CANBY CITY COUNCIL
REGULAR SESSION
JUNE 3, 1998

WORKSHOP SESSION:

PRESENT: Councilors Nolder, Daniels, Lucas and Strong, Mayor Taylor, City Administrator Michael Jordan, Chief Jerry Giger, Terry Heltsley, Steve Beining, Travis Sullivan, Barb Kirwan, Teri Duncan, Betty Ramey, Marlene Elmore, Laurie Sandsness, Barbara Guild, Richelle Boettger, Larry Whitman, David Folger, Ray Baldwin, Cam Sivesind, Duane Deardorff, Deborah Deardorff, Randy Carson, Lila Gottman, Curtis Gottman.

The session was called to order at 6:05 p.m. in the library conference room. Dinner was served.

The purpose of this session was to discuss S.W. 2nd and S. Elm traffic issues.

The session was adjourned at 7:15 p.m.

Mayor Scott Taylor presiding. Council members present: Walt Daniels, Barry Lucas, Dennis Nolder and Shirley Strong. Councilor Harris was absent.

Also present: City Administrator Michael Jordan, Recreation Services Director Beth Saul, City Attorney John Kelley, Planning Director Aneta Synan, Steven Amick, Curtis and Lila Gottman, Randy Carson, Paul Farrar, Dr. E.E. Davies, John Vaudt, Doug Sprague, Nan Olson, Mark Greenfield, Adrian Fisher, Robert Webber, Terry J. Webber, Scott Wiesehan, Roger Reif, Tony Crawford, Dave Purdy, Dan Ewert and David Lampe.

Mayor Taylor called the session to order at 7:30 p.m., followed by the opening ceremonies.

CITIZEN INPUT ON NON-AGENDA ITEMS: <u>Paul Farrar</u> said there was a misunderstanding because he thought his petition would be in its entirity on the agenda, he understood the Council was willing to do that in two weeks and he appreciated the fact that the Council was going to give some time to accomodate people that came a long distance.

Mayor Taylor suggested that when they get to that item on the agenda where the Council will briefly discuss the O.R.S. piece, the copies of the statutes that Mr. Kelley submitted will be distributed. At that point, he will let the people who cannot attend the June 17th council meeting address the Council.

Mr. Farrar asked if the Citizen Input be put ahead of the Council discussion of O.R.S?

Mayor Taylor answered that the Council will continue on with the agenda and at the June 17th council meeting then they will be talking about a decision.

Mr. Farrar wanted a decision on how the chair was going to handle the agenda; he spent considerable time typing up a suggested agenda. He did not invite the people to listen to the O.R.S., they were to be under Non-Agenda item.

Mayor Taylor said it was fine to listen to the citizens before the Council reads the O.R.S.

Doug Sprague, 641 N.E. 22nd Ave, he wanted to get information on the process that the city goes through for adding projects to the SDC funding list, specifically 99E and Territorial intersection. When the grant issue comes up with Gramor Development, possibly SDC funds could be used.

Mr. Jordan stated that the Council has the ability to amend the project list upon which SDC's are based. The staff level has been trying to develop a potential list of changes to the interim transportation system plan that we have now. They are in discussions with Andy Mortenson who is the traffic engineer that did the original transportation system plan. Mr. Jordan stated that the staff was ready to propose to the Council that they go through a process to do some amendments. He stated that the signalization of Territorial Rd and 99E is currently not a SDC financed project from the City of Canby NRTSP. Mr. Jordan stated that the Council needed to consider putting that project on the list, making a cost estimate, then the cost needs to be incorporated into the SDC list discussion. Staff is ready to propose. The council could get a cost estimate or wish to fund the project entirely, then the cost needed to be incorporated into the SDC methodology.

Mr. Taylor said the whole project would fall within the amendment to the plan.

Mr. Jordan stated the amendments would take some time. The tentative schedule from Mr. Mortenson had proposed it would take until about September to have a group of amendments ready which includes access management. He stated that if the Council wished to move on a quicker timeline, they had the option to deal with just the one issue, to either add it to the project list or not, then amend the SDC.

Councilor Lucas stated that the property is not in the city limits, he assumed that it would come along with the annexation request as it came in. He thought that we usually did not spend city SDC's on property that is outside of the city limits.

Mr. Jordan said that we had many projects that are SDC eligible that are currently outside of the city limits.

Mayor Taylor thought that the Gramor Development would drive that intersection. When they started developing the property on Redwood, then that would set the other one in motion.

Mr. Jordan said that they were unrelated from a development perspective unless the City can show a proportional nexus between the impact of the Gramor Development on the 99E intersection.

Councilor Nolder said that this discussion was that they were supporting that and were going to contribute to it.

Mr. Jordan stated that the contribution was based on the City contributing Gramor's entire SDC for transportation to that intersection development. The Council could either schedule the issue of the Territorial Rd and 99E signalization project to be incorporated on the project list for SDC's as soon as the next council meeting or on the July 1st council meeting.

Councilor Lucas had a discussion with Mr. Cain regarding SDC funding for the Redwood intersection. The Foursquare Church said they were going to put in $200,000 for the Territorial intersection.

Mayor Taylor stated that they needed to build this into their plan so that they have the ability to access that funding.

Mr. Jordan said that they were not able to devote any SDC money to Territorial Rd and 99E.

Councilor Daniels asked if there was some reason that it was important to put it as a special project now or wait until September?

Mr. Jordan answered that the issue was that they were currently going through a feasability study with The Department of Transportation and Clackamas County regarding the feasability of signalizing that intersection and what the cost would be. He thought Mr. Cain and Gramor's application for the property is within a few months away from going through the City's process. When the application goes through, it probably will be an issue at the Commission and the Council level.

Mayor Taylor said that all they were saying was that they would like to consider this to be one of the projects that they would spend SDC funding on. He suggested putting it on the next agenda or on the July 1st agenda.

Mayor Taylor suggested that they move Unfinished Business (conversations concerning the current process we use in court, Victims Panel).

UNFINISHED BUSINESS: Copies of Oregon Revised Statutes per Mr. Farrar's Letter - Paul Farrar, read from his resolution that he wanted the Council to consider.

Scott Wiesehan, 332 N.E. 14th Avenue, wanted to thank the council for the opportunity for moving the agenda item up. He was dissapointed when he read Judge Hendricksons letter, he felt it was personal issue. He thought the Judge's choice to wipe the citation off of their driving record on the first offense was the wrong answer. Why couldn't they go to Victims Panel, drop the fine but leave the citation on their driving record.

Mayor Taylor stated they would not be engaging in a lot of dialogue back, they will be waiting until the June 17th Council meeting.

Dr. E.E. Davies, stated that young adults need to be responsible for their actions.

Mika Farrar, 23348 S Central Pt Rd, shared a story about a fellow student who had received three speeding tickets that had been taken off his driving record before he was 18. He has not had to pay any consequences for his actions.

David Purdy, fully supported the efforts to shorten up the leash on the infraction of drivers; when you do receive a ticket, it does improve your driving record. A short leash is best at an early learning stage. Each citation should be on the DMV record, for youths and adults. He felt that fines should not be reduced but make the Victims Panel a consequence in addition to the fine.

Mayor Taylor noted that Mr. Farrar and other citizens handed out a number of blank post cards, a copy of the letter from the Judge, and overall description of what the issue was, and asked people to send him the post cards back. He had received a number of them and expects more. He will also add those to the Council so that they know what kind of different comments people are addressing them on the issue.

Paul Farrar told the Council what he wanted to submit at the next Council meeting. When he laid out the original petition, he had listed four facts. To the best of his knowledge, none of the four facts have been accepted by the City as fact. The petition specifically says that the people who signed it did so having been told those facts by him, not having independently varifying those facts. Petitioners are asking the Council on those four facts to be a fact finding body. He asked if that was true or not, he thought it made it a contested case, he wanted to read five citations into the record, Provisional License Plan, he would read a couple of paragraphs out of the DMV manual.

Mayor Taylor responded that at the beginning of the next Council meeting he could lay out how he plans to receive and respond.

CONSENT AGENDA: **Councilor Daniels moved to adopt the consent agenda: minutes of the regular meeting, May 20, 1998; and accounts payable in the amount of $140,483.66. Motion seconded by Councilor Strong and approved 4-0.

PUBLIC HEARING: Fisher/Pacific Rock Zone Change - Mayor Taylor opened the hearing at 8:10 p.m. and read the criteria for the hearing procedure.

Mayor Taylor asked the hearing body to declare any conflict of interest on the subject.

Strong - none and will participate.
Lucas - none and will participate.
Daniels - none and will participate.
Taylor - none and will participate.
Nolder - none and will participate.

Mayor Taylor asked if anyone in the audience wished to question any of the hearing body. No one came forward.

Mayor Taylor asked the hearing body to declare any exparte contact on the hearing subject.

Nolder - Several people brought the subject to him, reminded them that he was on the hearing body and could not discuss it. He had looked across the city property over the railroad tracks from 3rd St and looked at the property from that position, but has not actually visited the site.

Taylor - witnessed the site from 3rd St looking across, and has had conversations with Dan Ewert, Chair of the Planning Commission.

Daniels - no contact, stood at 3rd and Baker and looked across from a distance at site.

Lucas - visited the site, conversation with Pat Ewert, Chairman of the Blue Heron Recreation District, also has had a conversation with Dan Ewert, he received calls from 3 people at Pacific Rock Company, he met with them on April 16 with Beth Saul at the library . They had talked about building the plant there and they might be able to help with the park plan. Mr Lucas told them that they could have that conversation after they have been through the whole planning process. Plan to participate.

Strong - has visited the site, no more conclusions, plan to participate.

Mayor Taylor asked if anyone in the audience wished to question the hearing body. No questions were asked.

STAFF REPORT - Planning Director Aneta Synan stated that the request was an application by Pacific Rock Products to rezone 12.74 acres of a 14.4 acre parcel owned by Adrian Fisher that is consistent with the comprehensive plan. The site is currently zoned M-1 (Light Industrial). The applicant has asked to rezone only the portion of his parcel designated as heavy inustrial. The property is located on the North side of 99E and North of the Berg Parkway intersection. The boundary of the heavy industrial designation follows the contours of the site. The application that was filed by Pacific Rock also addressed a proposed use of the site as a concrete batch plan. Ms. Synan emphasized that the staff's review and the Planning Commission review of the matter does not extend to the proposed use, it focused on the requested zone change. The subject property is presently undeveloped except for a few propane tanks and a retired railroad track. Access to the site is provided from 99E across private property, future access to the site is planned by an extension of Berg Parkway to the North. The proposed portion of the site for rezoning is located approximately 25' below the grade of the commercial property and the highway to the South and is roughly 15' below the grade of the railroad tracks to the North. In the application materials submitted by the applicant it was noted that the site contained a well, and the property owner clarified prior to the Planning Commission hearing that the well does not in fact exist, that the applicant had requested a permit from the Department of Water Resources to drill the well. The permit has not been approved. Potential design of public water, sewer and streets to the site are currently being prepared by the City Engineer. To the South of the property are lots zoned heavy commercial manufacturing, only portions of which are currently developed. To the Southwest there is a restaurant and a real estate office, and to the Southeast there is a truck sales and a storage facility. Directly West is the Molalla River and property to the East is undeveloped and is zoned heavy industrial. At the time of the Planning Commission hearing, all local utility agencies had returned comments that utilities could be made available at the time of the development of the subject property, if the zone change was approved. The State Department of Transportation did not respond to the city's request for comments prior to the Planning Commission hearing. At the April 14th Planning Commission hearing, testimony in support of the application was supported by Adrian Fisher and a representative Pacific Rock Products.

Mayor Taylor asked if their were any questions by the hearing body.

Councilor Nolder asked between the property and the highway, was that commercial? He asked what the heighth limitations were?

Ms. Synan answered 45' in height.

Councilor Nolder said anybody could build a 45' high structure on the highway between the highway and the structure of the building.

Mayor Taylor asked from standing on N.W. 3rd and looking across the railroad track acts as a levy, then the zone includes that low flat land right up to the railroad levy and then up the hill, was that correct?

Ms. Synan said that Mayor Taylor's understanding was correct.

PROPONENT - <u>Mark Greenfield</u>, 111 S.W. Columbia Suite 1080, Portland, stated he was representing property owner Adrian Fisher and Pacific Rock. Mr. Fisher and David Lampe from Pacific Rock and Roger Reif were there in the audience, they were available to answer any questions. This was an application to change zone from M-1 (light industrial)to M-2 (heavy industrial). The property is designated in the Comprehensive Plan for heavy industrial development. The public facilities were available. The Planning Commission recommended the denial, the primary reason for that recommendation was essentially their belief that heavy industy was the wrong use for the property. It was essentially a disagreement with the existing Comprehensive Plan policy.

OPPONENTS - None

Mayor Taylor asked if the hearing body had any questions.

Councilor Lucas asked which of the records were lost?

Ms. Synan answered that the tape recorder did not work properly and the only records they had were a written record of the meeting.

QUESTIONS -

Mayor Taylor questioned Aneta that it was a special needs area right now, within the minutes and the discussion, a special need area is identified because of special issues surrounding it and to no longer become a special need area means that those special concerns have been addressed. When there was discussion about when water, sewer, etc were available at the site, it would no longer qualify as a special need area.

Ms. Synan answered there was an area of special concern and the topography was stated in the Comprehensive Plan that the site was identified as a special area due to its unique location within an old aggregate removal site. If the site was upzoned that would not automatically remove the special area of concern B. It would implement that policy. The property was singled out due to its unique topography and set aside for heavy industrial uses upon certain conditions being met.

Mayor Taylor read from Aneta's report, he wanted to make sure he understood that there are only a couple of special concern areas in town. If someone wanted to develop the land as it was zoned and could demonstrate to the Council's satisfaction that they dealt with the concerns, then it would no longer fit within that special need zone.

Ms. Synan said Mayor Taylor's understanding was correct.

Councilor Lucas asked was DEQ going to make sure there would be no leaks into the river? Pat Ewert was also concerned.

Mr. Kelley understood that the area of special concern meant that you had to have services available at the time the development is made because it was a difficult area to service. Once the area was serviced, then the issues of how you develop the actual proposed use of the property comes within a design review hearing process.

Councilor Lucas asked Mr. Kelley about LUBA's decision about access does not actually have to be on the site, does it have to be available on the site?

Councilor Nolder stated that the only decision tonight was merely a zoning change, it had nothing to do with the usage of the property.

Mayor Taylor said that the City is entering into a Comprehensive Plan Review Process, what Mr. Greenfield was trying to encourage was that in the future we may change or alter the existing zoning and maps, but at this time the argument would be we had to follow what exists today.

Councilor Lucas asked if the rezoning was due to the topography, so it would not necessarily mean they would rezone adjoining properties to that?

Adrian Fisher, owner of the property, said the reason it was just that piece, was because it was the only piece that was flat.

Mr. Kelley read through the case he was given by Mr. Greenfield. The city code cited that all services and facilities need to be available to the area and have sufficient capacity provide service for the proposed area. Petitioner contends that sewer service must be present on or adjacent to property being annexed in order to be available within the meeting of the ordinance. There was adequate sewer capacity to serve the subject property and means exist to facilitate the extension of services and facilities to the property over the planning period.

DISCUSSION -

Councilor Lucas said the request is consistent with the Comprehensive Plan, we ask the property owners to abide by the Comp Plan and he thought we should also. Mr. Fisher paid $27,000 for the light to help with the access to that property. The staff recommended an approval of that request for zone change; he did not feel that this project was incompatible with the park.

Councilor Nolder had stated that the Comp Plan had set aside that property for heavy industrial for years, he did not realize that the zone did not coincide with the Comprehensive Plan. He stated that it fit the location and he thought it was a good match.

Councilor Daniels said that it followed the Comp Plan and the use of compatibility will come up at a later date. He found the public facilities and services are available to the site. He thought they should follow the comp plan.

Councilor Strong agreed with Councilor Daniels that it followed our comp plan. She was in agreement that they should follow the comp plan.

Mayor Taylor closed the hearing at 8:53 p.m.

****Councilor Nolder moved to approve the zone change to heavy industrial. Seconded by Councilor Lucas and passed 4-0.**

COMMUNICATIONS: None

NEW BUSINESS: Fisher/Pacific Rock ZC 98-01 - Mayor Taylor already took care of the issue.

Annual League of Oregon Cities Dues - Mike Jordan explained that page 42 lays out the formula which the League uses to calculate and breakdown the dues. The Council could approve the dues or the Council could discuss each issue one at a time.

Mayor Taylor stated that the League of Oregon Cities have helped the City greatly and he recommended to the Council that they continue to pay the dues.

Councilor Daniels moved to approve the annuel fee for membership to the League of Oregon Cities organization in the amount of $5,100.38, and $234.50 for the Livable Communities Project. Seconded by Councilor Nolder, passed 4-0.

Councilor Strong questioned if this was the same price the City paid last year.

Mr. Jordan said the rate was based on the population, so when the population grows so does the dues, also there was an increase in the rate this year from 33 cents to 35 cents per capita.

Mayor Taylor wanted to state that the Livable Communities Project will be holding an event on Friday where the City of Canby was being honored on two different occasions. One was for the revitalization and the partnership between the City , the Chamber and CBRG and the second was for Harry Lee Kwai, who is a volunteer for citizen leadership.

Clackamas County ADS Contract Fiscal Year 1998-1999 - Mr. Jordan stated that this was a contract between Clackamas County and the Adult Center, this was the contract where the City receives federal funding for the meal program at the center. Nan Olson included a multiple page memo and she included places where there were amendments to the current contract, he noted that the amendments are in the funding levels. He noted that they will be receiving $14,000 more in funding in the next fiscal year than they received this year.

Councilor Daniels motioned, seconded by Councilor Strong. Passed 4-0.

Mayor Taylor thanked Nan Olson for her excellent work at the Adult Center.

Mr. Jordan also thanked Nan Olson for running the center admirably.

Mayor Taylor also reminded everyone that the Center's 25th anniversary was going to be held June 20th, 1-4 p.m.

ORDINANCES AND RESOLUTIONS: Ordinance No. 995 -

****Councilor Lucas moved to adopt Ordinance No. 995, AN ORDINANCE AUTHORIZING THE MAYOR AND CITY RECORDER TO EXECUTE A CONTRACT WITH DON J. McMILLIN CONSTRUCTORS, INC. FOR CONSTRUCTION OF THE CANBY WASTEWATER TREATMENT PLANT AERATION BASIN IMPROVEMENTS; AND DECLARING AN EMERGENCY. Motion seconded by Councilor Strong and passed by roll call vote, 4-0.**

Ordinance No. 996 - Mr. Kelley stated that the City was entering into a franchise discussion with Canby Telephone, North Willamette Telecom, and DirectLink. The old Canby Telephone Association franchise ordinance expires in June, 1998 and the City will not have a new one in place by the end of June, so they have prepared an ordinance authorizing the City Administrator to enter into an agreement with the telephone association to extend the current franchise agreement until they amend and repeal this one.

****Councilor Daniels moved to adopt Ordinance No. 996, AN ORDINANCE AUTHORIZING THE CITY ADMINISTRATOR TO ENTER INTO AN AGREEMENT BETWEEN THE CITY OF CANBY AND CANBY TELEPHONE ASSOCIATION TO EXTEND THE CURRENT NON-EXCLUSIVE FRANCHISE AGREEMENT be posted and come up for final action on June 17, 1998. Motion seconded by Councilor Nolder and passed 4-0 on first reading.**

Mayor Taylor congratulated Mr. Metzger for completing a door to door campaign on the Democratic side for our Senate Representative for this district. He also invited him back prior to the elections so the City Council can visit with him on his views that could be Pertinent to the City.

Mayor Taylor recessed the meeting at 9:05 p.m.

Councilor Daniels resumed the meeting at 9:10 p.m.

MANAGERS REPORT: Schedule - Mr. Jordan listed the following events or meetings: He requested of the Council for the opportunity for a workshop session to talk about financing issues regarding the Industrial Park Master Plan for July 22nd.

Mr. Jordan had a request from Cedar Ridge Homeowners Association to sweep their streets which are private. He listed other areas of the community that are in similiar situations, regarding streets that could be construed as open to the public but are actually private streets that the City does not have jurisdiction over. The argument that the homeowners have used was that they pay property taxes the same as everyone else in the community. The current staff position is that we do sweep the streets in front of the private developments. He wanted to make sure his position was consistent with the Council's position on the issue before he responded formally to the Homeowners Association.

Councilor Lucas thought it was consistent. He felt that they did not allow public parking on their streets, so they were not public streets.

Mr. Jordan's current position would be not to sweep their streets. If they were to pay us on an hourly basis, we would construct a fee and sweep their streets.

Councilor Nolder disagreed. His feeling was that they paid the same tax rate as everyone else, they should get their street swept.

Mr. Jordan addressed everyone that Aneta Synan, the city Planning Director is leaving. He also said that they had the approval and the money in the budget to move forward on hiring of the Community Development Director and will be advertising the position. He planned on closing it on the 30th. He wanted the Council's permission to appoint Jason Kruckeberg as an interim and when they get the new Community Development Director on staff then he would like to advertise for the Planning Director's position.

Councilor Lucas agreed. He stated that Jason had done a great job in the past.

Mr. Jordan thanked Ms. Synan for her work, and wished her luck in her adventure.

COUNCILORS' ISSUES: Councilor Lucas reminded everyone that on June 4th there was going to be a public meeting at 7 p.m. at the proposed regional park site located on N.W. 3rd and N. Baker and everyone was welcome to come and talk to the Walker Macy Group, the architects for the feasability study for the new park. They would like any input on what should be in there.

OTHER REPORTS & COMMUNICATIONS: Report on Federal Monies for Cop's Program (Oral Report from Jerry Giger) - Mr. Giger stated that the police department accepted a six month cop's grant that was offered by the Department of Justice. Mr. Giger also wanted permission from the Council to be able to fill out and send in the applications that the Department of Justice is sending out for positions within the criminal justice system. Mr. Giger stated that they did not have to accept grants if they were awarded. He thought that after the proposal he would meet with the council to try to up the number of people with the growth of citizens and trying to maintain the ability to deal with keeping the crime rate down and having support staff and personnel. As they come up, they are timed, and he would like to apply for them. If they couldn't get matched funds or fulfill the needs of the grant, then he would not accept them.

Councilor Lucas stated that normally there is no money budgeted and they could figure it out when they accept it.

ACTION REVIEW:

1. Scheduling discussion of adding the Territorial/99E signal to the project list for SDC eligibility.
2. Returning with an ordinance implementing a zone change for application 98-01.
3. Paying the Leagues dues.
4. Signing contract of Clackamas County for the Adult Center.
5. Execute the contract regarding construction of the aeration basin at the WWTP.
6. Bringing back Ordinance 996 for 2nd reading.
7. Communicating position on sweeping private streets to the Cedar Ridge Homeowners Group.

****Councilor Lucas moved to go into Executive Session under ORS 192.660 1(d) labor negotiations, 1(e) property negotiations, and 1(h) pending litigation. Motion seconded by Councilor Nolder and approved 3-0.**

Councilor Daniels recessed the regular session at 9:25 p.m.
Councilor Daniels reconvened the regular session at 10:50 p.m. and immediately adjourned the session.

EXECUTIVE SESSION
JUNE 3, 1998

PRESENT: Councilors Daniels, Lucas, Strong and Nolder, John Kelley, Michael Jordan and Cam Sivesind.

Mayor Taylor called the session to order at 9:30 p.m.

<u>ORS 192.660 (1)(d)</u> - The council discussed police contract.

<u>ORS 192.660 (1)(e)</u> - The council discussed Mangus property.

ORS 192.660 (1)(h) - The council discussed Rinkes litigation.

Mayor Taylor adjourned the session at 10:45 p.m.

Michael J. Jordan

Michael J. Jordan
City Recorder pro tem

Scott Taylor

Scott Taylor
Mayor

Sharon Tramel

Prepared by Sharon Tramel,
Office Specialist