

CANBY CITY COUNCIL

REGULAR MEETING

MAY 7, 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 Attorney Wade P. Bettis, City Planner Stephan Lashbrook, Public Works Director Ken Ferguson, Public Works Supervisor Bud Atwood, Secretary Marilyn Perkett, Utility Board Manager Fred Egger, Dorothy Knight, Oregonian Reporter Dana Spielmann, K.W.R.C. Reporter Tom Jelineo, Harvey Tofte and David Bury.

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 April 16 and the minutes of Special Meetings April 14, 21, 23 and 28. Seconded by Councilman Knight and approved 6-0.

CITIZENS IN-PUT ON NON-AGENDA ITEMS: None were presented.

ORDINANCES & RESOLUTIONS: Attorney Bettis presented Ordinance No. 669 for final reading and Administrator Wyman presented the affidavit of posting. Councilman Swayze moved that ORDINANCE NO. 669, AN ORDINANCE AMENDING ORDINANCE NO. 443, AS AMENDED, PROVIDING A PROCEDURE FOR THE REVIEW OF CONDOMINIUM PROPOSALS, AMENDING THE REQUIREMENTS FOR PLANNED UNIT DEVELOPMENTS, MODIFYING THE ACCESS REQUIREMENTS, ESTABLISHING A FEE SCHEDULE FOR VARIOUS APPLICATIONS AND DECLARING AN EMERGENCY be approved and become part of the laws of the City of Canby. Seconded by Councilwoman Brown and approved 6-0 by roll call vote.

Ordinance No. 672 was presented by Attorney Bettis for final reading and the affidavit of posting was presented by Administrator Wyman. Councilman Swayze moved that ORDINANCE NO. 672, AN ORDINANCE AMENDING THE ZONE MAP OF THE CITY OF CANBY (APPLICATION OF RUFUS KRAXBERGER; COUNTY R-20 TO CITY R-1 ZONE) be approved and become part of the laws of the City of Canby. Seconded by Councilman Pulver and approved 6-0 by roll call vote.

Ordinance No. 675 was presented for final reading by Attorney Bettis and the affidavit of posting was presented by Administrator Wyman. Councilman Swayze moved that ORDINANCE NO. 675, AN ORDINANCE AUTHORIZING CONTRACT FOR MAPLE STREET BALL-FIELD LIGHTING PROJECT; AND DECLARING AN EMERGENCY be approved on final reading and become part of the laws of the City of Canby. Seconded by Councilman Pulver and carried 6-0 by roll call vote.

COMMUNICATIONS: Administrator Wyman read a letter from Fred Egger, Canby Utility Board, requesting the Council to exempt the 5% in-lieu-of-taxes on both the recent \$3,000,000 water bond and also the "old" water bond. Administrator Wyman noted that we have budgeted revenue funds in-lieu-of-taxes on the "old" water bond for the year 80-81 for the City however, on the new water bonds it was not put into

May 7, 1980

the 80-81 budget. Because of that reason, he recommended we keep the in-lieu-of-taxes on the "old" water bond. Attorney Bettis noted that the "old" water bond was a combination G.O. Revenue Bond, it comes first from revenue and it is guaranteed by tax. Mayor Rapp felt that the new water bond should not fall under taxes however, the "old" one should be maintained as is under the 5% in-lieu-of-taxes at the present time. Councilman Westcott asked Mr. Egger if the 5% was figured in on the new rates by Montgomery Engineering. Mr. Egger said, "As far as I know, they were not." Councilman Swayze suggested no action on this until the Council has in writing from James Montgomery Engineering whether the 5% was included in the water rates. The Council consented to this action and Mr. Egger said he would request this information.

NEW BUSINESS: Mayor Rapp noted there would be a \$180.00 adjustment on accounts payable, which is Purchase Order 9632 and the new total will be \$123,891.32. Councilman Knight moved that accounts payable in the amount of \$123,891.32 be paid. Seconded by Councilwoman Brown and approved 6-0 by roll call vote. Councilman Knight moved that \$177.37 paid to the Daily Journal of Commerce be paid on a warrant from the Clackamas County Treasury on the water bonds. Seconded by Councilman Westcott and carried 6-0 by roll call vote.

Mr. Wyman read a letter from James Montgomery Engineers regarding the bids on the water pipelines, segments 1, 2 and 5, and recommending the the contract be awarded to the low bidder of Dale Industries, Inc. for \$235,489.00. They also recommended that a full-time inspector be retained to provide day-to-day overview of the construction. Councilman Westcott inquired about seeing the specs and noted that the Council usually reviews them before they are put out for bids, however this one seemed to slip by them. Councilman Westcott asked if the specs required granular backfill on all the pipes? Mr. Egger said, "I'm sure they do, yes." Councilman Westcott noted that we have saved considerable money on LID's when the soil didnot require granular backfill. Mr. Egger noted that this could be backed out on a change order later and this is included in the bid package. Councilman Knight asked Mr. Egger if he was familiar with the firm of Dale Industries. Mr. Egger noted that on their pre-qualifications they have done this type of construction around the area. Mayor Rapp also noted that they were a reputable firm. Ken Ferguson also reinforced the possibility of checking out areas for getting away from the granular landfill. Councilman Westcott moved to direct the City Attorney to draw up an ordinance.....Mr. Bettis explained that this is not an ordinance nor a contract by the City. The City's involvement would be to oversee the expenditure of bond money that the voters approved and the contract is to be made, and let, and signed by the Utility Board. Councilman Westcott asked if the Council wasn't totally responsible to spend the money. Mr. Bettis said this was true but we don't sign the contract. The Council only oversees the spending and assure the money is applied for the purposes for which the bond was sold. Mr. Westcott noted that the call for bids was under Mr. Wyman's name and the bids were opened at City Hall, and if the Council is responsible for the money then they cannot issue requisitions without Council knowledge due to an encumbering system. Mr. Bettis said this is true however, this was the first expenditure where an ordinance was suggested. Councilman Westcott said this was the first one of a large amount and the calling for bids. Mr. Bettis said it probably wouldn't matter if the Council authorized the contract however, he said it would be better to have the liability of the performance of the contract be the Utility Boards responsibility. Mr. Bettis said if the Council would feel more comfortable with authorizing the contract and continue to supervise it and have the Administrator and Mayor sign it they could. Mayor Rapp said that now the charter maintains the Utility Board as separate from the City and we cannot make a decision for them and under the "old" water bond they were not seperate and the decision was at Council level. Councilman Westcott inquired why are we responsible for only paying the bill and not anything

else? Mr. Bettis said the Council has to be sure the money is applied for what the voters approved, the Council called the election and the Council sold the bonds and are obligated to see that the money is spent for that purpose. Councilman Westcott asked if an ordinance was necessary when progress payments were made on this contract. Mr. Bettis said we approve the bid tonight and they take over with the contract and as the progress payments come in the Council has to review them and approve them and authorize the warrant on the County Treasury for payments. The bond approval of the voters eliminated the necessity of an ordinance for payments over \$5,000. Councilman Swayze moved that the bid of Dale Industries, Inc. for the water pipeline construction of segments 1, 2 & 5 as recommended for approval by the engineering firm for the Canby Utility Board be approved by the Canby City Council and the Canby Utility Board be notified of such approval so they can proceed with the execution of the required contract in the sum of \$235,489.00; and that all invoices for the project be submitted first to the Council for its approval and authorization of payment in warrants from the Clackamas County Treasury on the General Obligation Bond issued on February 1, 1980. Seconded by Councilman Nichols. Councilman Westcott was concerned about the money being encumbered and the procedure to follow. He felt it should be on requisitions first and get the funds encumbered so the books reflect ahead, for example the request on this agenda for approval for the signal cable should be handled through the requisition process rather than a letter; this would generate a purchase order and encumber the funds and reflect ahead the balance of the funds. Mr. Ferguson also inquired who would be acquiring the street cut permits, the Utility Board or the contractor? Mr. Egger said, "I thought the contractor was given that responsibility in the spec and also the crossing under the railroad tracks." Mr. Ferguson also requested permission to be invited to the pre-construction conference, which Mr. Egger agreed to. The motion was passed 6-0 on roll call vote.

Mayor Rapp called for a recess at 8:20 p.m. and reconvened the Regular Meeting at 8:43 p.m.

The next item on the agenda was Resolution No. 70, A Resolution Setting Forth the Monthly Water Service Rates for All Classes of Water Customers and for Fire Protection Water Service, from the Canby Utility Board. Attorney Bettis informed the Council no action was necessary from the Council on this Resolution. Mayor Rapp thanked the Utility Board for forwarding it to the Council for their information.

Administrator Wyman read a letter from Fred Egger, Canby Utility Board, requesting approval to order Control Cable from the low bidder. Councilman Westcott requested a system be set up between the Utility Board and the City to work out these things in an orderly manner. Bettis felt it was proper and wise that the Utility Board advise the City of call for bids. Councilman Westcott suggested that an engineers estimate come through on a requisition for Council review for financial information, then on the Administrator Wyman for review, then the funds can be encumbered and then the call for bids could proceed. Attorney Bettis suggested the following procedure, something should come from Mr. Egger to Bob Westcott since he is appointed the Council liaison and to the effect that the plans and specifications requirements are included; the bids should be included with the low bid being specified; the Utility Board then requests Council approval for expenditure of that item. Then if Mr. Westcott has doubts or questions he raises them and if not he recommends approval for the County Treasury to draw a warrant on the bond for payment. Mayor Rapp noted that in some instances they have gone ahead and paid for them with their funds and billed us. Attorney Bettis said we would use the same procedure. Mayor Rapp said he would rather not see that happen since we can be charged a handling fee. Attorney Bettis said there should be no handling fee charged to the City. Councilman Westcott reiterated his suggestion of prior to call for bids that an engineers estimate be put on a requisition for

for encumbrance of funds. Attorney Bettis suggested that a format of procedure be put in writing until these monies are all spent. Councilman Westcott also felt the Council should have a copy of the budget of the \$3,000,000. Attorney Bettis suggested the following procedure: 1) requisition from Canby Utility Board to Councilman Westcott on bond money for (item ); 2) identify the need to the plans and specifications; 3) estimated cost based on today's market based on quotes they have obtained. Mayor Rapp requested Mr. Egger and Mr. Wyman to work up a proposal on this procedure.

UNFINISHED BUSINESS: In answer to the Chamber of Commerce petition on the Southern Pacific Parking lot, Mr. Ferguson presented a map with staff recommendations. On the southeast portion from Ivy Street back, there would be 200 feet for all day parking and the remainder of the back area would be designated for 8½ hour parking. The front row would remain 2 hour parking between Elm and Ivy. Councilman Westcott pointed out the Park 'n Ride lot at the Christian Church which is sparsely used and has no impact on the local merchants. Mr. Atwood inquired if the original intentions were for rental of the back area of the parking lot. Councilman Westcott noted that the reason that didn't happen was that the City used \$20,000 of Revenue Sharing money then it wasn't necessary to go into a rental program. Councilman Westcott moved that the southern side of the City Parking Lot, commonly known as the Southern Pacific Parking lot and leased by the City, be marked for 8½ hour parking for its full length from Ivy to Elm Streets and the northernly portion for that same lot be marked for 2 hour parking with the exception of the 200 feet directly west of Ivy Street on the northern side, involving a 20 car capacity, to also be marked for 8½ hour parking. Seconded by Councilman Swayze. Mr. Atwood noted that signs would roughly cost approximately \$700. Councilman Knight noted that this would eliminate all day parking. Motion was carried 6-0.

Mr. Egger pointed out to the Council the new high pressure sodium lights that have been installed on the east of the First Avenue.

Mr. Wyman read the staff memo from Stephan Lashbrook regarding the issue on cropdusting in the city limits. Mr. Lashbrook noted he had talked to both Mr. Peters and Mr. Tofte and also Mr. Lenhardt of the local cropdusting firm. Mr. Lenhardt noted that he wasn't aware that the Amato property was in the City limits but had no more intentions of cropdusting in the city limits and Mr. Peters noted that he used portable equipment for cropdusting. Mayor Rapp noted that the Council is interested in the safety and welfare of the residents but wanted to allow the people involved a chance to voice an opinion. Mr. Tofte asked who to contact for permission if necessary on a couple hours notice. Mayor Rapp noted that if an emergency situation arose, perhaps the Council could be polled by telephone through the City Hall office. Mr. Tofte said to the Council that close to the city limits he intended to spray from the ground and would probably never request Council permission for air cropdusting, also due to the FAA regulations of procedure and length of time required it would not be possible. Mayor Rapp suggested that staff draft a letter of reminder and send to the firms that might be involved in the cropdusting.

Administrator Wyman read the letter from Canby Utility Board regarding Amendment #4 with James Montgomery Engineers. This amendment was for inspection services and also the cost of the advertising. Councilman Westcott moved that we encumber the water fund for \$21,550 for the engineering services of James Montgomery as outlined in the Amendment #4 for water systems improvement. Attorney Bettis suggested we study this further. Mr. Egger noted that this amendment was for periodic inspection on the overall pipelines of segments 1, 2 and 5 and for the advertising.

Councilman Westcott withdrew his motion, he felt Council needed more justification, he thought this was for a day to day inspection service. Mr. Egger also noted that part of this work has already be done. Mayor Rapp noted that according to the letter from James Montgomery regarding amendment #4 it did not amount that much worth to request an additional \$21,550. Mr. Ferguson noted that the way he read the letter it is the agreement of the engineering company to furnish the complete specs, complete plans, the advertising and award of bids and periodic field inspections for an estimated total of \$20,100 plus \$1,450 which is about 9% of the total construction bid for these segments which is a reasonable figure. Mr. Egger said that amendment #3 for approved for the design work only and the engineering firm admits that they didn't get this amendment out in time, it should have been like two months ago, this amendment was for advertising, copy and making the award. Councilman Westcott felt that the engineering firm should let us know why they did this without the amendment being authorized. Councilman Swayze noted that the bids were called for 12 days prior to the date of the amendment requesting authorization. Councilman Nichols moved that the Council have the City Attorney review the original contract to see just where we stand in the matter before we take any action. The motion died for a lack of a second. Councilman Westcott moved that the Council withhold all authorization for expenditures of water bond monies other than previously approved expenditures until Montgomery Engineers can explain the work they have done here and see the budget and fully acquaint ourselves with what is happening on this budget. Mayor Rapp noted that the Council is not enough aware of what is going on and we need to see in writing, in layman terms not legalese in what to expect in the way of amendments and additional costs. Councilman Nichols seconded the motion and it carried 6-0.

Administrator Wyman presented two deeds for dedication for street right-of-way on South Locust. Councilman Nichols moved to accept for recording the deeds of Opal Christensen and William and Margaret June Hinckley for the purpose of widening South Locust Street and a check for \$3.50 for each deed be attached for recording fees. Seconded by Councilwoman Brown and approved unanimously.

Councilman Westcott asked whether the taxes were paid on all the property deeds that the City was recording and the Attorney assured him they were paid.

On the next item of business, Attorney Bettis noted that the Planning Commission required some things from the Brush Estate and the two couples purchasing it in order to approve the minor land partition. Part of the conditions were that a 10 foot strip be dedicated on South Elm Street for eventual widening without cost to the City. Attorney Bettis presented the deed he had prepared for this purpose. Councilman Swayze moved to accept for recording the deed of Walter E. Wendt personal representative of the estate of Augusta W. Brush to the City of Canby for 10 feet for widening South Elm Street. Councilwoman Brown and carried 6-0. Previous to the vote Councilman Nichols declared a conflict of interest on this issue, however, the Council consensus was he had no conflict and was allowed to cast a vote. A check for \$3.50 for recording fee was also to be attached.

Attorney Bettis had received preliminary title report from Safeco, from Donald Rosenthal, Attorney of Oregon City, for a 10 foot stip on the east side of South Elm Street to be dedicated for a lot line adjustment. Councilman Westcott moved that we accept the offer of Donald Rosenthal, Attorney, for the dedication of 10 feet for road right-of-way along South Elm Street as described in the preliminary report from Safeco Title Insurance dated, April 30, 1980, Order # C-3157.

Seconded by Councilman Swayze. Councilman Nichols again declared conflict of interest, however, the Council consensus was that he could cast a vote. Motion carried 6-0.

OTHER REPORTS AS REQUIRED OR NEEDED: Councilman Swayze moved to go into Executive Session under ORS 192.610 on personnel matters and include the City Administrator and City Attorney, also disciplinary action could result. Seconded by Councilman Westcott. Mayor Rapp expressed a desire to finish a couple other items of business before adjourning to Executive Session therefore the motion for Executive Session will be held in abeyance.

Stephan Lashbrook informed Council of his meeting with Mr. Orchard, Attorney for the Estate Eight Annexation developers, they are working on an order which they hope to submit to the Council at the May 21 meeting.

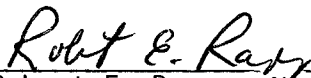
Mr. Lashbrook noted that he had informed both Mr. Dack and his Attorney, Jon Henricksen, of the adoption of the Condominium Ordinance tonight. He received a letter from Mr. Henricksen requesting the Dack matter be held until June 15.

Mr. Wyman requested a supplemental budget hearing on Revenue Sharing. In 1978-79 the City contracted for work at Maple Street Park and by the time the job was done they were paid out of the 79-80 funds for Maple Street Park and we are \$22,523. short to finish the job. Because of the appropriations and receipts that came in from BOR it takes a supplemental budget. The Public Hearing was scheduled for June 4, 1980.

Mayor Rapp reminded the Council that this is Fire Protection Week and there is an Open House scheduled for Saturday at the Fire Hall.

Once again Councilman Swayze restated his former motion to go into Executive Session under ORS 192.610 for personnel matters and Seconded by Councilman Westcott. Motion carried 6-0 by roll call vote.

Mayor Rapp recessed the Regular Meeting at 10:12 p.m. to go into Executive Session. The Regular Meeting was reconvened at 11:17 p.m. and immediately adjourned.

  
Robert E. Rapp, Mayor

  
Harold A. Wyman, Administrator/Recorder