashbrook noted that both the City Attorney and the applicants attorney, Jon Henricksen, have been involved in the negotiations. A list of eleven (11) conditons were proposed as conditions of criteria for an amendment to the original ordinance. It will also be necessary for the Planning Commission Chairman, Mr. Kahut, to sign a plat for the development of the site as a condominium project. \*\*Councilman Nichols moved to adopt the list of eleven (11) conditions as listed in the memo of the meeting of November 5, 1980, pages 16, 17 and 18, and the City Attorney be directed to draft an amendment to the original ordinance for a zone change, and include the memo in the minutes of this meeting. Seconded by Councilwoman Brown. Councilman Westcott expressed that he could not support this recommendation and felt the issue was still "muddy" and felt we shouldn't ask the Planning Commission to sign a plat that has not been through the commission process. He felt it should be presented as a new application after letting the "time period run out" as a PUD. Councilman Nichols questioned whether the negotiations hadn't basically made this a PUD and he also pointed out that the 10 months or so of negotiations were then a waste of time. Councilman Westcott rebutted the fact that negotiations were carried on for this period of time and reiterated the fact that this is unfair to the Planning Commission and the intent was for a PUD. Mr. Lashbrook pointed out that last November when this was brought up, he felt this was to be a Planned Unit Development and therefore an amendment to the original ordinance was proposed to handle the project as a PUD and the Council tabled this amendment ordinance which put them into the negotiation process. This offer tonight is a compromise. Planning Commission Chairman noted that he felt "uncomfortable" about this issue and was sorry there had been a misinterpretation about the Planning Commission's intent and if they had been aware they would have come to the Council before. Mr. Kahut said it was his recommendation that they be granted the time extension with the condition that they come back to the Planning Commission for a PUD. Mayor Rapp noted that the Council originally passed the ordinance that

did not specify the project to be a PUD and it was now improper to ask the applicant to spend money all over again. Councilman Westcott reminded the Council that the applicant turned down the offer of a PUD Overlay, he also pointed out the failure of the applicant to negotiate since March, 1980, until recently.

\*\*Councilman Westcott moved to table the issue indefinitely. Mayor Rapp expressed that this was a motion of privilege. Motion failed with 1 aye and 4 nay and Councilman Pulver abstained as he consistently had done before regarding this issue. Councilman Westcott felt he could approve the original motion with the added provision that the project be designated as a PUD Overlay with the cost to be borne by the City and to process it through the Planning Commission to create the R-2-PUD-Overlay and therefore saving the applicant the cost. Attorney Reif suggested the provision be for a Planned Medium Density Development so there will be no confusion. However, Councilman Westcott said that the R-2 would accomplish the same thing, therefore being an R-2-PUD-Overlay. Therefore, Councilman Westcott moved \*\*that Councilman Nichols' motion be amended by saying, one of the conditions be that the applicant go back through the process, on action initiated by the City and paid for by the City, to make this a Planned Unit Development Overlay in an R-2 Zone. Seconded by Councilman Swayze and roll call vote was Councilman Pulver abstaining, Councilmen Westcott and Swayze voting Yea and Councilmembers Brown, Knight and Nichols voting nay, motion failed 3-2. Councilman Westcott questioned why the vote against? Councilman Nichols voiced that he felt it was only prolonging the matter. Mayor Rapp stated that he felt the amendment did offer the potential to solve this issue without offending the Planning Commission.

\*\*Councilman Swayze once again proposed the same amendment (as underlined above), seconded by Councilman Westcott. Mr. Kahut noted that it was never appealed to the Council since it never came to the Planning Commission to be denied and it should have come to the Planning Commission in the first place. Roll Call vote was passed 5-0 with Councilman Pulver abstaining. Mayor Rapp restated the original motion (as underlined on page three of these minutes). Attorney Henricksen stated, as the representative for the applicant, if the motion is passed they will agree to it. Attorney Henricksen pointed out that if the R-2-PUD Overlay was approved the density would be much higher than the 167 units volunteered by Mr. Dack. Roll call voted on the original motion, noting the approved amendment that will also be a provision, was passed 5-0 with Councilman Pulver abstaining.

Mayor Rapp called for a short recess at 10:02 p.m. The Mayor reconvened the Regular Meeting at 10:16 p.m.

Administrator Wyman reviewed the Picnic Shelter plans for Maple Street Park. He noted that we are able to get \$15,270 in grant money from the Heritage and Conservation Fund with the City paying our share. The horseshoe courts would cost approximately \$400 which would bring the figure up to approximately \$9,000, this does not include the restrooms. Mr. Wyman noted it would be later in the month before he knew if we would get any Revenue Sharing monies in January, however, he would like to get the concrete work done before the cold weather sets in. Mayor Rapp pointed out that in order to receive the matching funds we must have the project in process by December 31st. \*\*Councilwoman Brown moved that we approve the first three items of the memo of November 4, 1980, Columns, Saddles & Bolts - \$475; Concrete Footings - \$225; and Concrete Flatworks - \$2,100 for a total of \$2,800. Seconded by Councilman Nichols. Ken Ferguson noted that we have \$9,000 plus, that the state is holding for us when we final out the project. Therefore,

Councilwoman Brown withdrew her motion. \*\*Councilwoman Brown moved to approve the Basic Structure for the Picnic Shelter in the amount of \$7,970 plus an additional \$400 for horseshoe courts, for an approximate total of \$8,500. Seconded by Councilman Nichols and approved unanimously.

Mr. Wyman noted that the Traffic Safety Study is finished and by November 12th, the information will be ready for the Council and we would need a workshop on this before the November 19th Regular Meeting for the Council to officially accept the study. Mayor Rapp set Monday, November 17, as a workshop for the Traffic Safety Study.

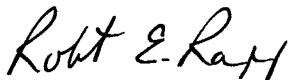
Mayor Rapp requested a volunteer to be a voting delegate at the League of Oregon Cities Convention on Tuesday, November 25. Councilman Robert Swayze will be the voting delegate and Councilman Robert Westcott will be the alternate.

At this time Mayor Rapp requested an Executive Session. \*\*Councilman Westcott moved to go into Executive Session under ORS 192.610 under the proper subsections to discuss personnel matters of labor negotiations and also an existing litigation for which the City is now involved in. Seconded by Councilman Nichols and carried 6-0 by roll call vote. Mike Gabrion, Councilman-elect, was invited to attend the Executive Session.

Mayor Rapp recessed the Regular Meeting at 10:45 p.m. to go into Executive Session.

The Regular Meeting was reconvened at 11:45 p.m. \*\*Councilman Swayze moved that the City of Canby not appeal the decision of the court of Schiewe vs. the City of Canby. Seconded by Councilman Westcott and approved 6-0.

Mayor Rapp adjourned the Regular Meeting at 11:50 p.m.



Robert E. Rapp, Mayor



Harold A. Wyman, Administrator/Recorder

TO: Honorable Mayor and City Council  
FROM: Stephan A. Lashbrook, City Planner *Steph*  
SUBJECT: Improvement Conditions for Marv Dack Property Development

Following the Council's meeting of October 15, 1980, I met twice with Mr. Dack to further discuss his proposed development. The second of those meetings was also attended by Mr. Henriksen and Mr. Bettis.

The following list represents the improvement conditions which we mutually accepted as a result of this negotiation process. It should be pointed out that a "give and take" process was involved in the negotiations and that neither side is totally pleased with the results but accepts them as a compromise. That is the nature of negotiations in general and is often the result of any development review process.

Mr. Bettis has suggested that if the Council agrees with the list of conditions, they be adopted by motion directing the City Attorney to prepare an appropriate ordinance to amend the original ordinance for the property. It will also be necessary to direct the Chairman of the Planning Commission to sign a plat for the development of the site as a condominium project, if the Council does not intend to have the owner go through a formal review process before the Planning Commission.

At the Council meeting of November 5, 1980, the staff will utilize maps to further clarify some of the items on the following list.

1. All interior streets will be clearly marked for directional flow, parking restrictions, etc.
2. All street turning angles, corner radii, water line sizes, and hydrant locations will meet the requirements of the Canby Fire Marshal.
3. All water and electrical utility systems will meet the requirements of the Canby Utility Board. Expenses of oversized water lines shall be paid by the City, but the property owner will be responsible for the costs of standard sized lines.
4. All on-site storm drainage and sanitary sewer utilities will meet the requirements of the City Engineer.
5. All telephone-related utility work will meet the requirements of the Canby Telephone Association.
6. Allowing for some flexibility in final design, the housing units will be within essentially 2, 4, 6 or 8-plex buildings which may have common walls between buildings but which will not be lumped together in a barracks type structure. The artists' renderings submitted with the original zone change application will be utilized as a general guideline for design, allowing for some modification provided that the basic "clustered housing" approach is followed.

7. Regarding the extension of S.W. 13th Avenue along Mr. Dack's north property line, the owner will do all of the following:
  - A. Prepare an offer of dedication for a strip of land 30 feet wide along the north property line and 60 feet wide angling across the northeast corner of Tax Lot 800, up to, but not greater than, that shown on the attached map. This offer to remain valid until February 22, 1984, the time limits within which the City is to acquire adjoining property from the L.D.S. Church; after which the offer may be revoked if not utilized by the City.
  - B. Improve the 30 foot wide strip along the property line to City Standards as a local street per the City Engineer, and including curbs and gutters on the South side. Continue the improved "half street" around an angle at the Northeast corner of the property connecting it with S.W. 13th Avenue. The City Engineer shall determine the appropriate radius of this curve. No curbs or gutters shall be required for this portion of the roadway.
  - C. Sign and record a waiver of the right to remonstrate against any future improvement to S.W. 13th Avenue or incidental utility work. Said waiver and offer of dedication to meet the requirements of the City Attorney.
8. The City recognizes the importance of the many large trees on this property and will make every effort to design the eventual road so as to minimize damage to those trees while still providing a safe and functional street.
9. As was stated in the 1978 public hearing on the zone change, the owner will bear the responsibility for fully improving S.W. 13th Avenue from his property to the intersection of S. Elm Street, with the exception of sidewalks (which have already been constructed along the north side of the street).
10. The owner will coordinate his improvements to the extension of S.W. 13th Avenue with the Canby Utility Board. Although this is to remain a private road at this time, an easement shall be provided for the use of the Utility Board in the area adjoining the surfaced portion of the road. Said easement is to be to the satisfaction of the Canby Utility Board, *if utilities are required to serve the property*
11. A time extension to December 1, 1981, is granted within which appropriate applications must be filed for all required permits to construct the first phase of the development. If this time limit is not met, the zoning of the subject property will revert to its original R-1 status.
  - A. If developed in phases, the first phase is to include that portion of the project within the looped road system. (In other words, the area with two access points.)

- B. The total project is to be completed prior to December 1, 1984, unless a further time extension is granted by the City Council for good cause. Any portion of the project not completed by that date may be subject to reversion to its original R-1 status by motion of the City Council.

AMENDMENT APPROVED BY MOTION ON NOVEMBER 5, 1980: ONE OF THE CONDITIONS BE THAT THE APPLICANT GO BACK THROUGH THE PROCESS, ON ACTION INITIATED BY THE CITY, AND PAID FOR BY THE CITY, TO MAKE THIS A PLANNED UNIT DEVELOPMENT OVERLAY IN AN R-2 ZONE.