

**CANBY CITY COUNCIL
SPECIAL MEETING MINUTES
July 12, 2016**

Presiding: Mayor Brian Hodson.

Council Present: Todd Rocha, Traci Hensley, Tim Dale, Tracie Heidt, and Clint Coleman.

Staff Present: Rick Robinson, City Administrator; Joseph Lindsay, City Attorney; and Kim Scheafer, City Recorder.

Others Present: Greg Perez, Kristie Perez, Lila Gottman, Sarah Spoon, Bob Backstrom, Tyler Smith, Corey Kallstrom, Jewel Kallstrom, Ken Buckles, Malinda Buckles, Irene Konev, Will Greenleaf, Fiona Gwozdz, Bob Cornelius, Cindy Riley, Kevin Starrett, Tony Crawford, Betty Crawford, Winnie Savory, Larry Boatright, Dan McElhinny, Paul Gwozdz, Don Jeskey, Kathleen Jeskey, Rina Bicknell, Ken Hagen, Shawn Hensley, Paul Carlson, Stefani Carlson, Gregory Thomas, Susan Chavez, Siobhan O'Connor, Gregory McKelvey, Alma Valdez, Liz Belz-Templeman, Paul Belz-Templeman, Mali Geister, Erik Ernst, Norin Ernst, Jim Burrows, Chris Calkins, Charles Gallia, Nancy Sabastian, and Robert Bitter.

CALL TO ORDER: Mayor Hodson called the Special Meeting to order at 6:30 p.m. in the Council Chambers.

Mayor Hodson read a statement that he had posted on his Facebook page regarding the confederate flag on one of the Independence Day Celebration parade floats. He had been questioned why the City had taken so long to respond, and explained the City had to follow the process and understand the situation before any action could be taken.

Mayor Hodson read an email from the Sons of Confederate Veterans who participated in the parade. They were a registered non-profit group whose purpose was to honor and defend confederate soldiers. They were anti-racist and did not allow hate or hate speech. They encouraged people to do more research before making harsh statements about what they stood for. There was a vocal minority against them, but most of the attendees at the parade supported them.

Joseph Lindsay, City Attorney, discussed the freedom of speech in a public forum. He did not think there was a way to restrict someone waving a flag in a public forum. He explained how the Oregon case law allowed more speech protection than the federal government.

Councilor Dale asked if there was a definition of hate speech and if there was a way for a public official to tell someone with a float they could not be in their town?

Mr. Lindsay said there was not a significant legal definition for it. He said there was not a way for public officials to not allow certain floats. The risks to the City if they tried to restrict certain floats would be litigation and fines. People had the right to express their ideas and not everyone thought the same. This was a one-time event at a public forum on a float.

CITIZEN INPUT & COMMUNITY ANNOUNCEMENTS: Jewel Kallstrom, Canby resident, wanted to address the notion that any type of participation was allowed at a Canby sanctioned

event under the guise of free speech. She implored further research into freedom of speech. Standards for City sanctioned events were very common and she shared examples of what other cities and counties did for their events.

Sarah Spoon, Canby resident, supported the resolution but she thought the City had a responsibility to continue to learn about what was legally allowed to protect our cultural diversity and sense of comfort and safety for our people of color. She viewed the confederate flag as a symbol of hate and loved the Constitution. She wanted to move forward knowing the City was of similar heart and the responsibility of creating an inclusive culture belonged to everyone.

Bob Backstrom, Canby resident, said they must not erode any rights given by the First Amendment. No matter how people felt about certain symbols, everyone was given the right to freedom of speech. The people on the float did nothing that should cause them to be silenced. The First Amendment allowed all Americans, regardless of their views, the right to express themselves. He sympathized with those who were offended, but he urged the Council not to put the City in the middle of this controversy. He thought the resolution should be passed.

Ken Buckles, Canby resident, said at one time it was against the law to be married to his wife. He was a retired teacher and coach and the Executive Director of Remembering America's Heroes and Veterans. His wife attended the parade and was offended. He thought they needed to take a stand because it was the right thing to do. More people in the world needed to have empathy and compassion and caring.

Malinda Buckles, Canby resident, said she had been in Canby since 1990. She had never seen anything like this in the parade before. There needed to be a clear definition of freedom of speech. Something needed to be done.

Will Greenleaf, Canby resident, attended the parade with his wife and son. One of the members of the float ran up to his wife and shoved a pamphlet into her hand. He thought everyone had a right to freedom of speech, but did not think someone from outside of the community had a right to a forum in this community.

Fiona Gwozdz, unincorporated Clackamas County resident, said that anyone that would raise that flag in this day and age was heartbreaking. It was a tarnished symbol that impeded unity and freedom. They could not stand idly by and overlook this type of symbolic slap in the face. She asked that the Council do something brave to preserve a future they could be proud of. With a united voice they needed to shatter the hatred.

Cindy Riley, Canby resident, said the event happened and she thought they needed to look forward and see what they could do in the future. Further research needed to be done. The confederate flag was a symbol of hate. She wanted to be proud to raise her grandchildren in Canby. They were working on revitalizing the City and wanted to attract young people and businesses to the City. They needed love and not hate and the City needed to embody that.

Kevin Starrett, Canby resident, was raised in New York City and did not have a connection to the confederate flag or the South. The resolution sounded like it was about tolerance only for people who supported a specific agenda. This symbol meant different things to different people. The people running the float did not hurt anyone. It was a historical society. This flag did not become an issue until political parties made it an issue.

Winne Savory, Canby resident, said there was no doubt that slavery was a blight in our history. What would be their legacy today? As reprehensible as this issue was, she asked that the Council not approve the resolution because it rejected the First Amendment.

Larry Boatright, Canby resident, read a statement from John Savory. Mr. Savory explained the First Amendment and how the banning of the group that displayed the confederate flag did not follow the First Amendment. After he read the statement, Mr. Boatright said if the Council passed the resolution, they would be breaking the Constitution. He grew up in Georgia and he did not hate the confederate flag. The flag honored the history of people's families.

Kathleen Jeskey, Canby resident, said General Canby who the City was named after fought for the Union during the Civil War and her step son fought in the Iraq war. People were shocked to see the flag in the parade as it was not generally considered a part of Oregon's heritage nor had it been in previous parades. The flag had been banned from the capital grounds in South Carolina and from public displays in California. She gave a history of the flag, which was most used during the civil rights movement proclaiming segregation. She was in support of the First Amendment, but thought this kind of controversy needed to be kept out of the City's parade. She thought passing the resolution was a good first step, but sensible rules needed to be made for the future. They did not want to hinder attracting new businesses to the City. This should be a fun, family friendly event for everyone.

Siobhan O'Connor, rural Clackamas County resident, said the community needed to stand strong against racism. She saw it everywhere in the County and it had no place in a civil society. They did not have to allow a symbol of hate in a public parade. She thought the City could set some parameters for parade participation. She gave suggestions for the parade, as well as cross-County community projects.

Gregory McKelvey, Canby resident, said this was bigger than a flag. The racism they were confronting today was the continued support of the systematic oppression of people of color. Why would a piece of cloth be more important than how welcoming the community was and how people of color felt oppressed? He thought the resolution should be passed.

Charles Gallia, unincorporated County resident, was on the float in front of the confederate flags. He could tell a distinct difference in the way people of color reacted to the flags. He thought the City might be at risk for giving the implication of condoning this message. The purpose of the flags was not just hate, but to oppress and cause terror. The City had more authority than what it considered. Speech that included emotional distress was not protected. He wanted to include in the record a letter from Pamela White. This was a message they were condoning unless they took an explicit opposition to the display of the flag that was meant to invoke fear and hatred.

Dan McElhinny, Canby resident, said there was a serious problem in Oregon and Canby regarding race. They needed to do a better job of dealing with how everyone interacted with each other. This controversy would not end and he would like to enter into a dialogue to discuss a compromise with this float. The flags were used to persecute and harm people of color in the 1950s and 1960s. These flags hurt people and they could not let it continue.

Paul Gwozdz, Clackamas County resident, said it was not about the First Amendment and the flag, but the connotation that the City condoned what the flag stood for. He looked forward to the idea of having a fair process and he supported the resolution.

Tyler Smith, Canby resident, had not planned on talking but he belonged to a law firm and did sue governments for issues like this. He had drafted a compromise resolution as the current resolution would put the City in hot water as they were prohibiting free speech. The Council was being asked by some people to use their power as the government to stop other people from doing something. He asked them to refrain from that. His draft resolution allowed the Council to speak with their voice in opposition of racism and hatred. It took them out of the oppressor's seat and into the role of leadership in the City.

Rina Bicknell, Canby resident, opposed the confederate flag and racism. She did not know if there was anything the government could do, but she thought it was simple to say the community did not support it.

Irene Koney, Canby resident, had opposition to the confederate flag being flown in the parade or any other symbol that promoted hate, racism, and oppression. She encouraged future research on this topic and to come up with solutions. Equity and inclusion were the smartest ways to develop a thriving economy and community.

Ken Hagen, Canby resident, said his parents were deaf and had been treated differently. There was significance in a flag. A resolution should be passed and he was willing to put together some broadcasts through CTV5 on this issue. Discrimination and racism had to stop.

Betty Crawford, Canby resident, said they had raised their children to accept all cultures and her grandchildren were being raised the same way. She had seen Canby grow and to allow this flag in the community took them steps backwards. For every one person who spoke up, it represented 100 people and so far 15 people had spoken in favor of taking a stand. The Council was elected to represent this community. She wanted Canby to continue to grow in love, not hatred.

Erik Ernst, Commander of the Sons of the Confederate Flag, said some people on the float were from Canby. His organization was not about racism. It had been around for 120 years and had over 35,000 members. He would like to come up with a compromise and would like to participate in the parade again. He was proud of his heritage and the confederate flag. It was part of America's history and he asked that the Council not pass the resolution.

Greg Perez, Canby resident, said it was a prime time to recruit volunteers. This whole thing could have been avoided, as someone instigated this issue and told the press. They could have worked together with the City in an open forum. He served in the army and learned that everyone needed to listen to each other. He hoped all the groups could come together to work out a solution that was legal and could move forward.

RESOLUTIONS & ORDINANCES: Resolution 1246 – Rick Robinson, City Administrator, compared this resolution with the one that Mr. Smith had submitted and read the language changes. He thought Mr. Smith's suggestions were good and that the resolution should be amended except for the third paragraph where it discussed statements that fell outside of the protections of the First Amendment.

There was discussion regarding the definition of tolerance as well as the language proposed by Mr. Smith. There was further discussion regarding the role of the Council on this issue.

There was consensus to take the words “human life” out of Mr. Smith’s suggestions. Mr. Robinson read the language that would be included in the resolution.

Mr. Smith thought “appreciated and valued” was better language than “tolerated.” This was not making a law, but making a statement.

Councilor Hensley thought citizens wanted the City to make a statement that they were not condoning messages of hate and this new language did that without stepping on First Amendment rights.

Councilor Dale asked if this language ran counter to or diluted the Bill of Rights. Mr. Lindsay said it did not. This was a statement and took a stand on the quality of the speech that occurred in the community. It did not take away from constitutional rights.

Councilor Dale asked if this language could be weaponized against other rights, such as freedom of religion. Mr. Lindsay said it was a statement and there was no legal effect or punishment. Mr. Smith agreed the City was not in any legal jeopardy with this language.

****Councilor Heidt moved to adopt Resolution 1246, A RESOLUTION EXPRESSING OPPOSITION TO MESSAGES OF HATE AS AMENDED. Motion was seconded by Councilor Rocha and passed 6-0.**

Councilor Heidt read a statement thanking everyone for expressing their opinions on this matter.

ACTION REVIEW:

1. Adopted Resolution 1246.

Mayor Hodson adjourned the Special Meeting at 9:06 p.m.

Kimberly Scheafer, MMC
City Recorder

Brian Hodson
Mayor

Assisted with Preparation of Minutes - Susan Wood