

Canby City Council
Regular Meeting
September 6, 1978

Present: Mayor Rapp, Councilmen Knight, Nichols, Taylor, Swayze, and Westcott

Absent: Councilman Giger

Others Present: Administrator Wyman, City Attorney Bettis, City Treasurer Weston, Ken Ferguson, Director of Public Works, Bud Atwood, Supervisor of Public Works, Charles Tooley, Sewer Plant Operator, Eldon Edwards, Planning Consultant, Paul Bosarge, Canby Herald, Jon Henrickson, Mark O'Donnell, Martin Clark, Al Cibula, David Bury, Marvin Dack, Howard Barlow, Vincent Higgins, and others

The meeting was called to order at 7:31 p.m. followed by the traditional flag salute.

Mayor Rapp called for additions or correction to the minutes of August 16 and 21, 1978. Councilman Knight noted the following corrections:

August 16 - Page 4, Paragraph 1, should read; "Councilman Knight stated there was a misinterpretation of who was to receive the letter. Councilman Knight moved that action be held in abeyance on the motion made and passed on August 2, 1978 by the Council which dealt with the letter to be sent to all who are not presently hooked up to the sewage system inside the city limits. Discussion followed. The motion was then seconded by Councilman Nichols. More discussion followed with the motion being carried. Councilman Knight then moved that a new letter be drafted to be sent to those who have facilities located where sewer services available and they are not currently paying sewer service charges in the provisions of the applicable parts of Ordinance No. 566. Discussion followed. Councilman Knight withdrew his motion after it was stated a work-shop would be held concerning the matter. More discussion followed. Councilman Giger moved to draft a letter and notify the people already mailed a letter, that the matter is being held in abeyance, seconded by Councilman Nichols. The motion passed."

Councilman Swayze moved that the minutes of August 16 and 21, 1978 be approved as corrected, seconded by Councilman Taylor. The motion passed unanimously.

Mayor Rapp then called for citizens input on non-agenda items at which time Jon Henrickson stood and stated a decision for the public hearing on August 21, 1978 had been inadvertently left off tonight's agenda. Mayor Rapp stated the matter would come up during the Unfinished Business portion of the agenda.

Ordinance No. 643; AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF CANBY (Application of Martin L. Clark and Alvin M. Cibula - River View Industrial Park); was then read by the City Attorney on first reading in its entirety. Councilman Westcott who had declared a conflict of interest previously excused himself before the reading of the Ordinance. Discussion followed after the reading of the Ordinance. Mark O'Donnell then asked the Council if he could have a brief conference with his clients before the Council proceeds with action.

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Resolution No. 245; A RESOLUTION DETERMINING THE ANNEXATION FEE FOR PMALGBC ANNEXATION NO. 1205 (KENT PROPERTY); was then read in its entirety by the City Attorney. Councilman Westcott moved that Resolution No. 245; A Resolution Determining the Annexation Fee for PMALGBC Annexation No. 1205 (Kent Property) be passed, seconded by Councilman Swayze. Discussion followed with the motion being passed unanimously. A brief discussion followed concerning a change in the Ordinance for annexations.

Resolution No. 246; A RESOLUTION TO ACCEPT JURISDICTION OF SOUTH 13th AVENUE AND REQUESTING FINANCIAL PARTICIPATION FROM CLACKAMAS COUNTY FOR STREET IMPROVEMENTS; was read in its entirety by the City Attorney. Councilman Westcott moved that Resolution No. 246; A Resolution to Accept Jurisdiction of South 13th Avenue and Requesting Financial Participation from Clackamas County for Street Improvements be adopted, seconded by Councilman Swayze. The motion was passed unanimously.

At this time the Council returned to the matter of Ordinance No. 643 concerning the zone change of Clark and Cibula. Mark O'Donnell, attorney for Clark and Cibula stated that Martin Clark and Al Cibula will obtain approval from the Planning Commission of any industrial use that requires a substantial volume of liquid to be discharged into the municipal sewage system. Councilman Taylor then moved that Ordinance No. 643 as revised by the City Attorney be posted and scheduled for second reading on October 4, 1978, seconded by Councilman Swayze. The motion was carried.

Next was a letter from Potter Industries in reference to them moving into Canby which Administrator Wyman read to the Council followed by a letter from DEQ concerning Potter Industries. Discussion followed concerning noise standards which DEQ did not address in their letter. Councilman Westcott moved that a letter should be sent to Mr. John McCutchen thanking him for his correspondence and offer the information to him of a copy of our Ordinance in the section regarding noise and point out in the letter that it is adjacent to a residential area and that in their design stage they should design the plant so that any noise emission would be dragged away from the residential area and ask what their maximum density output is, seconded by Councilman Nichols. The motion was passed unanimously.

Next was a letter from Oregon State Department of Transportation in reference to the signalization at 99E and Ivy Street saying there is still some modification work to improve the signal operation on the south approach which will be handled by State Forces. No action was necessary.

Next was a Field Inspection Report from DEQ which shows the Sewer Treatment Plant in compliance with DEQ. Administrator Wyman stated Mr. Charles Tooley should be commended for the work he is doing. A brief discussion followed. Councilman Westcott moved that a note of commendation be put in Mr. Tooley's file, seconded by Councilman Taylor. The motion passed unanimously. More discussion followed with no further action being necessary.

Next was a letter from Globe-Union concerning additional effluent discharge to Canby Sewer System and that they will not exceed the legal limits allowed for dumping heavy metal residues into the sewer. Discussion followed the reading of the letter. No action was needed.

Administrator Wyman then read a letter from Canby Loaves and Fishes inviting a member of the Council to their fifth annual volunteer award luncheon, Monday, September 11, 1978 at 11:30 a.m. Councilman Swayze will attend the luncheon.

Next was a letter from Doug Miller to Bob Weygandt of the American Legion Post #122 requesting the use of the dance hall portion of the American Legion Hall to hold a disco dance with no alcoholic beverages to be served for the high-school aged persons. Discussion followed. Councilman Taylor moved that the City Council agree to granting the privilege as this letter has to go to OLCC also for approval, seconded by Councilman Swayze. More discussion followed. The motion was carried.

Administrator Wyman then stated we have no Ordinance concerning public dancing for teenagers which has been occurring at the Fun House. Discussion followed with no action being taken at this time.

Next was the Accounts Payable. Councilman Taylor moved the Accounts Payable be paid in the amount of \$32,019.60. Discussion followed concerning the billing from Southern Pacific in the amount of \$96.00. Ken Ferguson stated he would check on the agreement and inform Councilman Knight. The motion was then passed by roll call vote with 5 ayes and 0 nays.

Next on the agenda was the bids for the van for senior citizens. Administrator Wyman recommended the bid from Jack Thomas Motors in the amount of \$8,144.50 be accepted. Discussion followed. Councilman Nichols moved the staff recommendation be approved to Jack Thomas Motors Inc. in the amount of \$8,144.50 for a 1978 new 15-passenger Dodge Van and an appropriate Ordinance be prepared to authorize the contract, seconded by Councilman Taylor. The motion was passed unanimously.

Next was the liquor license application for Canby House Restaurant. Councilman Taylor moved that the application for liquor license by Canby House Restaurant be approved, seconded by Councilman Knight. Discussion followed. The motion was passed by roll call vote with 4 ayes and Councilman Westcott voting nay.

The meeting recessed at 9:05 p.m. and was reconvened at 9:10 p.m.

Next was the discussion of the Clark-Overton Annexation. Mayor Rapp called for a staff report at which time Ken Ferguson and Eldon Edwards gave a summary of what has happened to date. Mark O'Donnell then summarized his findings on behalf of Clark and Overton. Discussion followed. Councilman Westcott moved that we adopt the findings and conclusions from Mark O'Donnell's office with the addition that the map and the area of annexation would show the lines to go to the center line of Territorial Road and to the outermost perimeters of Locust Street and Juniper Street. And further, that in our findings on page 2, starting at approximately line 13½, be deleted at this time. Some consideration should be given to reimbursement clear on through to the rest of the paragraph and page 1, line 13; see attached Exhibit A - NONE. Discussion followed with Councilman Westcott saying that with the gentlemen's agreement here we would withdraw his motion back to the center line if it did not meet the legal requirements which Attorney Bettis will check on. Councilman Swayze then seconded the motion. The motion passed by roll call vote with 4 ayes and Councilman Taylor voting nay.

Mayor Rapp then stated we would go on to the Marv Dack Zone Change. After a brief discussion Councilman Westcott moved that we remove from the table the decision of the Marv Dack Zone Change, seconded by Councilman Swayze. The motion was carried. Discussion followed concerning the changing of this particular zone and the effects it would have on the interim general plan. Councilman Westcott then moved that the Zone Change for Marv Dack from R-1 to R-2 be approved with the following commitments of limitations voluntarily committed by Mr. Dack:

1. Specifically limiting the density to 167 units in cluster housing concept.
2. Perpetual open space green areas perpetually for the use and benefit of the revenues of this particular project.
3. Limiting ownership to adults only or not more than one (1) child per family.
4. Specifically limiting himself to two (2) year reversion to the present zone of R-1 if Mr. Dack is not taking steps towards completion of the project as proposed.

In addition we have found the following as acutally presented:

1. Requested zone change is in keeping with the City's Interim General Plan.
2. Sufficient need for zone change was established.
3. All LCDC goals were addressed and established.
4. There was economic need and benefit for the City.
5. The City and State housing goals were addressed and said goals were enhanced by the requested change.
6. The only negative public response was from a citizen who's concern was the road next to the project would be improved and the applicant has so stated it would be improved.
7. Several Canby citizens testified for various reasons in favor of the proposed change and the concept proposed.
8. Also that there is no alternate land available at this time - one of the findings of fact.
9. And that there has been established a public need for this type of housing.
10. And that it enhances the public health, welfare, and safety of the citizens of Canby.

Councilman Swayze seconded the motion with a brief discussion following. The motion was then passed by roll call vote with 5 ayes and 0 nays.

Next was the appointment of a Planning Commission member with Councilman Nichols offering the name of Robert Ballard and Councilman Swayze offering the name of Norris Hart. A secret ballot of the Council was taken as follows:

Norris Hart	3
Robert Ballard	1

One Councilman did not vote either way. The City Recorder will notify Norris Hart of his appointment to the Planning Commission.

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Next was the discussion of the Eldon Edwards invoice in the amount of \$1,658.75. Discussion followed concerning the amount charged for research. Councilman Westcott moved that Eldon Edwards' invoice of \$1,658.75 be added to the next Accounts Payable, seconded by Councilman Taylor. The motion was carried.

Next on the agenda was the discussion of LCDC Grants and Agreements which Administrator Wyman explained to the Council. A brief discussion followed Administrator Wyman's recommendation to hire Mr. Edwards to finish the work on the Comprehensive Plan for the City of Canby. Councilman Westcott moved that the third party agreement with LCDC and Eldon E. Edwards be approved and signed by the Mayor for 1977-78 and 1979, seconded by Councilman Taylor. The motion passed unanimously.

The meeting adjourned at 10:41 p.m.



Robert E. Rapp, Mayor



Nancy S. Boggs, City Recorder

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