

CANBY CITY COUNCIL
REGULAR SESSION
JULY 15, 1998

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

Also present: City Administrator and City Recorder Michael Jordan, City Attorney John Kelley, City Planner Jason Kruckeberg, Susan Wood, Steven Amick, Curtis and Lila Gottman, Randy Carson, Cam Sivesind, Gary Needham, Adrian Fisher, Mark Greenfield, Walt West, Nancy Salber, and Martha Stiven.

Mayor Taylor called the session to order at 7:30 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 regular meeting and executive session, July 1, 1998; and accounts payable in the amount of \$100,935.77. Motion seconded by Councilor Harris and approved 5-0.**

PUBLIC HEARING: Faist Annexation - Mayor Taylor said there was a request to postpone the Faist Annexation to a later date. John Kelley reminded the Council that they needed to state that it was postponed to August 19, 1998.

Appeal of Planning Commission Interpretation (Pacific Rock) -

Mayor Taylor opened the hearing at 7:33 p.m.

Mayor Taylor stated that this appeal was on the record and had been heard by the Planning Commission. There would be no more new evidence taken that night. The appeal criteria was posted on the wall.

The applicant was given a total of 15 minutes to speak.

CONFLICT OF INTEREST:

Strong - No conflict and plan to participate
Lucas - No conflict and plan to participate
Daniels - No conflict and plan to participate
Taylor - No conflict and plan to participate
Harris - No conflict and plan to participate
Nolder - No conflict and plan to participate

EX'PARTE CONTACT:

Strong - Visited the site and drawn no conclusions

Lucas - Visited the site and drawn no conclusions

Daniels - Visited the site and drawn no conclusions

Taylor - Visited the site, also as Mayor has had contact with one or two members of the Planning Commission, which entailed conversations with the Chairman discussing the earlier ruling made by this Council and Planning Commission and the site, and with one Commissioner who questioned the Council's decision and the logic of that decision.

Harris - Visited the site on many occasions and has had no other contacts

Nolder - Has not visited the site, but looked at it from across 3rd Street and has had people bring up the subject in conversation, but told them he was not at liberty to discuss it

Councilor Lucas also stated he had a meeting with several Pacific Rock employees with Beth Saul, the Parks & Recreation Director, about the skate park for the Regional Park. He met the contractor and visited the site of another skate park in Vancouver. John Kelley asked if Councilor Lucas had any conversation with them about this application at that time? Councilor Lucas replied that they only mentioned they were going to apply to build a batch plant on this property. Councilor Lucas said he could not talk to them about that project until after they had been through the City's processes.

Councilor Lucas also addressed the accusations some had made regarding this company offering unnamed items, such as free cement for a park, to an unnamed Councilor for a favorable vote on this application and read some quotes from Dan Ewert and Mrs. Tolman. Councilor Lucas stated there were no facts to support this and no such offer was made in his meeting with Pacific Rock regarding the Regional Park.

The applicant thanked Councilor Lucas for his comments.

STAFF REPORT: Jason Kruckeberg explained that Pacific Rock was appealing the Planning Commission's interpretation that concrete batching was not considered an outright permitted use in the City's industrial zones. The Council was to make an interpretation whether the use met the criteria in the code for manufacturing uses. He had a map of the property on the wall.

Pacific Rock believed that concrete batching should be considered as a manufacturing use, which was permitted outright in the City's industrial zones if they would not result in three characteristics, and Mr. Kruckeberg read the characteristics (which were dust, gas, etc.). On June 8, 1998, at the Planning Commission meeting, they voted 3-3 regarding whether a concrete batch plant was an outright permitted use in the industrial zones, which was inconclusive. The industrial zones permitted manufacturing products made from previously prepared materials. Pacific Rock submitted information regarding their use and how they believed it was previously prepared materials. They also were willing and met the standards of DEQ for dust, gas, etc.,

pollution. They also submitted a traffic study.

The applicant was appealing grounds #1 and #3 of the Planning Commission's decision. The Council had the option to decide if batching was or was not a manufacturing use.

QUESTIONS: Mayor Taylor asked if it wasn't manufacturing, what would it be? John Kelley said it would be something not considered a light industrial manufacturing use, and therefore subject to a conditional use application.

Mayor Taylor asked if aggregate mining would be an example of an industrial use that was not manufacturing. If the Council were to find this in that category, then Pacific Rock would need a conditional use because it did not fit in that zone as M1.

Councilor Nolder asked about the issue of truck traffic moving in and out of the plant. Would that be dealt with on the signalization of Burke Park Way? Jason Kruckeberg said Pacific Rock had submitted a traffic study that stated there were no unusual traffic hazards and a signal would be required before use of the site. That was really not part of the discussion at this point, however.

Councilor Daniels said the Council had to determine if it was M1 or if it had to be conditional use under M2.

Councilor Nolder asked if heavy industrial would be something like a forging plant or paper mill? Jason Kruckeberg said the code was very vague on what heavy industrial meant. There was only one use listed and the rest were conditional uses. The tact they were taking was that if it was not specifically listed as permitted outright use in the light industrial zone, it required a conditional use in the heavy industrial zone should the land be zoned heavy industrial.

APPLICANT'S ARGUMENT: Mark Greenfield, resident of 111 SW Columbia #1080, Portland, represented the property owner, Adrian Fisher, and the applicant, Pacific Rock. He hoped the Council had received and viewed the video they made and asked if the Council had any questions. He reiterated that the Planning Commission could not decide whether the concrete batch plant was permitted outright in an M1 zone. He believed it was and read from the Canby Municipal Code Book, 16.32.010.

He continued to say that this use was a manufacturing use and met the definitions of manufacturing. The product was made from previously prepared materials, the rock and cement were processed before coming to the batch plant. The operation only exhumed dust, but the operation could and would meet DEQ standards for dust and noise. The applicant would also meet DEQ water quality standards. There was no danger of fire, explosion, or other physical hazard. This was a simple, mechanized process. There were also no unusual traffic hazards. David Kelley, the City's traffic consultant, supported this conclusion.

He believed that to interpret the Ordinance as the Planning Commission recommended, which was to allow only specifically listed manufacturing uses when none were listed was to effectively amend the City's zoning Ordinance to remove the provision, or render it null. A local government could not amend its Ordinance in the guise of an interpretation. This rationale was not lawful.

He believed that the proposed batch plant met all of the requirements of the Ordinance and asked that it be permitted outright. This conclusion was consistent with the findings in the Staff report. He also noted that there were a number of letters in support of the application, including letters from property owners and Canby businesses.

Councilor Harris asked if the plant in the video would be duplicated here in Canby. Dave Lamphy with Pacific Rock Products said that there were no differences except the water handling system was better.

Mayor Taylor asked the applicant for a clarification, that if the Council decided this was not a manufacturing use, they would be establishing law, but this was unlawful even though they had followed all of the procedures?

The applicant said that in the Code, there was a long list of uses, none of which were manufacturing assembly processing. The other uses were not uses people would consider manufacture processing. The Planning Commission said that because this use was not specifically mentioned, it was not a manufacturing use. For them to say it had to be specifically mentioned in order for it to be recognized as a manufacturing use when the Code itself did not specifically mention any manufacturing uses, was to write that language out of the Code, there would never be a manufacturing use because none were mentioned.

Mayor Taylor said if they found that this was not a manufacturing use, the Council would have to justify why they found that to be the case. The applicant found it objectionable to say that since it was not listed, that it did not count.

QUESTIONS BY THE HEARING BODY: Mayor Taylor asked if this zone was also an area of special concern and was there anything they needed to pay special attention to? Jason Kruckeberg said that related more to design review for the actual development application. It was not germane to the interpretation of the Code.

Councilor Daniels asked how they acquired noise level tests? Jason Kruckeberg said they had a noise consultant who measured ambient noise, which meant existing noise, and noise of other batch plants. They also used a computer model.

Councilor Daniels was concerned that the hillside might heighten the noise.

Councilor Lucas said that actually the hillside suppressed the sound.

Councilor Daniels said he was more concerned with noise back towards the park area.

DISCUSSION: Councilor Harris said normally they discussed the appeals, but in this case, the Planning Commission did not resolve anything by not having a majority vote. So really they weren't appealing a decision. John Kelley said the Council was being asked to make an interpretation of the Code, whether this was or was not a manufacturing use and if it was, that it did not create the three problems set in the Code, and was an outright permitted use in an M1 zone. This was different than appeals done in the past.

Councilor Lucas said he agreed with Planning Commissioners Brown and Prince that the M1 planning Ordinance was unartfully written and vague. The Council was looking for intent of how it was meant to be read. He believed that a cement batch plant was not a manufacturing process as defined in the land development and planning ordinance. He believed the applicant ran a good, clean business and that this application was M2 and should require a conditional use permit.

Councilor Nolder said that this looked like manufacturing to him, as they were bringing previously prepared materials to a location separate from where the materials were developed and assembled into a product and then that product was sold or disbursed into the community.

Councilor Harris said the issue was to decide whether this was manufacturing or not. This sounded like manufacturing to him as well. He might not like the idea of a cement plant on the highway, but it was not relevant to what they were trying to do that night.

Councilor Lucas did not think a cement plant should be in Canby.

Councilor Daniels said when they looked at examples, such as sawmills, he felt this did not compare in the way of operation as far as noise, pollution, etc., and that what they were showing in the examples was what was allowed in an M2 zone. He thought this was far up the scale from that type of operation and believed it was a manufacturing use and should be M1.

Councilor Strong also believed it was a manufacturing use.

John Kelley explained that they were making a decision whether it was manufacturing, but likewise they were determining if it was manufacturing, that it did not result in the three characteristics mentioned in the Code. They were also looking at the operation.

Councilor Harris said that on those three items, everything that had been presented to the Council indicated that it met the standards. He was concerned about the traffic, the cement trucks specifically, which caused additional slow traffic.

Councilor Daniels said if they did not meet DEQ standards, they would be shut down. He did not think there were going to be as many cement trucks as there were garbage trucks on the road

now.

Mayor Taylor asked about fire and explosion hazards, were any of the chemicals they used toxic or hazardous? Dave Lamphy said there were not. Mayor Taylor asked if a storage tank fell over, there would be no greater hazard? Mr. Lamphy said it would almost be impossible for a tank to fall over, but they did have a containment system and even if it escaped the holding pond, it was not toxic material. Mayor Taylor asked was there anything in the plant that would be hazardous on its own? Mr. Lamphy could not think of any. Mayor Taylor said there had been concerns about the water, etc. Mr. Lamphy said they had specifically looked at the water issue and have enhanced the water handling system. Mark Greenfield added that if any hazardous or dangerous materials had been involved in this, they would not have tried to get this use authorized as an outright permitted use.

Mayor Taylor was confused about what other things were industrial uses other than manufacturing.

John Kelley said the Ordinance explained that in an M1 zone there were specific allowed uses permitted outright. Letter A was generic manufacturing uses, if it met the requirements listed, then it was a manufacturing use that was an outright permitted use in the M1 zone. In addition to that, other uses would be allowed outright in an M1 zone which were specifically listed under Letter B, C, D, etc., with another catch-all that stated uses similar to those that were listed were o.k. as well.

Mayor Taylor agreed with Councilor Lucas that the Council needed to consider the language of this section of the Code and clarify more of what the City wanted.

Councilor Nolder asked that since the Planning Commission had a tie vote, it really wasn't an appeal, so the decision tonight was not that the Planning Commission did not follow one of the three areas, but that the Council find if it was a manufacturing use or not.

****Councilor Harris moved to accept the interpretation that concrete batching qualifies as manufacturing and that it is considered an outright permitted use in an M1 zone. Motion seconded by Councilor Nolder.**

Mayor Taylor asked if by making the motion they just did, have they now placed all manufacturing concrete batching plants into an outright permitted use? John Kelley said that was the interpretation, however each time they looked at a batching applicant, they still had to meet the criteria of the Code.

Mayor Taylor asked was it required that they consider the overall industry as this?

John Kelley said the decision was the interpretation as presented by this applicant.

Mayor Taylor asked if then they should make a different motion than the one before them.

Councilor Lucas said he felt that by saying it was manufacturing, they were saying that cement batch plants were o.k. to have in any M1 property in the City of Canby.

Mr. Jordan said if they meet the requirements of the Code, then that was true.

John Kelley said it was important to remember that it was not just the fact that it was manufacturing, but they also had to meet the criteria of the Code. They had to look at each individual applicant each time they came in to make sure they met the criteria.

Councilor Lucas said the only way they could single out Pacific Rock on that particular property with that particular company was a conditional use permit. Every cement batch plant would meet the criteria of the Code and they could put them anywhere in M1 in Canby.

Councilor Harris was not afraid of opening the door to any batch plant, assuming there were other kinds, the criteria of the Code was quite strict and if they had to abide by this standard, it sounded like the door was pretty tight.

Mr. Jordan said the motion could be reworded to be specific to this application if they wished. The one who made the motion did not wish to do that, however.

The motion to consider concrete batching as an outright permitted use in an M1 zone passed 4-1, with Councilor Lucas opposed.

Mayor Taylor instructed staff to bring back findings reflecting the Council's interpretation.

Mayor Taylor closed the hearing at 8:47 p.m.

Mayor Taylor recessed the meeting at 8:48 p.m. and reconvened at 8:58 p.m.

COMMUNICATIONS: Letter from Judge Henricksen regarding Victims Panel - Mayor Taylor read the Judge's letter. For the record, he wanted to say that the Council had great faith in the Judge and in his discretion and judgement. They would honor his decision to end the Victims Panel Program. He hoped the decision was based on what the Judge felt was good judicial practice as opposed to the merits of the program, which they believed had value.

Councilor Lucas said that everyone felt the Victims Panel was a worthwhile policy. He felt the whole problem was that the citation was not placed on the record. Just dismissing the program missed the point.

John Kelley asked if the Council still wanted him to prepare two legal opinions, one regarding judicial discretion and the other regarding separation of powers. Mayor Taylor said yes, they

would still like those reports in case at some other date the Court decided they would like to reinstate this program.

NEW BUSINESS: Bike Paths from Redwood to Ivy - Mr. Jordan explained that the Bike & Ped Committee wanted to solicit the opinion of the Council on a project which would create a bike and pedestrian way from Redwood Street, on the east end of the community where it intersected 99E, along the north side of the Union Pacific Railroad right of way to Ivy Street where it intersected the highway. This was to create an East/West pedestrian and bicycle route which connected to the logging road, which provided a north/south pedestrian and bicycle route.

Lila Gottman, Chairman of the Bike & Ped Committee, explained the plan in more depth. The Committee wanted to know if the Council wanted to do this project and if so, the Bike & Ped Committee would enter into negotiations with the Railroad. The Railroad wanted a barrier between the tracks and the path. Funding would be entirely from outside sources, such as through grants, gas tax money, or getting the State to pitch in more money to fulfill their obligation in providing pathways within their City limits since the State highway went right through Canby. The Council was not approving the plan, but approving negotiations of that plan.

Mayor Taylor asked why not place the path on Pine Street that went down past the front of the fairgrounds and into Wait Park as opposed to across the Ivy intersection.

Ms. Gottman said that path would be down 3rd Street and the width of that street would have to be increased considerably to use it. An off-road path was 8 feet wide, and if you put it on the street with the traffic, you would have to have 6 foot lanes for the bicycles and then sidewalks separately on the street right of way, increasing the road pavement. This would cause much more improvement needed to accommodate that than just coming down next to the Railroad track and not incorporating it onto any City streets.

Mr. Jordan said the cost of the Mayor's suggestion was far greater than the Bike & Ped Committee's project. The streets the Mayor suggested will ultimately need to be improved to provide access to downtown from the highway and it was in the transportation master plan ultimately.

Councilor Nolder asked why the plan stopped at Ivy Street.

Ms. Gottman said ultimately the plan would have bike lanes on City streets that went down 1st, 2nd, or 3rd. To cross Ivy Street at a close proximity to the Railroad tracks, there would be people almost on the tracks. The best thing to do was to let pedestrians and bicyclists choose to either go left to 99E or right to 1st Avenue to get back down to Elm.

Councilor Daniels asked what the reason for going from the Logging Road to Redwood was? Ms. Gottman said people were planning on developing houses on Redwood, and if you went to

the Railroad track, you get on the Logging Road, cross 99E from the north side without ever having to encounter 99E by getting up on the Logging Road. Councilor Daniels said then it was basically for access to the Logging Road.

Mr. Jordan added that a major component was the attractiveness to the Department of Transportation because they were required ultimately to put bike lanes on 99E. About at Redwood, they started to lose the crosssection on 99E because they were approaching the overpass for Redwood and bike lanes with the current widths for traffic lanes started to become a problem. So ultimately the thinking was that they would be able to maintain a wide enough crosssection on 99E from Redwood towards Oregon City to accommodate bike lanes, but at Redwood, they started to lose their width. That was where they would take bikers off the highway and put them on a traffic separated path into town and ultimately put them back on the highway at Elm Street.

Councilor Harris asked how this fit into the parks master plan. Ms. Gottman said it was not currently in the plan, but it could be construed as a linear park.

Mr. Jordan said this currently would not be eligible for SDC money from the parks or transportation SDC. The idea that a mini park might be created at the PGE substation site perhaps could be incorporated in the parks master plan. However, this was a transportation project more than a recreation project.

Mayor Taylor said that the plan was that if the Council approved the concept, then the Bike & Ped Committee would negotiate with the Railroad and then would come back to the Council and decide if they had the money and when they would do the project.

Ms. Gottman said if they came back, they would have definite sources of funding.

The Council thought this was a good idea.

Councilor Strong asked if gas tax money could be used for this. Mr. Jordan said he would have to find out, since it could be considered as a substitution for a right of way improvement, it was possible. It was not in the right of way, however.

****Councilor Harris moved that the Council support the idea brought forth from the Bike & Ped Committee for bike paths from Redwood to Ivy Street. Motion seconded by Councilor Daniels and approved 5-0.**

Mayor Taylor adjusted the agenda and moved to the Walt West Construction Annexation.

Walt West Construction Annexation - Jason Kruckeberg explained that the issue was the request for comments they received from the Portland Metropolitan Area Local Government Boundary Commission regarding an annexation. He explained where the property was located, off of north

Redwood. The representatives of Walt West filed a request directly with the Boundary Commission for annexation, not going through the City process. This was a legal method of getting a piece of property annexed into the City Limits. Traffic concerns were a big issue and when the proposal was first sent to the staff, former Planning Director Aneta Synan was going to recommend denial because of this issue, especially regarding Highway 99E and Territorial. In response to this, the applicant commissioned a traffic study. Kittelson and Associates did the study, and David Kelley, the City's traffic consultant, reviewed the results and they found that the site at its potential build-out would generate about .3% of the existing traffic at Territorial and 99E. They had just begun a preliminary engineering study for potential signalization for that intersection. He stated that this was Priority A property. The staff recommendation based on the limited research that they had done was to approve the annexation with some understandings, especially regarding traffic signalization and road improvements. Another concern was getting this annexation to a vote. A possible method would be objecting a vote of approval from the Boundary Commission, which would then trigger a vote.

Councilor Daniels asked if the understandings were legal? Jason Kruckeberg said it was an added notice, it put everyone on notice as to where they were on this one, but were not conditions for annexation.

Councilor Nolder asked why an applicant would go about the process in this manner?

Jason Kruckeberg said it was a legal process and might be a cheaper and quicker process.

The applicant, Nancy Salber from Walt West Construction, explained that they went the route they did because they purchased the property in question on April 22 of this year and to get this piece of property annexed into a vote of the people by November, they would have had to have their application completed in a period of eight days. They had an obligation to the property owner that they would get the property annexed before April of 1999. That being the case, not only were they going to miss the November elections, but the next election was in May.

Mayor Taylor said that being aware of the City's policy of voter annexation, to hit that timeline, the Council would have to say that everyone else should have a vote on annexation except for this piece of property.

The applicant said that the Boundary Commission would go through their own study and ask the City what their opinion was and make their recommendation based on those things. After the Boundary Commission made its decision, the City then had the opportunity to say that they wanted to send it to a vote of the people. They were hoping to get this annexation on the ballot in November.

Mr. Jordan said the City would be legally obligated to pay for it if they were put on the November ballot. The applicant said they might be willing to help pay that cost. Mr. Jordan said the cost would be less than \$1,000.

Councilor Nolder clarified that the Council's options were to recommend approval or denial to the Boundary Commission. Mr. Jordan reminded the Council that the Boundary Commission had the final decision.

Councilor Nolder asked if the Council could recommend approval with the attached understandings, which were requirements? Mr. Jordan said the understandings were not a requirement, they were there to communicate intent. John Kelley said the understandings were to notify the applicant that when they came in with the application for development, the City put them on notice at this time what they were going to be required of.

Councilor Nolder said they could also say that the Council intended to object to Boundary Commission approval. There were really three recommendations the Council could make.

Councilor Lucas felt that the applicant promised something they could not deliver and because of that, they wanted to circumvent the whole annexation process. He did not think it was a very good way to go about it.

****Councilor Lucas moved to recommend denial of the annexation application and direct staff to write a letter to the Portland Metropolitan Area Local Government Boundary Commission recommending denial of the annexation. Councilor Harris seconded.**

Councilor Harris said he felt they did not have the extensive background done by staff and the Planning Commission as usual and the public had clearly indicated they wanted to vote on all annexations even after the staff, Planning Commission, and Council had worked on the project. This application bypassed that process and he felt it was not the way they should be doing business.

Mayor Taylor said the actual development of this property would still run through normal City review process. Would the staff provide the same kinds of information or research that they would normally do prior to an annexation or would it be of a different nature? Jason Kruckeberg said it was somewhat different in that the annexation staff reports required a different slant on the comprehensive plan analysis. Subdivision applications were very stringent in terms of what they needed to submit. The review was extensive, but not exactly the same.

Councilor Nolder said he felt the established City process was successful, and this application appeared to be going around the "back door" to accomplish something.

Martha Stiven, planning consultant representing Walt West, stated this was not a "back door" attempt. Her client met with the City prior to preparation of the application and this approach was discussed as an option with the staff prior to the application. The decision was very much driven by the timing of elections and timing of approvals. It was in no way an effort to thwart a vote. They did it this way to get a vote of the people quicker. They had two staff reports prepared by the staff, they did service provider letters, and the Boundary Commission would be

looking at the City's comprehensive plan and doing some of the work that an internal staff review would have done. They would be willing to write a letter of understanding as to the conditions that the staff had suggested regarding traffic controls and future improvements that could be put in the annexation file and when they went to file a subdivision, they would look in the file and see the voluntary things that the developer had agreed to. Another thing they could do was to recommend approval based on staff recommendation with the condition and notification that they expected this to go to a vote of the people. The Boundary Commission understood that their approval of an annexation was not final if there was a vote in the community. Their approval would be suspended until there was a vote, and if the vote was denied, the decision was moot, if it was approved, then their decision would stand. She also stated that the Boundary Commission would be dissolved December 31.

Mayor Taylor said that when the Boundary Commission disperses, because Canby was outside the Metro boundary, the City Council would become that body. This was probably the last one to make an application to the Boundary Commission for this kind of thing.

Mayor Taylor agreed with the concern regarding the process, but he believed that they could still force the vote. This was also Priority A land. The work that went into making it a development allowed the Council to still be able to control what went on, conditions to be met, etc. Also the Boundary Commission avenue would soon no longer be a problem.

Councilor Daniels wanted the Council to make a recommendation to approve the annexation subject to a public vote instead of just rejecting it and sending it on. He felt that it would give a negative effect on the vote, because the Council rejected it and they had a lot more information than the voters did.

Councilor Nolder said the timing was not the issue with him. He felt that the process was important and circumventing the process was wrong.

Councilor Daniels said that the Council's decision for denial would influence voters against the annexation when all they were doing was trying to get the annexation to a vote of the people. If they approved it subject to a vote, then the citizens would know that the Council looked at everything and felt that it was a good project, but it was up to the citizens to vote it in. They could send one of two signals, they looked it over and didn't like it, but you have to vote on it; or they looked it over and they want you to vote on it, but they think it's o.k.

Councilor Nolder said they could recommend denial and if the Boundary Commission approved it, then they could still require a vote or the Boundary Commission could deny it and then they would have to go back through the process in place now. He also felt he did not have enough information to make a good judgement about it.

Councilor Lucas said if it was denied here and the Boundary Commission, they would have to go back through the regular process, it would go to the vote just like it would for any other

annexation.

Mr. Jordan wanted either before or after the vote some flesh for the letter they would write to the Boundary Commission stating the reasons for denial of the annexation.

Councilor Lucas said the reason he wanted to deny the annexation was because it circumvented the process and there was not enough information to make a decision.

Walt West, the annexation applicant, objected to the idea that the Council thought they were going behind their backs. He had developed a lot of property in Canby and had done everything the Council asked. They were only trying to expedite a piece of land that could be developed into housing, something the City needed. They were a reputable firm and did things right. They did not try to go behind the Council, but took a route where they thought they could expedite this project faster. All they were asking for was annexation, not for the Council to approve of a subdivision, they could not get that until they went through the process just like anybody else. He objected that anyone would say he went behind someone because he never has and never will.

Councilor Lucas said he wasn't saying anything against Mr. West personally and apologized if he offended him. He was looking out for the process, and the people wanted a vote. He did not feel he had enough information because the studies were not done.

Councilor Harris said he meant no insult to Mr. West personally or professionally, but the process was the concern. When they voted on annexations, they usually had more information than they did in this case.

Mayor Taylor asked Mr. Kruckeberg that when he met with these folks and he provided them with different courses of action, was there any review of the merits of this piece of property being annexed into the City, or was it not in the scope of the conversation? Did it meet with all City requirements for annexation?

Jason Kruckeberg said he spoke with them several times about options, timing, etc. The staff knew it was happening. They got a letter from the Boundary Commission, and there was a short time frame to get information back to them. A comprehensive plan analysis was done and there was an abridged review of what they would normally do. Everything was done in terms of looking at the priority, utilities, etc.

Martha Stiven added that when former Planning Director Aneta Synan's report came out, they stopped and requested a continuance before the Boundary Commission and did a traffic study in response to that report.

Motion to recommend denial of the request for annexation passed 3-2, with Councilors Daniels and Strong opposed.

Jason Kruckeberg said that the two items as grounds for denial were that it circumvented the City's annexation process and the Council did not have enough information to make an affirmative decision on the issue.

ORDINANCES AND RESOLUTIONS:

Ordinance No. 1000 -

****Councilor Daniels moved to adopt Ordinance No. 1000, AN ORDINANCE AMENDING SECTION 7 OF ORDINANCE NO. 668 REGARDING ANNUAL FRANCHISE FEE TO BE PAID BY THE FRANCHISEE, CANBY TELEPHONE ASSOCIATION, TO THE CITY OF CANBY, REPLACING ORDINANCE NO. 845, AND SETTING AN EFFECTIVE DATE FOR JULY 1, 1998. Motion seconded by Councilor Harris and passed by roll call vote, 5-0.**

Ordinance No. 1001 -

****Councilor Harris moved to adopt Ordinance No. 1001, AN ORDINANCE AMENDING SECTION 12 OF ORDINANCE NO. 788 REGARDING ANNUAL FRANCHISE FEE TO BE PAID BY THE FRANCHISEE, NORTHWEST NATURAL GAS COMPANY TO THE CITY OF CANBY, AND SETTING AN EFFECTIVE DATE FOR JULY 1, 1998. Motion seconded by Councilor Strong and passed by roll call vote, 5-0.**

Ordinance No. 1002 -

****Councilor Harris moved to adopt Ordinance No. 1002, AN ORDINANCE AMENDING ORDINANCE NO. 990 REGARDING ADOPTION OF CANBY'S MUNICIPAL CODE, ADOPTING TITLE 16, ENTITLED "PLANNING AND ZONING," AND DECLARING AN EMERGENCY. Motion seconded by Councilor Strong and passed by roll call vote, 5-0.**

Ordinance No. 1003 -

****Councilor Lucas moved to adopt Ordinance No. 1003, AN ORDINANCE AUTHORIZING THE MAYOR AND CITY RECORDER TO EXECUTE A CONTRACT WITH WESTERN WOOD STRUCTURES, INC. FOR DESIGN AND CONSTRUCTION OF THE TOWNSHIP ROAD PEDESTRIAN BRIDGE; AND DECLARING AN EMERGENCY. Motion seconded by Councilor Harris and passed by roll call vote, 5-0.**

Ordinance No. 1004 -

****Councilor Daniels moved to adopt Ordinance No. 1004, AN ORDINANCE**

AUTHORIZING THE MAYOR AND CITY RECORDER TO EXECUTE A CONTRACT WITH PARKER-NORTHWEST PAVING COMPANY FOR CONSTRUCTION OF CANBY STREET IMPROVEMENT PROJECTS; AND DECLARING AN EMERGENCY be posted and come up for final action on August 5, 1998. Motion seconded by Councilor Strong.

Mr. Jordan explained that this was the first time the City went out for multiple street improvement projects on one bid. They were grouped in an attempt to get a better unit price for the material primarily, and then mobilization, de-mobilization cost savings. There was only one bidder, which would lead one to believe that there would not be cost savings as wished, but the \$415,000 bid for the five improvement projects was roughly \$100,000 under the engineer's estimate for the projects. The projects were Knights Bridge Road reconstruction from Grant to Holly Streets, including Triangle Park modifications; S. First Street reconstruction from 6th to SE 9th Avenues; N. Ivy Street extension from N. 14th to Territorial Road; Territorial Road sanitary sewer extension from Juniper to Holly Street; and an overlay of the Molalla Forest Road from Territorial to SE 13th Ave.

Councilor Strong stated that on Exhibit A of the construction contract, it said that the projects would be substantially completed in 75 days. Mr. Jordan said that was correct, but if they read on in the conditions of the contract, there were weather provisions that allowed extension of the contractor's work. The intent was to finish all of the projects this season.

The motion to adopt Ordinance No. 1004 passed 5-0 on first reading.

UNFINISHED BUSINESS:

Downtown Parking Plan - Chief Giger said this was in response to the Council's request to bring back a map with accurate lines and spaces drawn on it and at least five of the proposed handicap parking spaces removed from the Railroad parking lot and distributed into the downtown area. Also the appeals process was changed, which would be a written process where the City Administrator would not have to make the decision, but any changes would be brought to the Council directly. On the new map, the long red dashes showed residential areas in the downtown area that would not have timed parking in front of them.

He took five of his employees and gave them a map to find the best locations to place handicap parking downtown in addition to what was already there. They all did it differently. He then asked the Street department and Roy Hester to pick the areas that would be the easiest places for him to put them and be accessible for traffic. He left it up to Mr. Hester to place the five handicap spaces in the downtown area. They ended up with 22 or 23 handicap parking spaces in addition to the 20 on private property that were in the downtown area. They left five handicap parking spaces in the Railroad parking lot.

Also on the map, the green dots showed the 20 minute parking spaces and when there was

handicap parking right next to them, they would be switched because handicap vehicles needed to use the hashed out area next to the curb and he forgot to tell his map maker to switch them.

Councilor Lucas was glad they would be switched. He asked if that the ones that were diagonal were diagonal and the ones that were straight would be parallel to the curb? Chief Giger said that was correct.

Councilor Lucas asked if the ones that were on a diagonal, would they have to reconstruct the whole street because they had to be wider? Chief Giger said they didn't have to be wider because they would have the hashed out area to their right and those would be placed either next to an alleyway, a driveway, or an intersection which give them the extra space. The only ones that need to be bigger were the 90 degree or parallel ones.

Mayor Taylor thanked the Chief for his work on this project. He reviewed the appeals process, that people would have the opportunity to appeal to the City Administrator who would then forward it to the Traffic Safety Committee who would then make a recommendation to the Council.

****Councilor Daniels moved to accept the committee's recommendation for the ADA parking spaces and the appeals process, thus completing the City of Canby's Downtown Parking Plan. Motion seconded by Councilor Strong and approved 5-0.**

MANAGERS REPORT: Mr. Jordan had some scheduling issues. The workshop scheduled for July 29th with the Planning Commission was not going to work. The Planning Commission suggested to do it at their regular meeting on August 10th. The Council decided to meet at 6 p.m. on August 10th. Also the workshop scheduled for July 22nd regarding five year financial planning for Community Development was not going to work. Mr. Jordan wanted to know if instead they wanted to meet with Canby Utility Board regarding electric deregulation issues, in particular an issue dealing with PGE regarding the building of a new substation. Councilor Lucas asked if they would be willing to talk about the intergovernmental agreement with the Regional Park with them and the Council. Mr. Jordan said he thought they would be open to any agenda item the Council might wish to discuss. The Council decided to meet at 7 p.m. on that evening. Mayor Taylor also wanted to schedule a meeting with the school board, Planning Commission, and Council in September. Mr. Jordan wanted to meet in workshop session on July 29th regarding urban renewal and tax increment financing for the Industrial Park area at 7 p.m. The Council agreed.

He mentioned that a number of swings were missing in Wait and Maple Street Parks. They recently found a letter from 1995 recalling those swings because of accidents that occurred. They were now being replaced. There was money in the budget for the replacement of the play equipment for those parks and they would try to get them replaced this summer.

Mr. Jordan asked the Council's permission to bring back an Ordinance and contract for revisions

of the City's transportation master plan for the next agenda. He had been talking with the people who had done the original master plan to start the process for the revisions. The revisions included the incorporation of the industrial park master plan overlay; the access management component, which was still outstanding, and another staff member from the Department of Transportation was going to work with the City on that component; and some of the more specific changes, such as Holly Street to Ivy as the North/South arterial, inclusion of signalization at Territorial, etc., those kind of issues that need to be incorporated into the transportation system plan. The Council agreed.

John Kelley said back in the Spring they discussed a daytime curfew ordinance. They were supposed to get the school board involved and the juvenile court on board. They had done that. If they wished, they could have the Ordinance on the agenda in August if they wanted to have something in effect before the beginning of the school year. The Council wanted it brought back on the August 5th meeting.

Councilor Daniels said that Salem did this and decreased their crime 22% during the day.

COUNCILORS' ISSUES:

Councilor Nolder thanked all who worked on General Canby Day. It was another huge success. Mayor Taylor and Councilor Daniels agreed. Mayor Taylor apologized to Councilor Lucas who had to provide his own transportation in the parade because he let the Mayor take the last car.

Mayor Taylor reminded everyone that Slice of Summer had started. Also the Neighboring Cities meeting for the Council was in Sandy on the 28th regarding wrapping up issues on access management and the relationship with the Department of Transportation. There would also be representatives there from Region one and two and the head office in Salem to discuss how they could use concepts in the Oregon Highway Plan that had been recently adopted by the Transportation Commission to create a consistent process that would make it easier for smaller communities to deal with the department regarding access management issues.

Councilor Daniels asked about the lights in the park, was there a timeline on getting those up? Mr. Jordan said as soon as possible. He was hopeful that all of the ditch work would be finished by this weekend so there would be no open ditch issues. Councilor Daniels also mentioned that they were still in need of some volunteers to work on some City committees, in particular for the Adult Center Policy Board, of which he was the Council liaison. The applications were available at City Hall.

ACTION REVIEW:

1. Bringing back the Faist Annexation for the August 19th meeting.
2. Interpreting the Municipal Code to allow for Pacific Rock to be a permitted use within the light industrial zone and bringing back a written finding for that at the next meeting.

3. Negotiating with Union Pacific regarding the Bike Path project along the Railroad corridor right of way.
4. Sending a letter recommending denial to the Portland Metropolitan Boundary Commission of the Walt West Annexation.
5. Bringing back Ordinance No. 1004 for second reading.
6. Implementing Ordinances 1000, 1001, 1002, and 1003.
7. Implementing the downtown parking plan.

****Councilor Daniels moved to go into Executive Session under ORS 192.660 1(d) labor negotiations, 1(f) exempt public records, and 1(h) pending litigation. Motion seconded by Councilor Strong and approved 5-0.**

Mayor Taylor recessed the regular session at 10:30 p.m.

Mayor Taylor reconvened the regular session at 11:10 p.m. and immediately adjourned the session.

EXECUTIVE SESSION
July 15, 1998

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

Mayor Taylor called the session to order at 10:30 p.m.

ORS 192.660 (1)(d) - The Council discussed Police Negotiations.

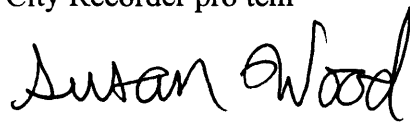
ORS 192.660 (1)(f) - The Council discussed Advanced Financing Issues.

ORS 192.660 (1)(h) - The Council discussed Faltus, Meza, Rinkes, and Nofziger Litigation.

Mayor Taylor adjourned the session at 11:05 p.m.


Michael J. Jordan
City Recorder pro tem


Scott Taylor
Mayor


Prepared by Susan Wood,
Office Specialist