

CANBY CITY COUNCIL
Special Meeting
March 1, 1979

Council President Robert D. Westcott called the Special Meeting of Canby City Council to order Thursday, March 1, 1979, at 7:30 p.m. Answering roll call were Councilmembers Beryl Brown, Robert Swayze, Beauford Knight, Leonard Taylor, Dick Nichols and Robert Westcott. The flag salute followed roll call.

Also present were Administrator H.A. Wyman, Attorney Wade P. Bettis, Public Works Director Ken Ferguson, Planner Stephan Lashbrook and Treasurer Myra Weston.

Others Present were Martin Clark and his attorney, Mark O'Donnell, Diana Schmid of the Oregonian, David Bury, Richard Morse and Earl Stoller, the latter from Canby United Methodist Church.

On motion of Councilman Swayze, seconded by Taylor, the vote was 5-1 (Westcott voting no) to approve Garr and Patricia Wentworth's application for liquor license renewal for Grand Central Station restaurant.

Administrator Wyman said an ordinance to execute the services agreement on engineering for Canby Utility Board will be on the March 7th agenda. He announced public hearings: March 7, for the Morse annexation; March 21 for Gro Enterprises, rezoning (NE 22th and Maple); and April 4 for the Kraxberger-Driggers annexation proposal. To be dated are workshops on zoning ordinance changes, and Canby Utility Board's request to move the Public Works yard to the sewage treatment plant yard, and personal property matters.

The meeting was recessed at 7:48 p.m. A workshop was opened at 7:59 p.m., for discussion of costs' division on the Martin Clark Crestview development. O'Donnell's written request contained five points, and was read by Administrator Wyman. Mayor Rapp arrived at 8:01 p.m., and was given the gavel by Councilman Westcott.

A three-page report by Public Works Director Ferguson on improvements benefitting adjacent properties was read, with discussion following. Mayor Rapp stated favor for a real estate title transfer tax to create a fund to expand services, preferring that tax to a system development fee. The seller pays such a tax, which Attorney Bettis confirmed, would "be wise" to go to a vote of the people. Bettis suggested a public improvement development fee, applicable only to new construction within the city, and charged to the developer who should receive credit for a percentage of his provable cost; the fee to be paid before a building permit could be issued. Rapp said such money would be a dedicated fund for sewer, street, right-of-way acquisition, etc.

Planner Lashbrook stated willingness to do research among experts, if the Council so directs, to determine ways of meeting the need for financing such needs. O'Donnell said he would like to see the real estate title transfer tax applied, and declared that problems of growth will be great in Canby. He said a policy statement is needed tonight so that work can be started toward a local improvement district (LID) in the city's segment of Territorial Road. Mayor Rapp advised that the City has not considered LIDs without 50 per cent of the front footage involved. Morse declared the City has an obligation regarding Territorial Road for coordinated efforts with Clackamas County. Mr. Wyman said the City will contact the County to learn its LID procedures, the developers to carry the petition to land owners. The Workshop concluded.

Council meeting reconvened at 9:29 p.m. City Attorney Bettis left.

Public Works Director Ferguson reported that federal sewer treatment grant money to the states has been reduced from \$53 million to \$42 million for 1979-80, and that the Oregon DEQ is allocating 66 per cent of the state's appropriation to Eugene-Springfield.

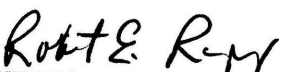
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This, he said, leaves Canby "in a bind" due to its rapid growth, and that the City can expect about one-third the needed amount from this source. He and Lashbrook are to attend a DEQ public hearing March 5th. Ferguson presented a March 1 letter sent to DEQ stating the City of Canby's position. On motion of Councilman Westcott, seconded by Swayze, the Council approved unanimously the letter submitted to DEQ.

After hearing O'Donnell's plea for a decision allowing his client, Clark, to get to work in the Crestview project, Westcott moved that O'Donnell's letter in Clark's behalf, dated February 22, 1979, be tabled. Swayze seconded. Vote was unanimous to table and to make the two O'Donnell letters of that date part of the minutes of this meeting.

Mayor Rapp said workshop dates will be set at the next regular meeting, March 7.

Meeting adjourned 9:40 p.m.



Robert E. Rapp, Mayor



Harold A. Wyman, City Recorder

March 1, 1979

O'DONNELL, RHOADES, GERBER & SULLIVAN

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CANBY OFFICE

181 N. GRANT, SUITE 202
CANBY, OREGON 97013
(503) 266-1149

PLEASE REPLY TO
PORTLAND OFFICE

February 22, 1979

The Honorable Robert Rapp, Mayor
Canby City Hall
182 N. Holly Street
Canby, Oregon 97013

Re: Martin Clark

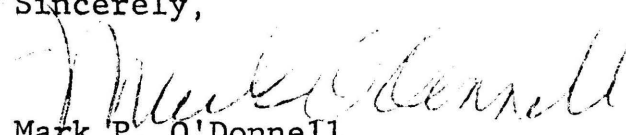
Dear Mayor Rapp:

At the City Council hearing of February 21, 1979, a discussion occurred concerning the failure of Martin Clark to pay the annexation fee. Enclosed is a copy of the City's resolution for the annexation fee.

Paragraph 3 in my opinion, fully protects the City. I would appreciate your sharing this letter with the members of the City Council.

I had previously advised Mr. Clark that he would have to pay the fee before issuance of building permits. I had also contemplated that we would be discussing with the Council return of the annexation fee.

Sincerely,


Mark P. O'Donnell
MOD:sw
Enclosure

cc: Mr. Wade Bettis
Mr. Martin Clark

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February 22, 1979

The Honorable Robert Rapp, Mayor
Canby City Hall
182 N. Holly Street
Canby, Oregon 97013

Re: Martin Clark

Dear Mayor Rapp:

The City Council asked me after the meeting of February 21, 1979 to submit Mr. Clark's request in writing. These requests and other matters will be discussed at the workshop meeting of March 1, 1979. At the hearing, I submitted a cost estimate for the Crestview subdivision, consisting of three pages. I also submitted a plat map on which I had written certain figures. These figures represented what I considered unnecessary costs to Mr. Clark. I use the term "unnecessary" in that the costs will be incurred for services which Mr. Clark would normally not provide. I enclose a copy of this map.

The first request was that the City condition the Kraxberger annexation to require that Mr. Kraxberger repay Mr. Clark and Mr. Morris his share of the cost for extensions of the 10 inch sewer line from Maple and Territorial to Locust and Territorial. Mr. Bettis will advise the City of his legal opinion concerning this matter.

The second request was that the City only require Mr. Clark to pave 32 feet of North Juniper Street. This would require Mr. Tompkins upon annexation to put in sidewalks, curbs and the other 8 feet of asphalt. Mr. Tompkins and the City will still receive the benefit of Mr. Clark's expenditures in extending the sewer and water lines down Juniper Street. On the other hand, the City will have some control over annexation of the Tompkins' property and may require the 8 feet of asphalt and sidewalks upon annexation. Without a reimbursement ordinance, this appears to be the only practical solution. It is not the most desirable in that the Tompkins' property will still receive a windfall. I did mention at the hearing that precedent exist for this type of remedy in

The Honorable Robert Rapp, Mayor
February 22, 1979
Page Two

the Ash Street situation in the Clark-Oliver subdivision.

The third request was that the \$5,000 that will be obtained from the County for the City's assuming responsibility for Locust be returned to Mr. Clark and Mr. Morris. This request is made in that Mr. Morris and Mr. Clark are being required to build Locust Street to City standards. This sum of \$5,000 represents approximately 1/15-1/18th of the cost of development of the street with City services.

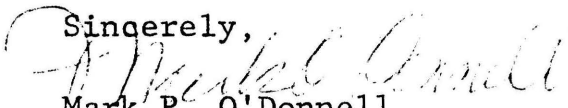
The fourth request was that the annexation fee be returned to Mr. Clark for the extra development cost which he will incur in bringing City services to the area and for which he can obtain no reimbursement. This would include the extension of the sewer on Territorial Road for approximately 1,800 feet, the sewer line down Juniper, the water line down Juniper, the excess of a one-half street (20 feet of pavement v. 32 feet of pavement) for Juniper Street and the benefit of the sewer and water line extensions to numerous property owners in the area.

I would like to raise a fifth request which I did not discuss with the Council. The City has indicated that Mr. Clark must improve Territorial Road with pavement and curbs. Mr. Clark estimates this cost in the area of \$5,400 to \$9,000, depending on the area to be improved. The fifth request would be that these improvements not be made at this time and that Mr. Clark file and record waiver of remonstrances against assessment for these improvements. The reason for this request is that these expenditures and the requirement of these improvements to Territorial appear to be inconsistent with the previous development of Territorial.

I have discussed Mr. Wyman's suggestion concerning a City-County local improvement district for funding of these services. We have discussed the matter with Dave Abrhams of Clackamas County, and the Boundary Review Commission and other interested property owners. It appears quite feasible and I have invited other property owners, including the United Methodist Church, to the March 1, 1979 hearing.

We will look forward to discussing these matters with the Council on that date.

Sincerely,


Mark P. O'Donnell
MOD:sw

cc: Mr. Martin Clark

SEWER From MAP/E 1800 FT.

CLARK - 360 FT. =

TRAXOR bryer - FIVE RIDE

Thompkins

Plus others

