CANBY CITY COUNCIL
MEETINGS
JANUARY 21, 1998

WORKSHOP SESSION:

PRESENT: Councilors Daniels, Nolder, Harris, Lucas and Strong, Mr. Jordan, Ms. Chaplen, Ms. Seifried, Royce Hagelstein and Ken Kuhns.

The session was called to order at 6:00 pm in the CUB conference room. Dinner was served.

The purpose of the session was to review the 1996-97 audit as prepared by the contract auditors, Ken Kuhns Company.

The session was adjourned at 7:18 p.m.

REGULAR SESSION

Council President Walt Daniels presiding. Council members present: Dennis Nolder, Brad Gerber, Roger Harris, Shirley Strong and Barry Lucas. Absent: Mayor Scott Taylor.

Also present: Administrator Michael Jordan, Finance & Administrative Director Sarah Jo Chaplen, City Attorney John Kelley, City Treasurer Chaunee Seifried, City Recorder Marilyn Perkett, Library & Recreation Director Beth Saul, Police Chief Jerry Giger, Kathy Henderson, Steven Amick, Aliciy Clymens, Ann Summer, Vicki Adamson, Royce Hagelstein, Ken Kuhn, Jerry & Joan Witt, Curtis & Lila Gottman, Heidi Henry, Steve Danchock, Mary Hellhake, David Lampe, Frank Cutsforth, Wayne Scott, Harry LeeKwai, Leo Garre, Malcolm Johnstone, Ray Hoen, Mr. & Mrs. Bob Trappe and others.

Council President Daniels called the session to order at 7:30 p.m., the opening ceremonies were observed.

CITIZEN INPUT ON NON-AGENDA ITEMS: None presented.

CONSENT AGENDA: **Councilman Harris moved to adopt the consent agenda: minutes of regular session January 7, 1998; and accounts payable in the amount

of $122,816.59. Motion seconded by Councilman Lucas and approved 6-0.

NEW BUSINESS: Audit Review - Administrator Jordan introduced Ken Kuhns and Royce Hagelstein from Ken Kuhns and Company, the audit firm responsible for the City and Canby Utility Board audit and noted that an earlier workshop was held to review the audit in depth.

Mr. Kuhns stated that the City of Canby had a "fairly presented" and clean audit, all City financial records are accurate. He noted that during the 1996-97 fiscal year the City converted from a cash to a modified accrual basis, which was an improvement in the accounting system. Mr. Kuhns said the accounting was stream-lined by eliminating some funds. He added that there was a change in staff and with staff assistance a good, clean audit was established. Mr, Kuhns said the new staff is eager and the accounting is in good hands.

Mr. Kuhns stated that his firm did make some suggestions for some financial procedures, however, the City did follow all Oregon state laws and there were no weaknesses in the system.

Council President Daniels thanked Mr. Kuhns for his report.

PUBLIC HEARING: EID - Council President Daniels opened the hearing on the proposed Economic Improvement District at 7:38 p.m.

Attorney Kelley reviewed the procedure, noting that the first informational hearing was held December 17th and Ordinance No 982 was adopted by the Council to establish the procedure.

Mr. Kelley stated that written remonstrances will be accepted tonight and one-third of the assessed property values needs to establish a no vote to stop the creation of the EID.

Bruce Landon, Dairy Queen owner, turned in a written remonstrance at this time.

Kathy Henderson, Chamber director, used a lap-top computer to calculate the up-to-the-minute remonstrances. Ms. Henderson stated that there was a 21.14% rate of remonstrances.

Councilman Harris asked how the percentage was established. He was informed that the assessed value of the property established the vote, and a property with more value had more voting power.

Councilman Gerber asked how the procedure was established. Mr, Kelley said ORS 223 sets the procedure for an EID.

Council President Daniels asked the audience to declare their intent to testify. Only one person expressed an interest to testify as an opponent.

OPPONENT -Wayne Scott, local businessman, stated that he was not in total disagreement to the proposed EID, but did not agree with the procedure. He said he felt his vote on the matter should have been a private issue and not public record. Mr. Scott stated that the financial allocations were not fair, some property adjacent to his property was not assessed at all or like-businesses in town were not assessed. Mr. Scott said because most of his property was in zone two, his vote was of a lessor value. He expressed a concern that a "yes" vote was indicated by silence or a non-vote. Mr. Scott said the democratic procedure was violated. He added that yesterday he counted approximately 30 people voting no, of an approximate 80 properties. Mr. Scott was concerned that he had property on S. Ivy that was assessed and other businesses such as Canby Plumbing, Mini-Storage on the Highway, and Millar's Tire were not included.

Mr. Scott reiterated that he was not opposed to revitalization, only the process and suggested a more equitable assessment be established.

Council President Daniels closed the hearing at 7:57 p.m.

DISCUSSION - Councilman Harris asked how many no votes were tallied and the assessment method.

Mr Jordan noted that the size of the parcel was multiplied by the assessment, depending on the location, it is 5 cents or one and one-half cents.

Kathy Henderson said there were 29 written remonstrances (representing 48 tax lots) and there are 180 properties included. She said there are 122 individuals involved in the EID and 29 individuals responded no.

Councilman Gerber asked about the process. Mr. Kelley said Ordinance 982 sets the process and is based on ORS 223, he reviewed a section of that ordinance.

Mr. Kelley advised the Council that they had the flexibility to modify the proposal, specifically the money ratio.

Councilman Gerber asked about the disclosure of the vote and democracy. Mr. Kelley said that is actually a philosophical issue.

Malcolm Johnstone, Oregon Downtown Development Organization, said the EID process grew out the LID process. Fairness is addressed when a 2/3 positive vote is necessary to support the process. He added that the project will sunset (end) in five years, at which time it can be considered for renewal. Mr. Johnstone said the City has the option to do as Gresham did and ask for a petition to see if 51% of the property owners would approve of the EID and BID, and Gresham did get 53% approval rate.

Mr, Kelley noted that the boundary issue was a concern of Mr. Scott. Mr. Scott said that was not the issue, it is an issue of fairness. He said he felt his mini storage on S. Ivy would be of no greater benefit to revitalization in Canby than Hiway Tire.

Bob Trappe, CBRG member, said the group started working on this issue a couple years ago and reviewed many different formulas. He said the existing boundaries were established to comply with the City zoning, C-1 and C-2 as being included in the EID. He noted that Millar's is in another zone.

Councilman Harris asked how the $75,000 would be spent.

Heidi Henry, CBRG Project Manager, said the board established the budget with money for staff, office, design and economic restructuring. She said the budget allows for consultants and beginning projects that will be identified by the board.

Councilman Harris asked for a breakdown of the $75,000.

Ms. Henry reviewed the break down as follows: $33,000 for personnel, office expenses $18,000, design will be $7,000, $5,000 business recruitment and retention, $5,000 for promotion, $3,000 for Grower's Market, and $3,000 for a contingency fund.

Councilman Gerber asked Mr. Scott if his property on S. Ivy and the Marketplace are zoned the same.

Mr. Scott said both properties are zoned the same. He added that his concern is a need for a fair assessment, fair taxation and a democratic vote. He added that it would take almost 100% of the property owners on the other side of the tracks to fail the project, and that was not fair in his opinion.

Ray Hoen, property owners, noted that once the district is formed then a board will be elected within 90 days, at which time Mr. Scott can run as a board member and provide input. The assessed property owners maintains a vote.

Councilman Harris noted that most of the opposition is from across the tracks. Ms. Henderson said that information was not available at this time.

Councilwoman Strong asked if a democratic vote was an option.

Mr. Jordan said the Council can have an advisory vote, but the EID could not be formed by an advisory vote.

Councilman Gerber stated that good questions have been asked, valid points presented in the letters which made him uncomfortable to make a decision to move forward. He added that the Gresham petition scenario was a consideration.

Councilman Lucas noted that the CBRG did a good job of getting out information, and a survey of the entire 180 property owners would result in the same vote.

Councilman Nolder said there will always be a certain number of businesses that will be vocal about the issue and a certain number that do not care. He said it is essentially a tax and no matter what type of methodology is designated to collect the revenue it will not make everyone happy, and the tax is designed so small communities can develop the downtown area.

Councilwoman Strong said she wanted to make sure everyone has a vote or be able to sign a petition, and she was not comfortable at this point.

Councilman Harris agreed there would never be a unity on the issue. He was in favor of the project but sympathetic to people who feel a tax is imposed on them without an equal vote or will not benefit them. He added that he too was uncomfortable with proceeding, but did not know how to resolve the concerns.

Councilman Nolder said the figures of 122 people, and only 29 voting no represents a fair vote.

Councilman Harris argued that the 29 people are upstanding businessmen of this community, and even though the percentage is small, that is a strong voice.

Councilman Gerber expressed concern that silence is accepted as a yes vote, it is a fairness issue.

Harry LeeKwai, CBRG member, said there will not be unity on the project and no one knows how to get to that point. The EID funds will be controlled by the property owners. The group has made every attempt possible to present information, open houses, sending information out and letting people know how to remonstrate. Mr. LeeKwai said 79% of the property owners are positive for the issue. The CBRG group is "doing the best we can" and are up-front and honest about the issue.

Councilman Harris agreed that 79% is an overwhelming majority but is still concerned about the 29 people. He asked Mr. LeeKwai if changing the boundaries or some other option might alleviate the concerns of Mr. Scott and the people that are opposed.

Mr. LeeKwai said these questions would have been answer if they had been raised earlier. Again, he reiterated that the group did the best they could and property owners set the boundaries. He said the group would make a serious attempt to address the concerns of the opponents.

Attorney Kelley said the procedural issue appears to be the biggest concern. He stated that there is the option of establishing the EID based on doing business in Canby, if they have a business license they pay. Another option is to have voluntary participation, verses a mandatory participatiion and those that remonstrate out, do not participate and then the burden is greater on the remaining participants.

Councilman Nolder said in his 30 years as a businessman this is the third economic development program he can remember and there is a certain percentage of people who will not reach in their pockets to contribute a nickel. The decision must be made to decide if this is a worthwhile project for the community.

Wayne Scott noted that he is not philosophically opposed to the EID but is opposed to the method and the voting method. He said the Council has the ability to correct this problem. He suggested a populous vote, allowing a vote for each property on an equal basis. He added that he went to the first breakfast meeting and expressed a concern.

Councilman Daniels pointed out that two years had been spent on this matter.

Councilman Gerber suggested that some changes could be made to make the project better, and some good letters have been sent to make him change his mind on the matter.

Councilwoman Strong said this is the first time she has heard some of the other options.

Mr. Jordan said the options are in the ordinance.

Councilman Lucas said this matter could be discussed "forever." He added that the group has done a super job in trying to expedite information.

Councilman Gerber said the group has done an excellent job in getting out information and the education has resulted in some of the questions and concerns being expressed at this time and many of those who remonstrated do not think the project is a bad idea.

Councilwoman Strong said she liked the business license idea. Mr. Kelley said this would necessitate a new beginning on the matter, notices being mailed and new hearings.

Councilman Gerber asked if a petition could be circulated and be returned to the February 4th meeting.

****Councilman Nolder moved to direct staff to return with the appropriate ordinance levying the appropriate assessments for the formation of a downtown EID. Motion seconded by Councilman Lucas. Roll call vote, was 3-3, with Councilors Nolder, Lucas and Daniels voting yes; and Councilors Harris, Gerber and Strong voting no. The motion failed.**

Councilman Gerber asked if a petition would give the Council a better direction if circulated and returned no later than February 4th.

Mr. Johnstone noted that the Gresham scenario was for a BID, which does not have the same ordinance constraints as an EID. He added that in one day the Gresham people received 51% of the needed signatures. He said the Council is asking the volunteers to continue working on the project, which will kill it. He said one option is to accept the EID and then after acceptance direct the board of directors to make the system better for the affected property owners, rather than change this process.

Councilwoman Strong reiterated her desire for a petition process.

Councilman Lucas asked who would present the petition.

Councilman Gerber suggested that the people who remonstrated could carry the petition.

Administrator Jordan cautioned that a petition needs to be specific so the signers know what the outcome will be and a decision needs to be clearly spelled out.

Attorney Kelley asked how signatures would be verified.

Councilman Gerber suggested the CBRG address the zone and assessment issues.

Councilman Nolder pointed out that only one person is speaking in opposition, he asked if the entire process is being changed because of one person that is well know in the community.

Councilman Gerber stated that several letters of opposition were submitted.

Council President Daniels called for a short recess at 8:50 p.m. and reconvened at 9:00 p.m.

Councilman Harris said he is still uncomfortable with the project but has no solution and does not know what to do about it.

Councilwoman Strong agreed with Mr. Harris.

Administrator Jordan noted that the board could meet with Councilors that have concerns, and if less than a quorum (three) members are present. A workshop was also suggested.

Councilman Harris asked if some of the options presented tonight were considered by the board.

Harry LeeKwai said the board considered the voluntary option, but with only half of the support, the assessment would be to high, He added that for the good of the City they decided to make it mandatory. He said they reviewed other scenarios based on business licenses, parking spaces and number of employees

Mr. Johnstone stated that he was aware that three different maps were reviewed with various boundaries, and the property owners voted on which boundary map they preferred. The property owners would be the major beneficiary of the program and as investors they would receive the most benefit and at a later date a BID could be put in place to support the program. He added that there were meetings on every level and several mailings made.

Councilwoman Strong asked how many people voted on the map. Mr. Jordan said 42 people. He added that originally all property owners, including industrial, were involved.

Councilman Gerber requested a recess at this time, 9:10 p.m. The meeting was reconvened at 9:15 p.m.

****Councilman Gerber moved to authorize staff to prepare an ordinance to levy assessments for the proposed EID. Motion seconded by Councilman Harris and approved 6-0.**

COMMUNICATIONS: None presented.

ORDINANCES & RESOLUTIONS: None presented.

UNFINISHED BUSINESS/REPORTS OR ANNOUNCEMENTS: Findings APP 97-07, Canby Builders Supply - Council President Daniels turned the gavel over to Councilman Harris at this time since he had a conflict of interest on the matter.

Administrator Jordan reminded the Council that a public hearing was held at the last session regarding an appeal of three conditions by Canby Builders Supply for a permit. Those conditions included 99E access and a pole sign, and the Council overturned the Planning Commission decision to allow these items; and a sidewalk condition set by the Planning Commission was upheld.

****Councilwoman Strong moved to adopt the Findings, Conclusions & Final Order of APP 97-05/DR 97-07, Canby Builders Supply. Motion seconded by Councilman Nolder.**

Discussion - Councilman Gerber read portions of a letter addressed to Grace Crunican, ODOT, and signed by Planning Commissioners Dan Ewert, Keith Stewart, Mark O'Shea, Terry Prince, Jean Tallman and Vern Keller. The letter set forth the concerns and rational for the Commission denial of access off of 99E to the proposed building site, specifically for safety concerns and the heightened traffic that will be generated by the proposed type of business. Suggestions presented by the Commission included: changing the Yield sign to a stop sign for safety concerns at Pine Street and 99E; a concern was expressed because of left turns off 99E crossing two lanes of traffic as it exits the City, and 300 feet south of the owner's proposed access, a safe left hand turn is possible from an existing stop light, and once on Pine a left turn into the property would only involve crossing one lane on a much less traveled street; and restriction of delivery trucks from the use of 99E.

Councilman Gerber noted that the Planning Commission has a great concern for safety and commended them for their intentions.

****The Findings were approved 5-0, with Councilman Daniels not voting.**

MANAGER'S REPORT: <u>Meetings</u> - Mr Jordan reminded the Council of a scheduled 6:00 pm workshop for goal setting on Thursday, January 22nd, at the Library.

Tuesday, January 27th, a meeting has been scheduled at Jarboe's Grill, with a special invitation sent to neighboring cities that are outside the Metro urban growth boundary and are experiencing rapid growth.

Wednesday, January 28th, a workshop session has been set at 7:00 pm in the Library regarding the Industrial Parks Master Plan.

February 7th is the annual Chamber Dinner, please RSVP to the business office.

<u>Historic District</u> - Mr. Jordan informed the Council that he had received a letter from Bob Cryder, who is interested in forming a 5th Avenue Historic Neighborhood. Mr. Jordan explained that this issue will be scheduled for another agenda.

<u>Cedar Ridge Petition</u> - Mr. Jordan said a petition, signed by residents of the Cedar Ridge Civic Association, requesting that the City reinstall street sweeping/cleaning. Mr. Jordan noted that this area is a Planned Unit Development (PUD) and the streets off of SE 13th in that area are private. Again, after some research, this item will be scheduled for discussion in the near future.

Utility Billing - Mr. Jordan pointed out that residents will notice a problem with their sewer billing. A mis-communication between City Hall and CUB resulted in the sewer rates being raised one month too early, therefore, one month will be reduced, and then again it will reflect the raise. This will be explained in the CUB newsletter.

Building Department Audit - Mr. Jordan explained that the City Building Department was experiencing their first audit by the state. The purpose of the audit is to evaluate performance and a report will result with the findings.

COUNCILORS' ISSUES: Councilman Nolder expressed gratitude and praise to the Fire Department for their emergency skills portrayed during the recent ice storm.

ACTION REVIEW:
1. Implement Ordinance 982 to establish EID procedures.
2. Forward Final Order on the Appeal by Canby Builders Supply.

****Councilman Harris moved to go into Executive Session under ORS 192.660 (1)(h) regarding pending litigation, (1)(d) regarding labor negotiations, and (1)(e) to negotiate real property transactions. Motion seconded by Councilman Nolder and approved 6-0.**

Council President Daniels recessed the regular session at 9:34 p.m. The regular session was reconvened at 10:09 pm.

Councilwoman Strong expressed a concern about the letter sent by the Planning Commission to ODOT regarding the Canby Builders Supply appeal. She suggested that the Commission should have brought these concerns to the Council instead of sending a letter to ODOT. She added that this is an advisory committee.

Councilman Daniels pointed out that trucks will have to enter off of NE Second.

Councilman Lucas asked who controlled the installation of stop signs. Mr. Jordan stated that ODOT would make that decision.

Councilman Gerber said he did not believe that Planning Commission was trying to declare "war" but only let ODOT know of their suggestions for safety. He agreed the Council should have been advised.

Councilman Nolder agreed that the Commission should have informed the Council that they wanted to send a letter to ODOT, and in fact the Council could have been involved in the letter.

Councilman Lucas agreed that the Commission and Council should have sent the letter to ODOT together.

Councilman Daniels said he felt there is concern about potential accidents at S. Pine with only a yield sign.

Administrator Jordan noted that the City has had difficulties in dealing with ODOT for various issues. He said he was specifically sensitive about this issue since the City had discussion on the access with ODOT. It would have been best if the City Council could have been involved in the message sent by the Commission.

Councilman Harris said there is a difference in "group personality" between the Commission and the Council and tends to become counter-productive. He was not in favor of the way the Commission handled this matter.

Mr. Jordan said if the division between the two bodies becomes significant, it needs to be addressed so the two groups are on the "same page."

Councilman Nolder said he sees the Commission as losing site of their job in the scheme of things, and this could be a fault of the Council.

Administrator Jordan said he felt it was the conception of the Planning Commission that the Council leaves planning issues to them, and at this time there has been no joint discussion between the two entities to set up a policy of direction to give staff. Historically, the Commission has made policy through their individual application decisions. Mr. Jordan said the Commission has filled the void of policy as best they could by creating conditions. He added that this does not resolve the overall policy question.

Councilman Nolder noted that just because the Council does not always agree, does not mean that the Council does not respect the Commission and it should not be taken personally.

Mr. Jordan said all of them are very intelligent and rational and they all feel very strongly about the reasons for their judgements. Mr. Jordan said he felt that the Commission really wants to know "why" the Council disagrees with them, which can be discussed during an informal session. Generally speaking, Mr. Jordan said it was a good decision not to have Commissioners testify at appeals because of the possible remand consideration.

Council President Daniels adjourned the session at 10:15 p.m.

EXECUTIVE SESSION
JANUARY 21, 1998

PRESENT: Councilors Nolder, Gerber, Harris, Daniels, Lucas and Strong, Mr. Jordan, Mr. Kelley and Cam Sivesind.

The session was called to order in the CUB conference room at 9:40 p.m. by Council President Daniels.

ORS 192.660 (1) h) - The Rinkes vs. City of Canby case was discussed.

The Council discussed a complaint filed by Joyce Faltus with the Bureau of Labor.

ORS 192.660 (1)e) - The Council discussed purchase of an easement parcel from David Anderson.

ORS 192.660 (1)(d) - The Council discussed an early retirement issue for the City Recorder.

Council President Daniels adjourned the session at 10:07 p.m.

Marilyn K. Perkett
City Recorder

Walter Daniels
Council President