

CANBY CITY COUNCIL

REGULAR MEETING

JUNE 20, 1979

Mayor Robert E. Rapp presiding. Councilmembers present: Beryl Brown, Beauford Knight, Richard Nichols and Robert Swayze. Absent: Leonard Taylor and Robert Westcott.

Also present: Administrator H.A. Wyman, Attorney Wade P. Bettis, Treasurer Myra Weston, Planner Stephan Lashbrook, Public Works Director Ken Ferguson, Public Works Supervisor Bud Atwood, Secretary Marilyn Perrett, Canby Herald Editor Paul Bosarge, Oregonian Reporter Dianna Schmid, Southern Pacific Representative Dick Jacobson, Globe Union Representative Charles Wood II, Mr and Mrs. Charles Lawrence, Maynard Nofziger, Don Smith, Tom Tye, Ted LaVigne, Mr. and Mrs. John R. Stewart, David Bury, Harry Seabold, Phillip Seale, Stuart Monro, Martin Clark, Bob Kacalek, Florence Zwicker, Jay Zwicker, Lois Larson, Lowell Patton, Jerome Barton and John P. Tatone.

Mayor Rapp called the meeting to order at 7:30 p.m., followed by the flag salute and roll call.

Minutes of the Regular Meeting, June 6, were corrected by Councilman Knight as follows: page two, last paragraph - Mr. Knight did not ask for the minutes of August 1978 regarding the Dack property - it should read, Mr. Dack had promised to improve S.W. 13th from S. Elm Street to edge of his property and then carry that road along to the north edge of his property. Councilman Nichols moved to approve June 6, Regular Minutes as corrected, seconded by Councilman Knight, approved 4-0.

Mayor Rapp called for any Citizen In-Put on Non-Agenda Items. John Stewart, of Bo's Wash and Dry spoke concerning the improvements he is making on his property and the concern of the Chamber of Commerce about his removing the historical trees on his property. The Planning Commission gave Mr. Stewart approval with the following alternatives: 1) remove the trees 2) gain an easement from Gary Haberman of Taco Man 3) omit one truck wash. Mr. Stewart chose the first alternative as being best for him since Mr. Haberman did not want to release any of his property for easement and the other alternative would defer from his potential revenue. Mr. Stewart asked Council for better solution or any other suggestions due to citizens concern over the removal of the trees. Mayor Rapp said without formal appeal no action could be taken and the trees are on private property and can be cut down if need be.

Mayor Rapp recessed Regular Meeting at 7:44 p.m. and immediately called a Public Hearing for proposed LID #9. Ken Ferguson, Public Works Director, gave his staff report on LID # 9, for N.W. 3rd Avenue and N. Baker Drive for the improvements of the streets and sanitary sewer asking for a 15 foot easement from each side of street for a 50 feet right-of-way and also stating that a question with three property owners was apparent; Mr. and Mrs. Charles Lawrence, Globe Union Inc., and a parcel lot #1002 with four owners. Also, two methods of assessment were presented, 1) assess on a front footage basis only 2) assess one-half of the cost on the basis of front footage and one-half on a square footage. Councilman Swayze questioned

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the 50 foot right-of-way that staff proposed, Ordinance states that it must be a 60 foot right-of-way. Attorney Bettis said an Ordinance would be needed to change it to a 50 foot from a 60 foot right-of-way, however, actual cost would not change. Mr. Wyman stated that we had no written letters of remonstrance. Mayor Rapp asked if the applicants had any in-put. Martin Clark, applicant, said he was in favor of the proposed LID. Response from proponents : Mrs. Charles Lawrence asked if dedication meant they had to turn over their property to the City. Attorney Bettis explained the dedication and right of condemnation to her. The following all responded as being in favor of LID # 9: Bob Kacalek, from proposed Racquet Ball Facility; Florence Zwicker, property owner; Harry Seabold, Potters Industries; Maynard Nofziger, property owner. Opponents were asked to response. Attorney Bettis first explained the right of eminent domain and the process involved to the audience. Mrs. Charles Lawrence, speaking in remonstrance, spoke of loss of part of her front yard including flowering trees and also of her concern about a 10 foot easement which the Canby Utility Board has on the back of her property. Mr. Ferguson said this easement figured in as a part of the square footage. Sid Brockley, property owner, spoke in remonstrance and said if the LID was approved they would prefer the front footage assessment as it would be \$5,000 less for them. Dick Jacobson, Southern Pacific spokesman, inquired as to exactly what portion of their property is being considered, since depending on spread of costs (Southern Pacific as largest single front footage and smallest in depth) as to whether they would be in favor or against the LID. Mr. Ferguson explained the assessment process and gave Mr. Jacobson a map for his information. Lois Larson, property owner, inquired how an LID could be proposed on property leased from Southern Pacific and not owned by the City. Attorney Bettis explained it was not a lease and the City was justified in asking for the improvements. Charles Wood II, Globe Union representative, stated they hadn't made up their mind yet and had very late contact from City (NOTE: All materials were first sent to Milwaukie, Wisc., home office of Globe Union.). Mr. Wood stated he had full authority to make decisions, his concern was they had initially paid for street and sanitary sewer improvements and they would have to dedicate land and would be paying a second time with no use to them. However, if cost was appropriate they would be in favor of the LID. Mr. Brockley inquired as to the fact if you don't remonstrate tonight "do you forever hold your peace?" Attorney Bettis read in part Ordinance # 393 in response, which was affirmative and also the fact of 2/3 against being necessary to defeat the LID. Mrs. Larson inquired whether the surveyed boundary lines or the existing road would be used. Mr. Ferguson explained, the existing road would be of no bearing and the curb would be 10 feet from her property line. Mayor Rapp closed the Public Hearing at 8:15 p.m. and immediately reconvened the Regular Meeting.

Attorney Wade Bettis advised Council to make an absolute determination of those in favor or against the proposed LID # 9. Survey results: Against - Charles and Marcella Lawrence; James O. Goodwin, John C. Anicker, Jr., Stanley Urbigkeit, Sidney Brockley; Roy C and Lois E. Larson. In favor or showing no remonstrance: Southern Pacific Railroad; Maynard Nofziger, et al; Martin Clark and Alvin Cibula; Robert R. Barr and Linda S. Hankins; Globe Union, inc.; Potters Industries; Gary Sowles and Charles H. Johnston. Public Works Director noted this was approximately 8¼% of remonstrance against the LID # 9. Councilman Swayze moved, in light of the fact there was not the required 2/3 remonstrance at the Public Hearing and in light of the fact that the project for industrial is needed in the City of Canby, I move that the City Council by Resolution through the City Attorney, advertise and receive bids

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for the construction of LID #9 on Northwest Third Avenue and North Baker Drive and that this bid and construction proceed as soon as possible. Councilwoman Brown second the motion. Mr. Ferguson suggested two things, the question of the right-of-way pavement width on the north end of N.W. Baker to be determined and also a consultant should be employed for the design work before the call of bids. Attorney Bettis read a section of Ordinance # 393 , any person with a feeling of grievance about assessment can appeal within 20 days of passing of the Ordinance. Motion was approved 4-0.

Mayor Rapp then called for a 5 minute recess at 8:30 p.m.

Regular Meeting was reconvened at 8:42 p.m. and immediately recessed for Public Hearing on LID # 10. Public Works Director, Ken Ferguson, gave a summarization of staff report on LID # 10 on Territorial Road, N. Juniper and N. Locust streets, with three owners involved, Rufus Kraxberger, Richard Morse and Martin Clark. Mr. Ferguson noted the amendment to exclude Territorial Rd. improvements fronting the Morse and Kraxberger property and to assess each property on a different basis than that originally proposed. Mayor Rapp asked if the applicant had any input. Martin Clark, an applicant, inquired if there were two separate parcels being considered, Territorial and then N. Juniper and N. Locust. Mr. Ferguson replied no, it is all in one, however the Kraxberger property not being annexed yet was assessed for only sanitary sewer lines. There was no response from either proponents or opponents in the audience and it was noted that no written response of remonstrance had been received.

The Mayor adjourned the Public Hearing at 8:48 p.m. and immediately reconvened the Regular Meeting. Mr. Ferguson said that he was anticipating 25% participation from the County on part of Mr. Clark's street assessment, however, if the County does not participate Mr Clark said he will pick up the additional increase on his portion of the assessment on Locust St. Councilman Swayze moved due to the fact of no remonstrance shown before the Council body to instruct City Attorney to prepare the appropriate Resolution and advertising for bids go out approving LID # 10 on Territorial Rd, N. Juniper and N. Locust Streets and proceed as soon as possible. Councilwoman Brown seconded. Mr. Ferguson noted that Martin Clark had the design work of the proposed LID done by Compass and he should be reimbursed. This need not be a part of the Resolution, however, Council did agree to reimburse Mr. Clark in the manner of reducing his assessment in accordance with Compass fee. Motion was unanimously approved.

Attorney Bettis read Resolution # 263 establishing new cemetery rates. Councilman Swayze moved to approve Resolution # 263 A Resolution Establishing a New Schedule of Prices and Charges to be Made for Lots, Graves, Grave Liners, Grave Opening and Monument Installations at Zion Memorial Park. Councilwoman Brown seconded, approved 4-0.

Resolution # 262 on schedule of Swimming Pool fees was read by Attorney Bettis. Councilman Swayze noted to insert the wording of "Child" under classes in the schedule of fees, he then moved to approve with the correction Resolution # 262 A Resolution Establishing Schedule of Fees for Use of the City's Municipal Swimming Pool. Seconded by Councilwoman Brown, unanimously approved.

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Attorney Wade P. Bettis read Resolution # 264. Councilman Swayze moved to approve Resolution # 264 A Resolution Authorizing Transfer of Appropriations Within Given Funds. Councilwoman Brown seconded, approved 4-0.

Resolution # 265 authorizing transfer of interest earnings was read by Attorney Bettis. Councilman Swayze moved to approve Resolution # 265 A Resolution Authorizing Transfer of Interest Earnings to Cemetery Fund. Seconded by Councilwoman Brown, approved unanimously.

Mr. Wyman read a letter from Mr. and Mrs. Stephen Roth concerning speed limit on S. Ivy near Lee Elementary School, also a staff letter on the matter was presented. After Council discussion, Councilman Swayze moved to have City Engineer be instructed to request a study from the State Speed Control Board on S. Ivy from S.W. 13th Ave. to highway 99 E to possibly lower the speed limit and that Canby Council recommends a speed of 25 miles per hour. Seconded by Councilwoman Brown. Mr. Bosarge, Canby Herald Editor, questioned whether this study would include a flashing caution light due to the two schools and heavy congestion. Mr. Ferguson noted that signalization was up to the City and County. Councilman Knight suggested that it should be noted this is the only street inside the city limits over 25 miles per hour except for highway 99 E. Motion was approved 4-0.

The City Administrator read a letter from the Oregon State Highway Division regarding core sample testing on S.W. 13th Avenue between S. Fir and S. Ivy. Mr. Ferguson also gave a staff report and informed Council that the overlay had been done and will compensate for the deficiency and also the drainage problem on the south side of the street had been corrected.

A letter from Rural Canby Fire Department # 62 was read with their wish to continue the agreement for fire protection with the City of Canby. Councilman Swayze moved that the City of Canby continue its renewal of the Original Agreement of July 1, 1976, with the Rural Canby Fire District # 62 and have the City Attorney draw up the appropriate contract. Seconded by Councilman Knight. Mr. Knight asked that the motion include the amendment to the Original Agreement, dated July 1, 1978, be a part of the motion, Councilman Swayze concurred. Motion approved 4-0.

Mr. Wyman informed Council that an order from the Boundary Commission was received approving the Richard Morse annexation. Mayor Rapp requested the City Attorney to draw up a Resolution for the annexation fees.

Under New Business, Councilman Swayze moved to approve accounts payable in the amount of \$37,068.43. Councilman Nichols seconded, approved 4-0 by roll call vote.

Councilman Swayze moved to approve a warrant in the amount of \$894.75 for the water bond. Seconded by Councilman Nichols, approved by roll call 4-0.

Under Unfinished Business, Public Works Director Ken Ferguson presented Council with a packet of information about the proposed enlargement of the City Sewage Treatment Facility, he recommended that Council study the material and set a date for a workshop. Mayor Rapp said he would set a date for the workshop at our next regular meeting.

Mr. Wyman informed Council that he had received word from the state saying they will be letting bids starting July 26, and in August will begin work on a four-inch overlay on highway 99 E from New Era to the bridge south of town.

Council received a copy of a legislative bulletin and copy of a letter Mayor Rapp sent out regarding HB2997 a bill to impose state controls on local personnel matters. Also, Dick Groener called Mr. Wyman today and said he would discourage the bill.

Attorney Bettis stated his concern on the LID about City's full ownership of the full required width on north end of N.W. Baker, he suggested that the City Engineer proceed with dedications and at next meeting we will see what dedication we can and cannot get and see what if any further action be necessary.

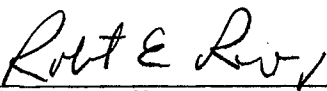
Under Other Reports, Administrator Wyman informed Council that we were granted \$41,000 from Heritage and Conservation Grant Monies for the Maple Street Park Project, this will finish 99% of needed work, including lighting on tennis courts, bleachers, another restroom and playground equipment. Mayor Rapp personally extended his thanks to Mr. Wyman for the excellent presentation he gave which allocated us about 25% of the available money.

Attorney Bettis commented on the great job Ken Ferguson did preparing the LID proposals.

Paul Bosarge, Canby Herald Editor, thanked the Council for their cooperation and professional attitude toward him as a member of the press. Mr. Bosarge has resigned his position with the local newspaper and will be leaving the end of June for an assignment in Reno, Nevada. Mayor Rapp thanked Paul for his press coverage and said we'd be sorry to see him leave.

Mayor Rapp set June 27, Wednesday, 7:30 p.m. for a Special Meeting for any business which may come before the Council and also negotiations with Blair Services.

Meeting was adjourned at 9:55 p.m.


Robert E. Rapp, Mayor


Harold A. Wyman, Administrator/Recorder