

CANBY CITY COUNCIL
WORKSHOP SESSION
NOVEMBER 19, 1997

PRESENT: Councilors Nolder, Gerber, Harris, Daniels, Strong and Lucas, Michael Jordan, Sarah Jo Chaplen, Chaunee Seifried, Cam Sivesind, Roy Hester and Ken Robinson.

The session was held in the CUB conference room, dinner was served at 6:00 p.m.

The purpose of the session was to discuss expansion of the Zion Memorial Cemetery, consideration of fees and other improvements.

Mayor Taylor adjourned the session at 6:55 p.m.

REGULAR SESSION
NOVEMBER 19, 1997

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

Others present: Administrator Michael Jordan, Finance & Administrative Director Sarah Jo Chaplen, City Attorney John Kelley, City Treasurer Chaunee Seifried, City Recorder Marilyn Perkett, Planning Director Jim Wheeler, Associate Planner Jason Kruckeberg, Police Chief Jerry Giger, Kirsten VanLoo, Dan Ewert, Michael Runyon, Bruce Makowski, David Kelly, Pat Sherman, Doug Sprague, Adrian Fisher, Jon Eyman, Lila Gottman and Curt McLeod.

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

CITIZEN INPUT ON NON-AGENDA ITEMS: Pat Sherman, 495 NW 22nd, addressed the Council and commended them on their actions regarding the recent Gramor Annexation. She stated that even though there has been negative publicity recently regarding their legislative actions, she felt the Council responded due to their representing the general citizenry of Canby and not because of any "special interest" group.

Ms. Sherman stated that the recent vote of the citizens on the voter annexation

measure reaffirmed the Canby by Design proposal that took many long hours to develop. She said that the Canby by Design is a long term solution to what citizens in the community want. Ms. Sherman suggested that the City Council update the Land Use Ordinances and establish a citizen/Council forum that can develop a procedure that will implement the Canby by Design process.

CONSENT AGENDA: **Councilman Gerber moved to approve the consent agenda as presented:

**Accounts Payable of \$114,095.21;
reappoint Bob Gustafson and John Lang to the Canby Utility Board;
reappoint Terry Prince, Jean Tallman and Vern Keller to the Planning Commission;
and approve request of Lions Club to use the Southern Pacific Parking Lot across from Oliver Insurance from November 29-December 24, 1997 to sell Christmas Trees. Motion seconded by Councilman Harris and approved 6-0.**

COMMUNICATIONS: None.

PUBLIC HEARING: ANN 97-08. Tofte Farms - Council President Daniels opened the hearing at 7:40 p.m. and reviewed the public hearing criteria.

Councilman Daniels asked the hearing body to declare any conflict of interest on the hearing subject:

Nolder-none.
Gerber-none.
Harris-none.
Daniels-none.
Lucas-none.
Strong-none.

Councilman Daniels asked the hearing body to declare any exparte' contact:

Nolder-drove by site and drew no conclusions.
Gerber-drove by site and drew no conclusions.
Harris-none.
Daniels-none.
Lucas-none.
Strong-drove by site and drew no conclusions.

STAFF - Jason Kruckeberg explained that the proposed annexation is a parcel of 11.17 acres on the south side of NE 13th Avenue, owned by Harvey and D'Anne Tofte. Mr. Kruckeberg said the property would be annexed as a R-1 zone, and is considered priority "A" property for annexation. All services are available and the service providers presented no negative comments on their request forms.

The Planning Commission voted 4-1 to approve the annexation. The key issue was the amount of buildable lands available in the City. Staff believes that a 2-3 year amount of buildable land is a target range. Currently, the projection is that there is buildable land for 3 years. The descending vote was because the Planning Commissioner believed there is adequate buildable land in the City.

Mr. Kruckeberg stated that the Commission discussed a couple of conflicting Comp Plan policies. The Comp Plan has a policy for retention of agriculture land for as long as possible; and there is a policy to promote priority growth phasing with designations of priority lands of A, B, C, D, and priority A as the first to be annexed. Staff made the interpretation that there is no specific policy dealing with priority A lands that are also agriculture lands. He said a decision needs to be made which policy should take precedent, should it be the retention of agricultural land or the priority phasing concept; and staff has taken the position of the priority phasing concept as most important.

The Planning Commission and staff recommends approval of the application.

Councilman Harris asked how much priority A land remains. Mr. Wheeler said there are approximately 350 acres that are all designated for residential zoning, except for a small parcel in commercial zoning in the Gramor annexation site.

APPLICANT - Kirsten VanLoo, Planner representing the applicant, concurred with City staff regarding the recommendation for approval and said the appropriate time for annexation is now. Ms. VanLoo said that Mr. Tofte can no longer actively maintain his farm and this is a part of his estate planning process. She added that there is no development planned for probably two years. She added that it makes logical planning to annex this parcel now, so it will be available for building 2 or 3 years from now. Also, this parcel is an island, surrounded by annexed property.

Councilman Harris asked why the applicant wanted to annex now if there were no plans for development. Ms. VanLoo said Mr. Tofte wanted to include this in his estate planning and to "clean-up" his affairs.

PROPONENTS - None.

OPPONENTS - None.

REBUTTAL - None.

Council President Daniels adjourned the public hearing at 7:53 p.m.

Councilman Gerber asked if this application would go to a vote of the people because of the recent measure passed.

Attorney Kelley explained that this application for annexation was filed prior to the passage of the voter annexation measure. Also, the voter annexation process will not become effective until the Council accepts the official abstract of votes tonight, the Mayor signs the proclamation and the proclamation is posted in two places in the City.

****Councilman Gerber moved to approve ANN 97-08, applicant of Tofte's, and direct staff to prepare the appropriate resolution. Motion seconded by Councilman Lucas and approved 5-0, with Councilman Harris abstaining.**

NEW BUSINESS: IGA-Traffic Study for Territorial/99E - Administrator Jordan stated that he approached the state and county, asking them to fund the proposed traffic study for improvements at Territorial and 99E.

Jim Wheeler noted that during early meetings, "no one had any money," however, the two agencies will now cooperate in funding a study with the City. Staff feels it is important to move forward with a design and preliminary cost estimates for the intersection

Bruce Makowski, from the New Life Foursquare Church, read a letter supporting the Local Agency Agreement. The letter stated that the church has recently invested over \$31,000 for traffic studies regarding this intersection. He asked that the City approve the proposed Intergovernmental Agreement and dedicate a determination to signalize the Territorial and 99E intersection.

Personally, Mr. Makowski stated that he lives on the bluff above the area and has personally assisted on several accidents at that intersection in the last few years.

Michael Runyon, architect working with the New Life Foursquare Church and various agencies regarding the intersection, said this has been a problem area. He said as Territorial and Redwood are improved it creates an area to connect to Haines Road in the future for a "ring system" to reduce congestion and relieve 99E traffic. Mr. Runyon said this intersection needs to be a long term consideration for moving traffic around Canby.

Dan Ewert, addressed the Council on a personal level, not as the Planning Commission Chair. He agreed that the City should consider the long term potential traffic patterns with the possibility of making a loop system utilizing Territorial, Mulino, Haines and Redwood. Mr. Ewert said he had just returned from Bend, Oregon, and they are actively developing a traffic system that circles the community.

****Councilman Gerber moved to approve the Intergovernmental Agreement in its present form and to authorize the Mayor and City Recorder to sign the document. Motion seconded by Councilman Nolder.**

Curt McLeod stated that an Advanced Financing District was first considered in 1996 so most of the plans have been prepared. He said to change it to a LID should be easy. A motion by the Council is necessary to begin the process.

Mr. Jordan said that Chapter 4.04 of the Municipal Code sets the process for an LID. He said there are public hearings, and property owners are notified and given an opportunity to remonstrate against the LID. If one third of the assessment total remonstrates against the district, the Council cannot form the district.

Councilman Gerber asked what the difference is between a LID and an Advanced Financing District.

Mr. McLeod said the primary difference is funding. An Advanced Financing District does not become a lien against the property and the financing becomes the responsibility of the developer; and if development does not occur within ten years, another ten year extension can be requested to collect a pro-rated share if you connect to the improvements. A LID will be funded by the City, and then it becomes a tax lien on the property for assurance of payment. Assessed property owners make payments semi-annually to the City for a period of time.

****Councilman Gerber moved that the City of Canby show an intent to form a Local Improvement District and direct the City Engineer to prepare a survey and written report of the project for submission to the Council within 30 days. Motion seconded by Councilman Harris and approved 6-0.**

Council President Daniels stated that the Clackamas County Elections Department had submitted the abstract of votes for the November 4, 1997 election regarding the Voter Approved Annexation Measure.

****Councilman Lucas moved to accept the abstract of votes from Clackamas County Elections Department for the November 4, 1997 election for a "City Wide Vote on all Annexations," approved with 2133 Yes votes, and 1516 No votes. Motion seconded by Councilman Harris and approved 6-0.**

ORDINANCES & RESOLUTIONS: Ordinance No. 981 - Administrator Jordan noted that this is the final reading on an ordinance that will make revisions to the Land Use and Planning Ordinance. Mr. Jordan added that there was a memo from Mr. Wheeler regarding his discussion with Sprint regarding cell tower restrictions.

****Councilman Harris moved to adopt Ordinance No. 981, AN ORDINANCE FOR THE CITY OF CANBY, COUNTY OF CLACKAMAS, OREGON, AMENDING TITLE 16 OF THE PLANNING AND DEVELOPMENT CODE; AND DECLARING AN EMERGENCY. Motion seconded by Councilman Daniels.**

DISCUSSION - Councilwoman Strong asked if the City was duplicating a process that Gramor had already done.

Mr. Jordan said that the studies done by Gramor were site specific, and primarily for Redwood and Territorial. He added that the Foursquare Church has done significant study, as required by Clackamas County, of the Territorial/99E intersection. Mr. Jordan said this IGA is for feasibility work to solve the engineering concerns that have come out of the studies done by the two entities.

Mr. Runyon said this is not a duplication. He added that what Gramor did, helped make this proposal more effective, and this study will provide a defined document necessary for development at the intersection.

Mr. Jordan added that the rail division has some concerns about the elevations in the area. He added that he was not sure if the rail division had approved Gramor's option. Mr. Jordan said it is important to make sure that Clackamas County, ODOT and the rail division are all in agreement with an engineering option.

Councilwoman Strong asked what phase the City's Traffic Master Plan has designated a signal at that site..

Mr. Jordan said it is in the 5 year phase, but this is not a SDC project in the plan. He said this project actually could be done at any time, but if it were to be an SDC project, then it should be put in the first phase to be done immediately.

Councilman Harris asked where the City funding would come from.

Mr. Jordan replied that funds are available in the Street Improvements line item or the Street Reserve Fund for capital projects.

Councilman Harris commented that this intersection is outside of Canby, but it makes sense in long term planning to consider the area because it will be the City limits in the future.

****The motion to approve the IGA was 6-0.**

LID - N. Baker Commercial Development - Mr. Jordan said the area to be considered for a Local Improvement District is along the north side of Highway 99 E between Elm Street to the edge of the City, and over the bluff by the railroad and the Rinkes property. The owner of the property, Adrian Fisher, requested the LID to make the property developable. The property has no sewer service and water services needs to be improvement.

DISCUSSION - Councilman Gerber noted that during workshop sessions, cell tower placements were considered, and the unanimous decision was not to place them in residential areas.

****Ordinance No. 981 was approved by roll call vote, 6-0.**

Resolution No. 657 - Administrator Jordan noted that this resolution was drafted after the approval of the Gramor Annexation.

****Councilman Gerber moved to approve Resolution No. 658, a RESOLUTION TO THE PORTLAND METROPOLITAN AREA LOCAL GOVERNMENT BOUNDARY COMMISSION RECOMMENDING APPROVAL OF THE ANNEXATION TO THE CITY OF CANBY, CLACKAMAS COUNTY, OREGON, OF TAX LOTS 900, 901 AND 1000 OF TAX MAP 3-1E-34, LOCATED ON THE SOUTH SIDE OF HIGHWAY 99E AND S.E. FIRST AVENUE, EAST OF THE MOLALLA FOREST ROAD. Motion seconded by Councilwoman Strong and approved 4-2, with Councilors Nolder and Harris voting no.**

UNFINISHED BUSINESS/REPORTS OR ANNOUNCEMENTS: Street Tree Issue Recommendation - Mr. Wheeler reminded the Council that two meetings ago, Randy Harris, homeowner at 468 SE 9th, objected to a street tree planting in his yard. Staff recommended either a full exemption, with no tree planted; or contacting the neighbor to the west to have another tree planted on their lot immediately west of the common property line with Mr. Harris. This would keep the continuity of the tree street scape.

Councilman Harris asked what position the Planning Commission had on the issue. Mr. Wheeler said they were opposed to the exemption.

Councilman Gerber said he preferred the option of contacting the neighbor to plant another tree close to the Harris property line.

Councilman Nolder concurred with Mr. Gerber, stating that the City should not force the tree on a homeowner who was not aware of the requirement up front.

Councilman Harris said he was opposed to government imposing specific conditions on homeowners, specifically for aesthetic reasons.

Councilman Strong agreed that the option of working with the neighbor to plant a tree was more desirable; and she expressed concern about forcing homeowners to do certain things without letting them know in advance. She added that in the future there should be a method of informing potential property purchasers of all conditions.

Administrator Jordan noted that the City Council and Planning Commission should plan a session to discuss the street tree issue, and other aesthetics that are enforced by the Planning Commission. He added that everyday purchases are made in the City and the buyer is not always informed of all Planning Commission conditions on a subdivision.

Dan Ewert, Planning Chair, stated that the Planning Commission had done years of work to get trees back into the Canby planning phases. He said it gives Canby the "look" that is wanted by many citizens. Mr. Ewert explained that the Commission is researching ways to be sure some of these conditions are implemented. Some of the suggestions were to impose CCR's for subdivisions and not permit an occupancy until the conditions have been met.

Councilman Gerber said he was interested in a clear definition for street trees, specifically when a tree is 6 feet into a homeowners yard; and the notification process concerned him.

Dan Ewert noted that CCR's's are a necessity and to keep in mind that a tree canopy is an issue when placing a tree, trying to keep the tree out of the street.

Councilman Harris said because the "city messed up" in this case, he was willing to give an exception to the street tree planting.

****Councilman Gerber moved that in this issue with Randy Harris that the City first try to negotiate a tree planting with the neighbor to the west; and if this fails, an exception to the street tree planting is suggested and Mr. Harris will not be required to plant a tree. Motion seconded by Councilman Harris.**

DISCUSSION - Councilman Harris noted that the Mr. Harris in question was not him.

****The motion was approved 6-0.**

9-1-1 & Dispatch Agreement - Chief Giger informed the Council that as of November 14th, all transfers have been made to C-Com and the system is working very well. C-Com has taken the eligible employees from the City and the specific requirements and payments to Clackamas County for the 9-1-1 service is within the City budget.

****Councilman Gerber moved to authorize the City Administrator to sign the 9-1-1 agreement with Clackamas County. Motion seconded by Councilman Harris and approved 6-0.**

Jason Kruckeberg handed out tapes and a staff report regarding an Appeal that will be on the December 3rd agenda. Mr. Kruckeberg informed the Council that Riverside

Homes is appealing one of the 29 conditions. The appeal decision will be made on the record.

MANAGER'S REPORT: EID - Mr. Jordan informed the Council that staff has been working with the Canby Downtown Revitalization Group in forming an Economic Improvement District which is very similar to an LID. An information public hearing has been scheduled for December 17th.

Workshop Session - Administrator Jordan reminded the Council that a workshop session will be held on December 10th with the Planning Commission and School District Board at Trost School. This meeting will take longer than first anticipated so the prior suggestion of discussing the Industrial Park Master Plan will have to be set for another time.

Industrial Park Technical Advisory Group - Mr. Jordan reported that the technical group will convene on Friday, November 21st. After this meeting, the property owners will be involved in a meeting to review the design and then meet with the Council and Planning Commission regarding the proposal. A public review process will be scheduled after the holidays of the Industrial Park.

Measure 50 - Mr. Jordan said he had received notice regarding the permanent tax rates. The City rate is \$3.94 per thousand, with an additional bonded debt of 14 cents per thousand for the library. The cumulative rate for the City is \$15.94 per thousand, which is higher than last year, however tax bills will be approximately 10% lower because of the rollback on property value. The City will receive approximately \$142,000 additional funds. a supplemental process will be scheduled to budget the funds.

Goal Setting Session - Mr. Jordan noted that the Council will need to set a goal setting session prior to allocating the additional tax revenue. The Council set January 14, 1998, at 6:00 p.m.

Memo from Planning Commission Chair - Mr. Jordan reminded the Council that the Planning Commission Chair had requested a definition from Council for "adequate service." It was suggested that this be discussed during the workshop session with the School District and Planning Commission on December 10th. Mr. Jordan reminded the Council that adequate services includes police, fire, administration and planning levels. It was suggested that another workshop with the Planning Commission be scheduled after the first of the year.

COUNCILORS' ISSUES: None presented.

ACTION REVIEW: 1. Prepare resolution approving ANN 97-08.

2. Implement IGA with Clackamas County/ODOT regarding Territorial/99E intersection study.
3. Prepare engineering report for proposed LID.
4. Implement Land Use and Planning Code revisions with Ordinance No. 981.
5. Forward Resolution No. 657 to the Boundary Commission regarding Gramor Annexation approval.
6. Negotiate street tree issue.
7. Implement 9-1-1 Agreement with Clackamas County.

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

Council President Daniels recessed the regular session at 9:06 p.m. to go into Executive Session. The regular session was reconvened at 9:47 p.m. and immediately adjourned.

EXECUTIVE SESSION
NOVEMBER 19, 1997

PRESENT: Councilors Daniels, Nolder, Harris, Gerber, Lucas and Strong, Mr. Jordan, Ms. Chaplen and Curt McLeod.

Councilor Daniels called the session to order at 9:15 p.m. in the CUB conference room.

ORS 192.660 (1)(h) - The Council discussed a possible litigation with Moore Excavation.

The Rinkes vs. City litigation was discussed.

Councilman Daniels adjourned the session at 9:45 p.m.


Marilyn K. Perrett
City Recorder


Walter Daniels
Council President