

CANBY CITY COUNCIL
REGULAR SESSION
MAY 19, 1999

Mayor Scott Taylor presiding. Council members present Barry Lucas, Shirley Strong, Randy Carson, Roger Harris, Walt Daniels, and Terry Prince.

Also present: Acting City Administrator Beth Saul, City Attorney John Kelley, Community Development Director Jerry Pineau, Police Chief Jerry Giger, Susan Wood, Curt McLeod, Cam Sivesind, Curtis and Lila Gottman, Bill Patterson, Bill and Betty Hubbell, Beth and Ken Link, Fred and Bettie Postlewait, Jerry and Connie Franz, June Postlewait, John Vaudt, Kathy Henderson, Frank Ertsfie, Nancy Salber, Royann Lund, Anna Phillips, Dwight Nofziger, Jeff & Gale Hipp, Frank and Elsie Cutsforth, and Peggy Sigler.

Mayor Taylor called the session to order at 7:33 p.m., followed by the opening ceremonies.

CITIZEN INPUT ON NON-AGENDA ITEMS: None.

CONSENT AGENDA: **Councilor Daniels moved to adopt the consent agenda: minutes of the workshop, regular meeting and executive session, May 5, 1999; minutes of the executive session May 12, 1999; accounts payable in the amount of \$176,147.42; closing the railroad parking lot from Grant to Ivy for Cutsforth's Cruise-In; annual League of Oregon Cities dues; and N. Redwood storm drain change order. Motion seconded by Councilor Harris, and passed 6-0.

PROCLAMATION: Good Sam Clean Up Day - Mayor Taylor read the proclamation. There was no representative of that organization to receive the proclamation.

Mayor Taylor said on the same day as the Good Sam Clean Up Day, May 22, there was going to be a Pedestrian Bridge Grand Opening. They were to meet at 8:30 a.m. at Trost school and they would have some brief words at the bridge, then they would run, walk or ride on the new logging road. They could also buy t-shirts and would have punch and cake as well.

PUBLIC HEARINGS: N. Redwood Advanced Financing District -

Mayor Taylor opened the public hearing at 7:37 p.m.

John Kelley said they had some conversations after the last Council meeting in which the Council was interested in looking at System Development Charges as an alternative to an Advanced Financing District for reimbursement for the Redwood storm/sewer project. As a result, they contacted Mr. Jordan, Ray Bartlett, and met with Jack Hammond, who was doing an SDC overlay for the City of Sandy. They were able to get a copy of and review the SDC overlay for the South End sewer project in Oregon City. Mr. McLeod prepared a memo dated May 12,

1999, in which he laid this process out.

Mayor Taylor wanted Mr. McLeod to go through that process with them.

John Kelley said in talking last week with Tim Sercomb, who was the Postlewait's attorney, when they discussed bringing this matter before the Council wanted an opportunity to prepare and present, if the Council rejected the idea of a Systems Development Charge as a way to cover the financing, their expert testimony regarding the methodology that had been proposed for the Advanced Financing District. Rather than have them pay for that expert in the event the Council was going to opt for the Systems Development Charge, they agreed that they would not have to do a presentation that night. What they planned to do that night was to get the information from Mr. McLeod, answer the Councils' questions regarding the SDCs, and take any testimony from anyone who wished to testify regarding the Advanced Financing District. They would continue this if the Council decided not to opt for the SDC financing to June 2 to allow further testimony and to allow the Postlewaits the opportunity to present their expert witness.

Mayor Taylor clarified that they were talking about an Advanced Financing District and a Systems Development Charge overlay.

Staff Report: Mr. McLeod said after the last Council meeting he called several cities around the valley, such as Milwaukie, Lake Oswego, Beaverton, and Tigard, and it was not common to find this type of an SDC application, however he did find that one was adopted in Oregon City in the last year and a half and the City of Sandy was in the process of adopting one right now. In effect, what they were doing was a site specific improvement and identifying a benefitted area, handling it as an SDC overlay so it went into the building permit costs and allocated the cost only to a specific district, although they could base it on the percent of the capacity used of a system. The City of Sandy was doing it because of the opposition they received to an Advanced Financing District. The City of Oregon City did one in joint partnership with four or five private developers up on South End Road. Their project was to make reimbursement payments to developers, and had been doing so for four quarters now. The developers preferred to have an SDC overlay because it eliminated the concerns about interest costs, there would be no lien or a recording against the property, and it eliminated the automatic accrual of interest. The only time interest was upgraded in SDCs was when they did a periodic review of the methodology. The SDC process would take 60 days to complete. The first step would be to update the methodology.

Mayor Taylor said the main benefits were that under the Advanced Financing District, one of the concerns was that once it was formed, people only paid when they connected, but in the mean time, they were accruing interest payments. With the SDC overlay that did not exist unless they updated the methodology.

Mr. McLeod said another benefit of the SDC overlay was that there was no identified district that was recorded in Clackamas County records that identified the property with a lien. If a property went up for sale, and they did a title search, it would not be a lien that came back on the property,

or the property would not be identified in a district. In an SDC that district would not necessarily need to be identified. They could sell capacity as they did on all other SDCs when each household that connected had so many square feet of impervious area, so many gallons per minute of run-off, and their pipeline had so much capacity, and sell that prorated share. Those connections could come from anyone who logistically could hook up to that pipeline. Another way to handle it was to earmark this area as being the only ones to have access to connect to that line so they would not use the capacity up by allowing adjoining developments to come in. In the long run, if an adjoining development came in and used up 15% of its capacity, 15% of the land in its identified district would be in a dilemma because they would have to build a new pipeline some place to dispose of their stormwater if they were to develop.

Councilor Harris asked if he could explain the 15% again. Mr. McLeod said he used that as an example if they were to sell any capacity of that pipeline. With an SDC they could sell capacity to anyone. There would be people interested in hooking up, but that line was designed only for that area identified in that district. If they allowed any other connections outside of that district, sooner or later they would run out of capacity in that pipeline. Right now the capacity for that line was earmarked only for those properties identified in the original Advanced Financing District. The City had the option of simply having an SDC that would sell capacity, and that capacity could be sold to anyone who wanted to connect to that line. More appropriately for the long-term orderly design of utilities, they would have an SDC and hold the capacity in reserve for the people only within the existing district.

Councilor Harris wanted Mr. McLeod to explain the process of the SDC and how the amount was calculated for a connection in simple terms.

Mr. McLeod said SDCs had two components, a reimbursement fee for costs the public had already paid for infrastructure which was the Phase I construction of the storm drain project. There was also an improvement fee for implementation of a capital improvement plan that was identified. There was no magic with the numbers, there would be a reimbursement fee for costs already expended by the City and an improvement fee for costs planned to be expended to complete the trunk sewer of the storm line. The way an SDC overlay would work was to inventory those two components, calculate how many benefitted properties there were or how many residential units that could connect to that line. That could be done a couple of ways. Ray Bartlett was concerned about the implications on a Measure 5 tax, if they were only going to do it on a per lot basis, that may have an impact whether it could be challenged as a property tax or not. Customarily the cost of the project, both the reimbursement and improvement costs, were allocated over the impervious area of a residential unit.

Councilor Harris asked what an impervious area of a unit was? Mr. McLeod said it was the amount of the lot that did not allow water to perk into the ground, any solid surface of a house. That surface would include the roof area and the driveway area and they would calculate how many gallons came off of that and then they would prorate the capacity of the storm sewer based on the contribution from each residential unit's solid area that did not drain into the ground. The

impact of that was the capacity of that line would still allocate out to the same number of units because the same method was used to size the pipeline. Using an SDC would be another method of doing some calculations to determine how to allocate costs and would allocate costs directly to an individual lot, and it was a fee that was paid at the time of issuance of a building permit.

Councilor Harris said as long as there was not a building permit requested, there was no fee or lien attached to it, they could live there forever and never pay an SDC as long as they didn't put in an application for a building permit and connect to it. If they did connect, then it was calculated based on the square footage of the impervious area of their lot. If they had a bigger house and bigger driveway, they would have to pay a bigger fee.

Mr. McLeod said to make the logistics work, they analyzed a few houses and came up with an average, an average residential unit had this percent of impervious area, and they came up with a fee based on that average.

Councilor Harris said all of this was based on the whole project, not on one specific phase, but covering the whole area and was divided up. Mr. McLeod said they were exactly the same as other SDCs the City had, they would adopt capital improvement plans and would collect for dollars already spent and collect for the dollars they anticipated to spend in the future. When the last lot developed in this area, that check would pay for the last foot of that pipe going in. By the time the last developer was done, the last foot of the capital improvement plan had been built.

Councilor Harris said if some chunk of this was never developed, the pipeline was in there, it was tax payer money that paid for the pipe and they were waiting until some time in the future when it would be developed and paid for.

Councilor Harris asked how the Advanced Financing District worked. Mr. McLeod said it was similar to the SDC in its fees, allocation, and assessment. There was a district that was identified and recorded with the County so that a person could find out if the property was located within the district and determine what the fees would be for the property. An Advanced Financing District had a built-in escalation factor that was around 7%. Just like the SDC, they never had to pay it if they never developed the property. If they developed the property, the fee would be paid at the time the building permit was issued. At that time, they would prorate the fee allocated for each property over the number of lots for that development and they would collect the fee as the building permits were sold with the interest accruing automatically.

Councilor Harris asked if he was a property owner listening to this, how did it make a difference, at the end was it the same amount they would be paying? Mr. McLeod said theoretically the fee should be identical in both cases.

Mayor Taylor said with an Advanced Financing District they had interest accruing, if a property owner waited 20 years, there would be a 7% per year addition to their fee, and on the SDC, they did not have that running fee, it was whatever the Council decided the rate to be at that point in

time.

Mr. McLeod said with an SDC the City should be diligent in updating it so they did not lose value. They were selling capacity, that capacity had a value that continually needed to be updated to keep up with replacement costs. An SDC escalated with inflation and should be updated every two years. The last time the City's storm drain SDC was updated was in 1994, but it should be more frequently than that because they were selling a capacity that they would have to replace. If they did not collect enough money to replace that, then at the end they would have to make up the difference when they built the next capacity. If they did continue to update SDCs to current replacement value, that value should be the same as an Advanced Financing District if an Advanced Financing District adopted an inflation rate of interest only. If an Advanced Financing District adopted the rate in the Code, it was much higher, around 7%.

John Kelley said the Code said that improvements put in by private contractors was 7%, but for improvements put in by the City, it was the interest rate that the City paid to borrow the money to do the infrastructure improvement.

Councilor Carson asked if the lots already established out there would fall under this SDC overlay or would they be exempt? Mr. McLeod said they had the requirement of building the storm drain as a condition of approval, so those early lot sales had money in escrow to pay those fees, and they were required to pay those fees under either option.

Councilor Daniels said if the district was 70 acres, and if the pipe size was determined by acreage, if they had decided to do an SDC overlay before this, would they have used a larger pipe anticipating that the other people out there would want to hook up to it? Mr. McLeod said the only reason they built the pipe they did was because the next component that was to hook to this pipeline was to extend down 10th Avenue. That did not come into play unless EPA decided the dry well disposal was not acceptable. There were regulations out there that made it difficult to build new dry wells, they had to be 500 feet away from any domestic well, no deeper than 3 feet above the ground water table, and not be feasible to build a pipeline. Until the end of next year, they were giving amnesty to the City for all the dry wells that were built. When they applied, they would issue the City an NPDES, National Pollutant Discharge Elimination System, permit that would allow the City to discharge through all the existing dry wells that they had. It was the same permit they had for the Wastewater Treatment Plant to discharge into the Willamette River.

Councilor Daniels said for those across Redwood who would want to hook into that, was the City obligated to allow them to hook up because of dry well problems in that area or was it optional? Mr. McLeod said it was not an opinion, they did not have the capacity in that system unless they elected to allow connections to that system until capacity was used.

Mayor Taylor said if they did not want to pursue the Advanced Financing District, they would not need to have a public hearing on that, and if they liked the SDC option, they would go forward with that, and at some point in the future there would an opportunity for people to

discuss that issue with the Council. The other option was the Council would still want to do an Advanced Financing District, they would listen to testimony that night and set it over to June 2 to allow Mr. Sercomb and his additional testimony to come before them. The Mayor wanted to know what the Council wanted to do.

Councilor Daniels said the letters they received from the Postlewaits and their attorney had to do with contesting the fees and also the cost of the system, would they still be going over that if they went to the SDC overlay?

John Kelley was not sure, Mr. Sercomb had not talked with him about anything regarding the Systems Development Charge and their position in regard to that.

Councilor Lucas suggested to do a straw poll of the Council to see if they were in favor of the SDC, and if they were, allow the people who were there a chance to discuss the SDC overlay and then take a vote at that time.

Mayor Taylor asked the Council if they wanted to do an Advanced Financing District or a SDC?

Councilor Harris said in both instances if a property owner did not develop, they did not pay, if they did develop, they did pay and it would probably be the same amount. What advantage was it to the property owner one way or the other, and as far as the City, didn't it come out the same either way?

Councilor Lucas said if it was an SDC overlay, there would be an interest charge of 3% for cost of inflation, and with the AFD, it was going to be about 7%.

Mr. McLeod said the distinction was they had the cost of money or the cost of inflation. The way the Ordinance was set up, you charged the cost of money, about five and a half percent, whatever it cost the City to borrow it. John Kelley said if they instituted a SDC program, they would arrive at a figure that per lot average across the area would be the amount that the developer or builder or home owner had to pay when they applied for a building permit. From that time until the next time they revised the SDC to increase the amount, any of those builders that developed during that time would only pay the rate that was in effect as of the time they passed the SDC ordinance. For that period of time, they knew what they had to pay and were not accruing interest over that 2-4 years it took to get back to revising and raising the SDC charge. Potentially what happened was if the City was diligent about raising the SDC charges, and the building community knew that, they would try to build when the fees were the lowest because they did not want to wait until they raised the fee. This encouraged development of the area because if they built during the 2-4 year period, they knew what the fee was and knew it was not going up and it was not accruing interest.

Councilor Harris asked in a dollar amount, roughly how much was it for a lot? Mr. McLeod said it would be \$1600 to \$1700 dollars per lot. Councilor Harris said if they were talking about 5%

per year on \$1600, that would not be an amount that would sway developers.

John Kelley said they had to multiply that by the number of lots they could get in an acre and then by the number of acres they would bring in to develop.

Councilor Harris said it was a slight advantage to the developers if they went with the SDC. Mr. Kelley said yes, if they were to build now rather than later, within the timeframe before they raised the SDCs again.

Councilor Harris said they had not been that diligent in raising them. He felt that they should go with the SDC.

Councilor Carson said the SDC was as good as any other option to get the money reimbursed.

Councilor Prince said he was inclined toward the SDC. He thought it was good that the uniform costs let everyone know how much it would cost up-front to develop and eliminated the accrual of interest.

John Kelley said with the Logging Road Advanced Financing District, they put in that ordinance the 20 year life of that obligation. If the property owner waited 20 years, interest accruing or not, there would be no obligation for them to pay after that 20 years assuming they would adopt the same language they adopted previously.

Councilor Daniels said based on the information they got from Mr. McLeod on the other two cities, he felt the SDC was a cleaner operation.

Councilor Lucas said he wanted to go with the SDC overlay also.

Councilor Strong said she liked the SDC option.

Mayor Taylor said the Council was in favor of the SDC process. When they went to adopt the rate, there would be an opportunity to discuss how they picked the numbers, where did it come from, etc., in a public hearing. They would have an opportunity for the public to discuss the methodology and whether or not it made sense. He asked if anyone wanted to testify on this if their need would not be met at the discussion on the rate of the methodology, or if they had needs that would not be met by the SDC overlay.

No one wished to address the Council.

Mayor Taylor said they would go to an extra effort when the rate and process was ready for the public hearing that this district would be properly noticed and that everyone would know about it and they would be prepared to talk to the Council about it.

****Councilor Harris moved to instruct staff to terminate efforts on an Advanced Financing District for N. Redwood and commence a process to establish an SDC overlay for that area. Motion seconded by Councilor Strong.**

Mr. McLeod said they should only suspend the Advanced Financing District until they were through the SDC process as opposed to abandoning the AFD process. The Advanced Financing District had a timeline on it. They could do the SDC anytime, but the AFD they only got the one chance to do it.

****Councilor Harris modified the motion to suspend the Advanced Financing District and commence a process to establish an SDC overlay. Councilor Strong seconded. The motion passed 6-0.**

The public hearing closed at 8:25 p.m.

The Mayor read a proclamation regarding the recent election on May 18, 1999. This was the unofficial count on four ballot measures. All the measures were requests for properties to be annexed into Canby city limits and all passed by 2-1.

John Kelley said when they got the official results from the County, they would need to have an ordinance or resolution declaring the annexations because previously they sent the resolution to the Boundary Commission and they would then declare the annexation valid. Now that the Boundary Commission no longer had jurisdiction over the City, they had to establish a new process of declaring the annexation valid.

The Mayor said speaking of annexations, they recently passed a measure on voter approved annexation. He was going to talk about that issue and wanted to get a brief summary of the votes they had on annexations since they passed that.

Councilor Lucas said when they were campaigning for voter approved annexation, they were told by the Home Builder's Association that they would probably never pass another annexation if they got that. They had not failed one yet.

The Mayor also wanted the numbers on the original vote on voter approved annexation.

Cutsforth Canby Station Project Development Agreement -

Mayor Taylor opened the public hearing at 8:32 p.m.

Mayor Taylor read the public hearing format. This was a public hearing to take comment on a proposed development agreement between the City of Canby and Cutsforth Enterprises for development of 5.2 acres of property located at 225 NE 2nd. This was an addition to the current Thriftway store and street improvements to N. Ivy and NE 2nd St. The City of Canby would

provide \$430,000 to assist in this development.

Conflict of Interest:

Councilor Carson - no conflict.
Councilor Prince - no conflict.
Councilor Harris - no conflict.
Councilor Daniels - no conflict.
Councilor Lucas - no conflict.
Councilor Strong - no conflict.

Staff Report: Jerry Pineau said what they had that night in front of them was Ordinance 1022, which would be approving the Canby Station Development Agreement between the City of Canby, Cutsforth Enterprises, and Oregon Limited Partnership. This partnership wanted the property where the corner of Thriftway Market was, Canby Builder's was, and where the N. Ivy intersection was between the Railroad and 1st Avenue to be developed in a manner that would be a gateway to the rest of the downtown core area. In order to do that, it required several things, but one of those was to have Canby Builder's Supply relocated and the building to be razed in order to open up the area so the City could put in the proper street and sidewalks, and to open up the area to have a visual view from 99E, creating an open gateway to invite people to the downtown. In order to do that, they had to invest 6.2 million dollars. They agreed that the City would contribute \$430,000 out of that 6.2 million. In return, the City would have Canby Builder's Supply torn down in two years after signing the contract, Ivy Street would have to be improved within that two years, and phase two of that project would have to be completed within four years, but started within two years. He negotiated with the Cutsforths that even though it was their land, they wanted to go ahead with the project now rather than wait 5 to 10 years down the road. N. Ivy was very congested and was a main arterial going north and south through the City. This project gave them the opportunity to widen the street. It also gave them the opportunity to have a sidewalk that was wider, instead of 8 feet it would be 10 feet. That way they could blend it in with the type of decor they were going to be using on 2nd Avenue. It also gave them an open space which would be for public use. They wanted it to tie in to the trail they were going to put in the Railroad right of way along the Union Pacific Railroad from end to end and tied into the bicycle lanes on Ivy, and it would tie in to going across 1st Avenue. To do that all together, the Cutsforths asked that the City invest \$430,000 into the project. Staff recommendation was to go forward with this project and to adopt the Ordinance.

Applicant: Frank Cutsforth said this had been a long process. There would be many benefits, such as open space, it would benefit the future of the City, and gave them a chance to win as a downtown and to be ahead of the game.

Bill Patterson was the principle in charge of the Northwest for Municipal Group Architects whose office was in Wilsonville, and whose company had been in the Northwest for over five years. They were pleased to present the concepts of what they referred to as Phase IIb for the

Cutsforth property. Phase I was the existing Thriftway building, and Phase IIa was a retail development that was planned on the northwestern portion of the property and Phase IIb was the public space and public amenity part. That night was about commitment, it was about a family who desired greatly to do what was right for Canby, what was right for Canby now and what was right for Canby in the future. It was about risk, and about a family offering up valuable real estate in exchange for a vision, which was a family with great history in town considering the possibilities for the livelihood and the success of the downtown area. There were four concepts he wanted to present to the Council that night. The first was as part of this proposal, there would be improved safety and access and improved traffic flow. The second was the Cutsforths were providing a public amenity usable by the entire populous. The third concept was they were straightening out and improving right of way issues. The fourth was they had before them a cornerstone that could be a critical part to the future of Canby.

He showed the prominence of the intersection relative to the entire downtown by showing them a map of the comp plan. The property was at a highly critical intersection, 1st and Ivy. Ivy was the primary north/south feeder, its cross street, 1st Avenue was perceived as the finest part of the essence of downtown Canby, a very alive, well-traveled retail portion of town. They took the responsibilities of such an important site very seriously. With regard to improved safety, currently the Canby Builder's Supply extended into the right of way 20 feet. What that created was a hazard. It narrowed the street and was unsafe for pedestrians. In this proposal, the building would be demolished and the 20 feet the building extended into the right of way would go back to the original line. That would make a wider street and make it much safer. Mr. McLeod's office developed a concept for how the public right of way improvements would happen at the intersection and he showed them on the map. He showed them the street improvements on the map, such as curbs, sidewalks, gutters, etc. Traffic would be able to flow in the east/west direction on 1st Avenue and would continue to travel north/south on Ivy. He showed how the traffic would flow on those two streets, being able to make right and left turns onto Ivy and going straight across the intersection on 1st. The traffic patterns became more organized. Open space was generated and a more visible corner existed.

Mayor Taylor asked if that would require a light? Mr. Patterson said that was not part of the proposal. There would be stop signs, but the preliminary analysis was not considering a traffic light at that point.

Councilor Lucas asked how a pedestrian was to get across 1st Avenue if he was going north on Ivy? Mr. Patterson said the pedestrian would cross onto an island and then across the rest of 1st.

Mr. Patterson went on to say that this was creating a public amenity. They focused on the importance of developing and embellishing a sense of place in the downtown area. A sense of place helped promote the livability, visibility, market-ability, and the success of a downtown area. A community became vital when space was provided to the general public for having events. Mr. Patterson brought up another sketch to show the commitment the Cutsforths made to this project. He showed the existing property with a variety of different tax lots on it and how

those would be changed to become much more orderly. Part of this was that currently they had a two ownership situation and where there were two owners, there was more complexity involved with getting development that accommodate and addressed public amenities and public needs. They simplified that and the Cutsforths purchased the property so that all ownership was under one name. This was the start of Canby revitalization in the downtown Canby area. This property could be a cornerstone for future development. He showed the Council the various ideas of what the property in question could look like. One idea was having a grassy, open area usable by large crowds at the same time and as the train came by from the edges of the park there would be a water source that sprayed over from both sides in sequence with the train going by. This was a highly image oriented part of the public space that tied it back to the important basis of Canby's history, the railroad. There would be a circular plaza with a raised portion to it and would be a source point for speeches and honorary awards and at the other end a featured landscape element and potential seating along the edges. Another idea was more fluid and took into consideration the very strong linear green element that ran east/west along 1st Avenue, especially the existing Elms. There was a green wall approximately 6 feet high that ran the full southern edge of the park. Central to the park and set back from the Ivy Street frontage was a covered pavilion, which would be a source point for speeches, etc. This was very open and flexible and could accommodate even a car show. Another idea was a clock tower on the site with a planting and seating on each side, and a raised platform area around the clock tower. He thought these, though they were preliminary ideas, would display what they felt were some exciting opportunities for place-making in the downtown area. Some of these ideas had been presented to the business community and they responded very positively. He closed by emphasizing the design team and the commitment made by the Cutsforths showed how they wanted to contribute greatly to the success of this community and they were taking great risks to do so, yet at the same time knowing that without the vision, the future had no road map.

Kathy Henderson, representative of the Chamber of Commerce and revitalization effort, said that aside for all of the design elements they heard that night they needed to think about the impact on the commercial district that was established as opposed to encouraging commercial sprawl. A lot of communities that had a major arterial through them tended to sprawl on the outskirts of town which drew folks and the economic vitality out of the center of the community. The Cutsforth development was beautiful. The Chamber and revitalization effort wanted to go on record as being in support of the Council's commitment to this project. They felt that it was this kind of foresight and dedication to the community that kept things alive not only in the downtown core, but in the existing commercial area as well. They had clearly been in support of revitalization and this project definitely exemplified that and they commended them for that. The improvement in the existing downtown core was vital. This was something you saw very rarely and something that people really liked to draw into their downtown and were looking for everywhere you went. This was a really positive step for the Council.

****Councilor Harris moved to adopt Ordinance 1022, AN ORDINANCE AUTHORIZING THE CANBY STATION DEVELOPMENT AGREEMENT be passed and come up for second reading on June 2, 1999. Motion seconded by Councilor Lucas.**

Councilor Harris said a lot of work had gone into this and besides this looking very nice and the advantage to the downtown revitalization, it had the advantage to the community, Council, and to tax payers, because it allowed them to widen N. Ivy between 1st and 2nd which had been such a bottleneck for so long and there had been no practical way for the City to be able to change. This answered a terrific problem for the community and did it in a very attractive and efficient way. He commended all of those that were involved in this and they had done the City a favor.

Councilor Prince appreciated everything that had been done on this project. It was a project that was long time coming and had been talked about for a long time. He felt this was the first phase of the downtown redevelopment and it was starting off well. They had a really good chance of saving downtown and revitalizing it.

Councilor Lucas said it would be nice to drive to Cutsforths and not have to dodge the fork lifts.

Mayor Taylor said this was a different way of doing business. It was something new and different for the City to engage in. He wanted to make sure that people understood that part of the agreement got the road and other things taken care of that the City normally would pay for. This was a cooperative agreement, it was not just a gift of money to build something. It was the City doing the development and working with that in a different way to accomplish what they would have to pay anyway to do the improvements.

The motion to pass Ordinance 1022 passed 6-0 on first reading.

Mayor Taylor closed the public hearing at 9:07 p.m.

Mayor Taylor recessed the regular session for a short break at 9:07 p.m. and reconvened the meeting at 9:17 p.m.

HD 99-01, Historic Landmark Designation of 489 N. Holly Street -

Mayor Taylor opened the public hearing at 9:18 p.m.

Mayor Taylor said they had a Historic Review Board and someone had applied for historic designation. They met the criteria as was listed on the board, the owners of the property wanted this to become a historic site, and in making this designation by the Council they would declare this piece of property historic. Being designated as historic did put restrictions on the property for future use and required them to get Council approval if they wanted to do certain things, and other things were permitted with a conditional use permit. They had set up the original ordinance many years ago and had set it up in such a way that they would not go out and find people to make them historic, but people would apply for that and the City would then apply the criteria to those houses that wished to have a historical designation.

Staff Report: Mr. Chiavarini said this house was at 489 N. Holly Street, it was on the corner of

5th and Holly. The house belonged to Carol Mangus, owner of the Mangus Variety Store which just recently closed, and who had been a long time Canby resident. She lived in the house since it was built in 1956 and she maintained the yard and vegetation meticulously and the house was in very good condition. Although the house was not 50 years old, which could be a minimum criteria, the Historic Review Board felt that because of the historical, architectural, and environmental significance of the property, such as the association with the Mangus family and the Mangus Variety Store and the on-sight setting as well as the architectural features of the house in that it was one of only a few of this particular ranch style, they felt it was worthy of protection as a historic landmark under the City's ordinance. Mrs. Mangus was in favor of this and the last historic house they designated was across the street at 5th Avenue and some of the other homes in the area had expressed an interest in potentially doing this. They were moving towards potentially a small district in that area.

****Councilor Daniels moved to approve HD 99-01, an application for Historic Landmark Designation of the Mangus House at 489 N. Holly Street, and direct staff to return with written findings at the June 2, 1999 meeting of the Canby City Council. Motion seconded by Councilor Lucas.**

Mayor Taylor asked if there was anyone out in the audience that wanted to address the Council on this issue?

There was no public testimony.

Councilor Harris said that there was something about designating a historical landmark that was significantly younger than he was that bothered him just a little bit. Councilor Lucas felt the same way.

The motion to approve HD 99-01 passed 6-0.

The Mayor closed the public hearing at 9:30 p.m.

NEW BUSINESS: Rental Policy Changes for Canby Adult Center - Mayor Taylor said they had a request after the Adult Center reviewed their price rates, and after looking at those and comparing with others around, found they had been giving a bargain a little longer than they intended. They wanted to make it a little more, although it was still a bargain, competitive to bring in some additional revenue to the Adult Center.

****Councilor Daniels moved to adopt the fee schedule as presented by the Canby Adult Center Board of Directors. Motion seconded by Councilor Harris and passed 6-0.**

Trust for Public Land - Mayor Taylor said they asked when they heard about the potential for the public trust development at the end of the logging road if they could contact Mr. Hodder and see if he could be available to meet with them and talk about their interest. Mr. Hodder would not be

available until June and the Council very much wanted to meet with him. They also had a request from Councilor Prince about a right of first refusal and had wanted them to check into that.

Ms. Saul said she had checked that with Mike Jordan, and he said there was never anything written, it was only verbal. There was no actual written agreement.

Councilor Prince wanted to know if it was verbal, did the client still feel that way?

Ms. Saul did not know about that. Mayor Taylor wanted Ms. Saul to call them.

John Kelley said when they started the negotiations, things fell apart a little bit. Mayor Taylor said he remembered they fell apart because they were still going to be using that road and they had some trespass issues and other things and they did not want to go that far with them at that point. Now that they no longer used that piece, they may be more willing to talk to them about it.

Mayor Taylor said there was interest by sufficient number of the Council to explore this issue.

Councilor Daniels asked if they made contact with the client, could they get a letter from them so they could have a record of it.

Ms. Saul said she felt somewhat reluctant to do too much that might jeopardize at all what the trust was trying to do, because the trust had some kind of right of first refusal. The trust was also trying to get people interested in partnering with the City, even groups like METRO, Clackamas County, the State, etc.

Mayor Taylor said their concern was that if the trust could not get things pulled together fast enough, the City might be able to get it together faster and they wanted to be in line for another option if this did not pan out.

MANAGER'S REPORT: Ms. Saul did not have anything for the Council that night.

Mayor Taylor reminded the Council that they had an executive session next Wednesday, May 26, 1999, at 7 p.m. in the Council Chambers to discuss employment of the new City Administrator.

COUNCILORS' ISSUES:

Councilor Prince said he was the liaison for the Long Range Facility Planning Committee for the school district. Last night they had a discussion regarding land acquisitions for a new school. The school was looking for an area of 15 to 20 acres. At the last meeting with the School Board, Planning Commission, and Council he had brought up the idea of a joint ownership of purchase of property which would include the school district and the City to site a park in the same area. He wanted to know if the Council was interested in a preliminary discussion with the school district about doing something of that nature in the next 1 to 5 years. They were going to have to

purchase some property in the near future and he was hoping they could be on board with that. He thought perhaps they could have a fund set up so they would be able to react quickly if they needed to.

The Council had no objection to having further discussion about that opportunity.

Councilor Harris brought up the topic of the new bicycle lanes. Initially there was a lot of resistance to them, but those who initially complained seemed to have been mollified and were much happier now that the lane was narrower. He wanted to follow that up as he saw kids on bicycles riding down the sidewalks that day on Grant. Obviously they needed to have an educational program to get people into the new lanes and to have some enforcement. They had discussed at one point projecting out when they had the lanes and at some point they were going to start enforcing that.

Mayor Taylor said that was a pilot project to see how it was going to work, now that they finally had lines, people had not yet adjusted to it yet. He thought they should allow them time to adjust and get them aware that the bike lanes were safe to ride their bikes in. If that did not work, they could move to enforcement.

John Kelley said they did not have an ordinance that said they could not ride their bicycles on the sidewalk, they had the State law that they had to operate a bicycle like a vehicle and they could theoretically be charged with careless driving if they were riding on a sidewalk and there were people on the sidewalk.

Mayor Taylor asked if Mr. Kelley could draft an ordinance on the bicycles not being on the sidewalks where they had bike lanes available for July.

Councilor Harris said there was also discussion about getting skateboards off the sidewalks. Were skateboards supposed to be out in the bike lane or on a sidewalk?

Chief Giger said the Department of Transportation did not recognize skateboards as a vehicle like they did bicycles. People on them were still pedestrians, just like a scooter which was not supposed to be operated on the street either. They checked with ODOT in regards to some of the things that could or could not be permitted. In the City they could do almost anything they wanted, but when it came to the State law, they had to follow it as much as they could.

Mayor Taylor said if they wrote an ordinance saying skateboards could not be on the sidewalks, they would basically be in violation?

Chief Giger said they could do that, but they just could not tell them they had to be in the street.

Councilor Lucas said if they said the skateboarders could not be on the sidewalk, they were saying they could not ride their skateboards in Canby. Chief Giger said what they wanted to do

was pick some areas where they should not be, probably the retail, commercial downtown areas. Out in the residential areas there was not much of a problem, but where the storefronts were right up to the sidewalk where people immediately stepped out onto the sidewalk was the problem.

Mayor Taylor asked if they could pace this so they had the skateboard park before they prohibited them? He wanted to have a place for them to go before they banished them from downtown.

John Kelley said whether it was bicycles, skateboards, roller blades, etc., cities that banned the riding or using of those on sidewalks prohibited them in a limited geographic area, generally the downtown commercial area. Where they were zoned downtown commercial, that was where they could not ride a bicycle or skateboard on a sidewalk. Of the ordinances he had seen, there were no ordinances that banned city-wide the riding of bicycles or skateboards on sidewalks.

Mayor Taylor said they would have some nice amenities soon for them and maybe they should get those in place and then figure out the patterns and how they were going to redirect people. They may find that traffic would adjust itself when they at least had a place to move it to.

Councilor Daniels said he felt this was a safety issue and thought they were not objecting to the skateboarders to be out in the City, it was just downtown where they should not be and he did not think it would make a difference when the skate park came in.

Councilor Lucas said when they talked about banning them from the sidewalks before, they said they were going to put in bike lanes and decided to test them for a while. Now they had bike lanes on one street, and if that worked out, then they should do something. The bike lanes were really good, the school liked them, but once that was made permanent and they put them on connecting streets, that was the time to move ahead and by then the skate park would be done and then they could say there were places to go, don't go here. Now when there was no place to go, he felt it was not right.

Councilor Carson wanted to leave it the way it was right now.

Councilor Prince said he was torn between the public safety aspect in the short run, knowing there was a problem and addressing it should happen at the same time at least for the downtown area for skateboards. He wanted to do something similar to what Councilor Daniels suggested.

Councilor Daniels said his concern was they rode faster than the pedestrians were walking, particularly going around the corners.

Councilor Lucas asked if Councilor Daniels was only talking about skateboards, not roller blades or bicycles?

Councilor Daniels said they were talking about including those in the ordinance and for the safety standpoint, he wanted to see the skateboards out of downtown.

Mayor Taylor said when Councilor Daniels said he was concerned about the safety, was he talking about skateboards and roller blades on the sidewalks, that was what he was hoping they would address? Councilor Daniels said yes. Mayor Taylor said and the bicycles? Councilor Daniels said they had a place to go now.

Councilor Daniels said when they came back with an ordinance for the bicycles, he wanted to put the skateboards in that same ordinance.

Mayor Taylor said he wanted to have options in place before they started to enforce this, but it sounded like some of the Council wanted to go faster because public safety was compromised while they waited.

Councilor Strong thought they should have some place for these people to go before they passed an ordinance. She could see the public safety point, but did they have any problems with skateboards and roller blades bowling pedestrians down? Chief Giger said the problems they had were mostly non-contact complaints where senior citizens were trying to walk on the sidewalk and when they moved out of the way, they felt threatened that they might fall down or get run over. As far as big problems, there was property that got torn up because of the skateboarders. One of the things they saw were the ones that did all of the trick things on all of the hand rails and steps and benches, and then there were those young people who used their skateboards for transportation. What they wanted to do was get appropriate areas where they should use skateboards and where they should not when they interfered with people walking. Most cities had an area where there was a lot of pedestrian traffic where they had an ordinance that said there was no skateboarding in that area. In Canby it would be a six block by six block area. The bicycles were a different story because when they got through with their bicycle plan, they would have places to go around town on all the major streets.

Councilor Strong agreed with Councilor Daniels, especially since they had some complaints. They could still use their skateboards, just not downtown.

Councilor Daniels said they were not taking it away from them, it was just restricting an area.

Councilor Harris was not anxious to impose the restrictions, but he felt they should be prepared for an increase in skateboard use when they had the skateboard park because that would encourage people to be on skateboards, and they would get to the park on the skateboard and a lot of them would be coming through downtown. They should anticipate an increased number of skateboards on the sidewalks, so when they reached that point when they had the skateboard park, in one sense to the skateboarders it was a trade. They were giving them a park so now they could not go on the sidewalks downtown. At that point they should have the restrictions.

Mayor Taylor said the Council was tied three to three and the discussion was about timeline. His vote was the tie-breaker and he said they were going to wait awhile.

Ms. Saul asked if Mr. Kelley needed to draft them an ordinance about the bicycles by July? Mayor Taylor said he was not sure when the rest of the lanes would be put down so people could get around downtown on bike paths, right now they just had the one.

John Kelley said they would just set it down on an agenda for the last meeting in July and review it at that time and if they thought they were ready then, he could bring back an ordinance. Mayor Taylor wanted to make it the first meeting in August.

Councilor Daniels said he and the Mayor were down in Salem on Friday testifying at the Senate committee regarding Tri-Met, and they had favorable response and they voted unanimously to present it to the floor of the Senate to remove them from Tri-Met within a two year period. If they did not do anything in that two years, they would revert back to what they had right now. They wanted to offer better service and transportation to different areas of town on a more systematic basis.

Mayor Taylor said after the governor signed it, they would have a 90 day waiting period.

Mayor Taylor wanted staff to draft two short thank you letters to the chairs of the house committee and the senate committee they were in front of to thank them for their support of the bill and for their courtesy. The three people most responsible for the success of this request were Commissioner Mike Jordan, Senator Metsger, and Representative Schrader. All of them had been key in working with Tri-Met and getting this for the hearing.

Councilor Daniels said the chairman of the Senate committee was Senator Shannon and she was the one who was going to take it to the floor for them. The chairman of the House was Representative Montgomery.

Councilor Strong commented on how nice the new improvements on the south end of 99E looked.

Mayor Taylor also thanked them for the accountability piece and connecting up with the Clackamas County Corrections folks and their work crews and some of the local folks on that work crew helping to take care of this community.

Mayor Taylor said the Council was finishing their background investigation of the finalists for the City Administrator job. They hoped to discuss that next week and hoped soon to release the name of their new City Administrator. They were still on target for knowing who the new City Administrator would be by June.

ACTION REVIEW:

1. Notifying Cutsforths of the Council's approval to close the Railroad parking lot for their Cruise-In in August.

2. Implementing the N. Redwood storm drain change order.
3. Paying the League of Oregon Cities annual dues.
4. Moving forward with the SDC overlay for N. Redwood and suspending the Advanced Financing process.
5. Sending notices to all the people who came to the hearing and keeping them informed of the SDC process.
6. Preparing a summary of the Canby annexation votes and the original vote on voter annexation for the Mayor's use.
7. Bringing back Ordinance 1022 for second reading on June 2.
8. Bringing findings for the historic designation of the Mangus house to the June 2 meeting.
9. Adopting a new fee schedule for the Adult Center.
10. Checking on the right of first refusal, whether there was a chance to have the option should other avenues fail to give the City the rest of the Logging Road.
11. Bringing Sam Hodder to meet with the Council on June 2.
12. Writing thank you letters to the Senate and House Committee Chairs regarding Tri-Met.
13. Bringing back some kind of ordinance regarding bikes, skateboards, and roller blades around the first Council meeting in August.
14. Directing staff to set up a preliminary discussion with the School District regarding land acquisition.

Mayor Taylor said last week he was invited to meet with the Industrial Area Association. He thought the Council needed to spend some time together revisiting and becoming aware of that whole process in a workshop with the Council by themselves and then another workshop if needed with the Industrial Area Association. This would give them some clarity about where they were and how some of the things were working. They had some concerns about communication and their development of the master plan of Phase II of the Industrial Park and their property. At the workshop he wanted planning staff there to help clarify different concepts. They wanted to meet in workshop session for the first meeting in July.

****Councilor Daniels moved to go into Executive Session under ORS 192.660 1(a) employment of a public officer and 1(h) pending litigation. Motion seconded by Councilor Prince and passed 6-0.**

Mayor Taylor recessed the regular session at 9:50 p.m.

Mayor Taylor reconvened the regular session and immediately adjourned the session at 10:30 p.m.

EXECUTIVE SESSION
MAY 19, 1999

PRESENT: Mayor Scott Taylor, Councilors Prince, Strong, Harris, Lucas, Daniels, and Carson, Acting City Administrator Beth Saul, City Attorney John Kelley, and Cam Sivesind.

Mayor Taylor called the session to order at 10:00 p.m.

ORS 192.660 1(a) - The Council discussed the employment of a public officer in terms of hiring and performance. They also discussed the background checking procedures for the Administrator search.

ORS 192.660 1(h) - The Council discussed litigation likely to be filed regarding the Rinkes property.

Mayor Taylor adjourned the session at 10:28 p.m.



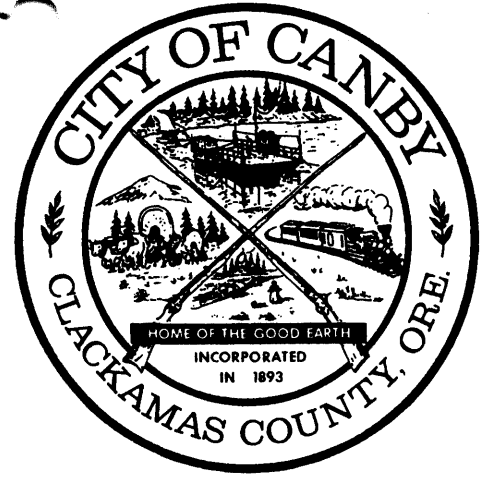
Chaunee Seifried,
City Recorder pro tem



Scott Taylor,
Mayor



Prepared by Susan Wood,
Office Specialist



PROCLAMATION

WHEREAS, the City of Canby, County of Clackamas, Oregon, held a Special District Election on MAY 18, 1999, to consider the following measures:

MEASURE NO. 3-52
MEASURE NO. 3-53
MEASURE NO. 3-54
MEASURE NO. 3-55

WHEREAS, the Clackamas County Elections Department offers the following as an official count of votes as of 10:30 A.M., MAY 26, 1999:

MEASURE NO. 3-52

Shall 1.5 acres located at the end of S. Elm Street and East of Village on the Lochs Manufactured Home Park be annexed into the Canby City limits?

YES - 1,368

NO - 594

There were no over votes, 22 under votes, and a total of 1,984 votes.

MEASURE NO. 3-53

Shall 0.64 acres and 0.86 acres located South of SE Township Road and West of S. Redwood Street be annexed into the Canby City limits?

YES - 1,467

NO - 494

There were 3 over votes, 20 under votes, and a total of 1,984 votes.

MEASURE NO. 3-54

Shall 14.03 acres located on the south side of Highway 99E, north of SE 1st Avenue and east of Redwood Street be annexed into the Canby City limits?

YES - 1,309

NO - 608

There were 4 over votes, 63 under votes, and a total of 1,984 votes.

MEASURE NO. 3-55

Shall 5.5 acres located on the east side of Redwood Street just north of Highway 99E be annexed into the Canby City limits?

YES - 1,113

NO - 563

There were 2 over votes, 306 under votes, and a total of 1,984 votes.

NOW, THEREFORE, I, Scott Taylor, Mayor of the City of Canby, Oregon, do hereby proclaim the foregoing to be a true and accurate accounting as presented by the Clackamas County Elections Division.

Dated this 26 day of May, 1999.

A handwritten signature in black ink, appearing to read "Scott Taylor", written in a cursive style.

Scott Taylor, Mayor

5/19/99 10:06:08

Page 1

** OFFICIAL CANVASS WITH OVER AND UNDER VOTES **

CLACKAMAS COUNTY
SPECIAL ELECTION
MAY 18, 1999

* I, JOHN KAUFFMAN, COUNTY CLERK, CERTIFY THAT THE VOTES * BY : *
* RECORDED ON THIS ABSTRACT CORRECTLY SUMMARIZE THE *
* RESULT OF VOTES CAST AT THE ELECTION INDICATED. *

* DATE OF ABSTRACT : *
* MAY 24 1999 *

John Kauffman

CITY OF CANBY MEASURE 3-52 ANNEXATION OF 1.5 ACRES INTO CITY LIMITS

A -- YES
B -- NO

CITY OF CANBY MEASURE 3-53 ANNEXATION OF 0.64 ACRES AND 0.86 ACRES INTO CITY LIMITS

C -- YES
D -- NO

Precinct	A	B	over	under	total	C	D	over	under	total
0122	259	106	0	4	369	265	100	0	4	369
0123	135	68	0	0	203	141	61	1	0	203
01	397	148	0	5	550	432	113	1	4	550
01	270	124	0	5	399	307	90	0	2	399
012	307	148	0	8	463	322	130	1	10	463
TOTAL	1,368	594	0	22	1,984	1,467	494	3	20	1,984

RECEIVED
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CITY OF CANBY

5/19/99 10:06:09

Page 2

** OFFICIAL CANVASS WITH OVER AND UNDER VOTES **

CLACKAMAS COUNTY
SPECIAL ELECTION
MAY 18, 1999

* I, JOHN KAUFFMAN, COUNTY CLERK, CERTIFY THAT THE VOTES * BY : *John Kauffman* * DATE OF ABSTRACT : *
* RECORDED ON THIS ABSTRACT CORRECTLY SUMMARIZE THE *
* RESULT OF VOTES CAST AT THE ELECTION INDICATED. * MAY 24 1999 *

CITY OF CANBY MEASURE 3-54 ANNEXATION OF 14.03 ACRES INTO CITY LIMITS

A -- YES
B -- NO

CITY OF CANBY MEASURE 3-55 ANNEXATION OF 5.5 ACRES INTO CITY LIMITS

C -- YES
D -- NO

Precinct	A	B	over	under	total	C	D	over	under	total
0122	270	88	0	11	369	217	97	0	55	369
0123	125	71	2	5	203	110	67	0	26	203
07	365	166	0	19	550	322	151	0	77	550
08	265	121	1	12	399	232	105	0	62	399
0124	284	162	1	16	463	232	143	2	86	463
TOTAL	1,309	608	4	63	1,984	1,113	563	2	306	1,984