

CANBY CITY COUNCIL
REGULAR MEETING
OCTOBER 3, 1979

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

Also present: Administrator H.A. Wyman, City Attorney Wade P. Bettis, City Planner Stephan Lashbrook, Public Works Director Ken Ferguson, Public Works Supervisor Bud Atwood, Treasurer Myra Weston, Secretary Marilyn Perkett, Canby Herald Editor Jeff Durham, Planning Commission Chairman Gordon Ross, Planning Commission Members Fred Kahut and Norris Hart, Attorney Roger Reif, Gerald Grossnickle, Dana Tyler, Toby Tyler, Sadie A. Striklin, Helen Striklin, Bill Pulver, L.B. Glover, Arbie Irwin, Marlin J. DeHaas of Consulting Engineers, David Bury, Alan Ivie, Shirley Ivie, Enterprise Courier Reporter Dave Peters, Virgil Skiles, Andy DiTommaso, and Mr. and Mrs. Richard Morse.

Mayor Rapp called the meeting to order at 7:31 p.m., followed by the flag salute and roll call.

Councilman Westcott corrected the minutes of Regular Meeting, September 19, 1979, last page, halfway down, the figure should read \$3,200 not \$4,200 for play-ground equipment. Councilman Nichols moved to approve the minutes of Special Meeting, September 17, 1979, and Regular Meeting, September 19, 1979, as corrected. Seconded by Councilman Knight and approved 5-0.

ORDINANCES & RESOLUTIONS: Attorney Bettis read Ordinance No. 668 for first reading. Councilman Westcott moved that Ordinance No. 668, AN ORDINANCE GRANTING TO CANBY TELEPHONE ASSOCIATION, AN OREGON COOPERATIVE ASSOCIATION, ITS SUCCESSORS AND ASSIGNS, FOR A PERIOD OF TWENTY (20) YEARS FROM AND AFTER THE EFFECTIVE DATE OF THIS ORDINANCE, THE RIGHT AND PRIVILEGE TO PLACE, ERECT AND MAINTAIN POLES, WIRES AND OTHER APPLIANCES AND CONDUCTORS AND TO LAY UNDERGROUND WIRES FOR THE TRANSMISSION OF ELECTRICITY FOR COMMUNICATION PURPOSES IN, UPON, UNDER AND OVER THE STREETS, ALLEYS, AVENUES, THOROUGHFARES AND PUBLIC HIGHWAYS OF THE CITY OF CANBY, OREGON; FIXING TERMS, CONDITIONS AND COMPENSATION OF SUCH FRANCHISE AND DECLARING AN EMERGENCY, and the proper postings be made and final reading to be November 7, 1979, after 7:30 p.m. Seconded by Councilman Swayze and approved 5-0.

Ordinance No. 667 was read for first reading by Attorney Bettis. Councilman Swayze moved that Ordinance No. 667, AN ORDINANCE AUTHORIZING CONTRACT FOR CONSTRUCTION OF INDUSTRIAL STREETS, STORM SEWER SYSTEM AND SANITARY SEWER IN LID #9, be advertised and posted for final reading on November 7, 1979, after 7:30 p.m. Councilman Westcott noted the fact he had a conflict of interest on this matter. Councilman Knight noted on the first page of the Ordinance the correct address should be Northwest Baker Drive. Seconded by Councilwoman Brown and unanimously approved, 4-0. Public Works Director, Ken Ferguson, received Council permission to proceed with the LID #9.

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Mayor Rapp recessed at 7:55 p.m. before going into Public Hearing.

Regular Meeting was reconvened at 8:04 p.m. Mayor Rapp instructed the audience as to Public Hearing procedure and had proponents and opponents sign up on the regular sign-up sheet. Mayor Rapp opened the Public Hearing on the Grossnickle Annexation at 8:11 p.m. Stephan Lashbrook gave the staff report on the annexation. The property in question has seven owners, three of whom did not sign for the annexation, Woolhiser, Bremer and Kraft. The four who are requesting annexation are, Fawver, Stricklin, DiTommaso and Lindsay Soft Water Company, this represents the majority of land which is 25½ acres. At the first Planning Commission Public Hearing, staff recommended approval. However, at the August 8th, Public Hearing of the Planning Commission, staff changed their recommendation to denial because of the major reasons of the unique soil and water services. The three central issues to take positive action on are: a public need and if so is this the best area and appropriate time; justify to taking exception to L.C.D.C. goal #3 which is the need for conversion of agriculture land and the alternatives, consequences and compatibility with surroundings; adequacy of public facilities, such as water, sewer, schools, etc. This will be a value judgement on the Council's part. Mr. Lashbrook read a letter from Maynard Nofzinger, a realtor, requesting the annexation for needed future building sites. Also, he expressed the concerns of the homeowners on N.E.20th who do not wish their street to go through and concern of services in the area. Mr. Lashbrook recommended that Council express findings clearly before going onto the Metropolitan Boundary Commission.

Speaking as the applicant, Gerald Grossnickle of Lindsay Soft Water Company. He spoke on the need for housing and available land; land best use vs. agriculture use; water supplies. Mr. Grossnickle expressed that the annexation would best serve the citizens of Canby best by attempting to meet housing demand, in accordance with L.C.D.C. goal 14, planning to assure available housing. He expressed prices will be high if we don't supply adequate housing. He cited, in May 1979, according to an ordinance approving the Driggers - Kraxberger Annexation, "The City has a pressing need for developable land." Other things Mr. Grossnickle cited: utilities are readily available; no area is more logical; it boundaries the City; well served by roads and has two arterial access; location close to Golf Course; close to new subdivisions, has been down zoned by Clackamas County from R-2 to R-F5; was included in C.A.C. report as priority annexation area; lots are too small to be farmed profitable. He read a letter from David Anderson, Anderson-Ritter Realty, stating the City desperately needs more available land. Also, a letter from Duane Weeks, realtor, stating the need. Mr. Grossnickle noted that a bond issue has been passed for water development and recommended we postpone a decision until after our October 8th, workshop with the Canby Utility Board.

TESTIMONY OF PROPONENTS: Helen Stricklin, a property owner for 10 years of 9 acres, the largest parcel in question, noted the property was not profitable to farm.

Marlin DeHaas, representing another area in Canby considering annexation, his concern on the water shortage problem was that in the best interest of Canby to have the revenue from the building and he felt we shouldn't put a moratorium on building on a water supply basis.

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Pat McMuldren, realator with Anderson-Ritter Realty, noted very few lots on this side of town.

Andy DiTommaso, whose father is a property owner seeking annexation, said his father's land will probably not be developed for some time however, he will not be farming the land.

Virgil Skiles, a principal in the Lindsay Soft Water Company, has tried to lease their land out for taxes only and no one was interested.

Fred Kahut, member of the Canby Planning Commission and only commissioner who voted against the denial, felt this area to be most logical for annexation.

TESTIMONY OF OPPONENTS: Toby Tyler, N.E. 20th, first read a letter from Council Secretary, Marilyn Perkett, expressing her desire to go on record as being opposed to the annexation. Mr. Tyler noted that most of the reasons were in the packets distributed to Council and he also felt that with prime interest going up, less housing would be bought. Also, with the gas crisis less people are moving out of the metro area and staying closer to their work.

Dana Tyler, N.E. 20th, felt if Council reviewed their material, the water problem would speak for itself and also, to review the past testimony of Industrial Forestry of August 8th. She felt it was natural for realators to be in favor of annexation to enhance business. From past testimony, she noted there are 200 plus houses or available lots in the City. Also, school facilities are crowded and since the high school levy failed it could get worse.

Larry Glover, N.E. 20th, agreed with all previous opponents testimony and only wanted to emphasize the inadequate water supply in the area.

Norris Hart, Planning Commission member, noted there are about 50 houses and 100 lots available in town and nobody buying. He felt we have ample land and the water situation is bad. He expressed the Commissioner Catherine Davis also felt that way and timing was bad, to come back in two or three years.

Gordon Ross, Planning Commission Chairman, felt if this were to be annexed it wouldn't necessarily mean more available lots, as most areas are realator controlled. He noted that this particular soil doesn't hold water and makes it very desirable for some crops and workable 12 months a year. Mr. Ross felt this would set a precedent of what will happen to surrounding areas, he also noted that the C.A.C. is only a recommending body.

REBUTTAL: Gerald Grossnickle, emphasized that the City can set its Urban Growth Area and also, their land does not have agriculture potential.

Marlin DeHaas, reiterated the fact that since the water bond issue had passed we should not put a moratorium on annexations.

Mayor Rapp closed the Public Hearing at 9:12 p.m.

Councilman Knight asked if the capacity of the sewer would be any problem? Mr. Ferguson, reported that the rate of growth isn't such that we will have a problem since the plant will be enlarged. Councilman Nichols felt there were no figures to show a burden of prove. Councilman Westcott wanted the records to show he attended one of the Planning Commission Hearings but came to no conclusions. Mayor Rapp noted that we have had a water problem at least for the past three years and have taken conservative measures. Mr. Lashbrook noted

that when the Council viewed the Urban Growth Boundary it should be viewed as over a 20 year plan however, the annexation should be viewed as now. Mayor Rapp informed Council that the hearing body should either agree with the Planning Commission findings, disagree or postpone. Councilman Nichols moved to postpone the decision on the matter until we met with the Canby Utility Board at workshop on October 8th. Councilman Knight seconded. Councilman Westcott felt he was ready to make a decision now and not to hold up the decision for the water issue. Roll call vote was called for. Voting yea, Councilwoman Brown, Councilman Nichols and Councilman Knight, voting nay were Councilman Swayze and Councilman Westcott, motion passed 3-2.

Mayor Rapp recessed at 9:23 p.m. and reconvened Regular Meeting at 9:37 p.m.

COMMUNICATIONS: Administrator Wyman read a letter from the Busy Bee Playskool informing Council of their permission by Elsie Cutsforth to use the Holly Mall parking lot, October 27th, for a fund raising benefit.

Mr. Wyman read a staff memo from Ken Ferguson regarding an easement request of Crown Zellerback on N.E. corner of Territorial Road and Crown Zellerback private logging road. After Council discussion it was decided to grant them a one-way license instead of a permanent easement. Mayor Rapp requested staff to check with the City Attorney on this matter.

NEW BUSINESS: Councilman Knight moved to approve accounts payable in the amount of \$40,700.30 to be paid. Seconded by Councilwoman Brown and approved 5-0 by roll call. Councilman Knight moved for a warrant to be drawn from Clackamas County Treasurer to pay Leupold and Stevens, Inc on the water bond in the amount of \$1,595.37. Seconded by Councilman Westcott, approved by roll call 5-0.

Mr. Wyman informed Council of the League of Oregon Cities annual convention, November 10th through 13th and the forms will be available in the office.

UNFINISHED BUSINESS: Dick Morse, a principal involved in LID #10, requested the City to use the annexation fees to offset, what he felt to be, unjust costs to him in the amount of \$16,870.50. This was for extra sewer depth and improvements on approximately 700 feet of unannexed area. Council discussed problems of this in the past and the Mayor decided to set up a workshop to either rework Ordinance No. 393 or make a new one to possibly reimburse fees regarding unannexed areas. Councilman Westcott moved that the \$10,838.00 fee for extra sewer depth be assessed to LID # 10. Councilman Swayzed seconded the motion and it was approved unanimously.

Mr. Wyman read the staff report from Ken Ferguson regarding the drainage problem with Vern Goucher. Staff will divert the water to another location by an inexpensive means and Mr. Ferguson will notify Mr. Goucher by letter of the intentions.

At this time, Dick Morse brought up the fact that he was uncertain of the width of Territorial Road. The Zoning Ordinance requires Territorial Road to be a 60 foot right of way and the Planning Commission approved 40 foot paving east of Maple Street and also required 44 foot paving west of Maple Street.

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The open Council position was brought up and Councilman Swayze nominated Bill Pulver, who was in the audience, noting Bill came to them with interest. Councilman Nichols nominated Betty Mims, Canby High School teacher. Councilman Knight nominated John Spagel, a retired and long time Canby resident. Councilman Swayze moved that nominations be closed. Seconded by Councilman Nichols. Mayor Rapp also brought up the following names of people who had been submitted to him as interested parties: John Tatone, Robert Overton, R.N. Hawthorn, Bob Weygandt and Gretta Larson. Motion was passed 5-0. Councilman Nichols moved to postpone selection of Councilmember. Motion died for a lack of a second. Oral voting was as follows:

John Spagel - one vote

Betty Mims - one vote

Bill Pulver - three votes

Therefore, Bill Pulver was dully elected new Canby City Councilman and will be sworn in later.

Mr. Wyman presented the bid results for the lighting fixtures and material on Maple Street Park ball fields and tennis courts. Councilman Swayze moved to accept the bid of Platt Electric Supply of \$18,220.00 for the ball field fixtures and materials and \$6,852.30 for tennis court fixtures, poles and materials. And to also accept the bid of McCormick and Baxter of \$827.00 each for poles. Seconded by Councilwoman Brown. Councilman Westcott brought up the fact that there were no alternate bids for time devices. Mr. Ferguson explained that we must still call for bids for the wiring of the electrical system and the alternate for time devices will be included in that call of bids. Motion approved 5-0.

Mayor Rapp reminded Council of October 8th, workshop.

Meeting was adjourned at 11:07 p.m.



Robert E. Rapp, Mayor



Harold A. Wyman, Administrator/Recorder
Marilyn K. Perkett, City Recorder Pro Tem

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