

CANBY CITY COUNCIL
REGULAR SESSION
DECEMBER 3, 1997

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

Also present: Administrator Michael Jordan, Administrative Director Sarah Jo Chaplen, Planning Director Jim Wheeler, Associate Planner Jason Kruckeberg, Library & Recreation Director Beth Saul, Police Chief Jerry Giger, Sarah Kroeplin, Michaela Carroll, Steven Amick, Michael Runyon, Doug Sprague, Marc Butorac, Dan Ewert, Barry Cain, Matt Grady, Chad Bolden, Philip Moore, George Diamond, Rebecca Nugent, Brooke Cates, Nancy Wilmes, Robert Stricker, John Falkenstein, Nan Olsen, Tom Keenan, Carol Meeuwsen, Jeff Gerhardt, Lila Gottman, Lance Lyon, Roger Reif, Blaine Oswald and others.

Mayor Taylor called the session to order at 7:30 p.m., and the opening ceremonies were observed.

CITIZEN INPUT ON NON-AGENDA ITEMS: Michaela Carroll addressed the Council regarding a skate park. Ms. Carroll said a group of students had held a series of meetings and developed plans for a skate park.

Mayor Taylor explained that the Council would be discussing this matter later in the meeting.

CONSENT AGENDA: **Councilman Daniels moved to approve the consent agenda: MINUTES of November 5, 1997 and November 12, 1997; ACCOUNTS PAYABLES of \$298,332.23; WAIT PARK USE on May 16, 1998, for the Whiskey Hill Jazz Festival; and PLANNING COMMISSION APPOINTMENT of James Brown. Motion seconded by Councilman Harris and approved 6-0.

Mayor Taylor informed the audience that through the consent agenda, James Brown has been appointed to complete an unexpired term on the Planning Commission with the term expiring December 1998.

PROCLAMATION: Mayor Taylor proclaimed December 7-13, 1997 as Toys for Tots week and encouraged citizens to join in the "holiday spirit" of giving toys and food for those in need.

Nancy Wilmes, Kiwanis Day-breaker member, said that in the last three years, over 1200 children in Canby have benefited from the Christmas Toy Drive.

COMMUNICATIONS: None presented.

Mayor Taylor asked how many citizens were present for the appeal; the Tofte annexation; the Gramor Annexation; the regional park discussion; and those present for the yard debris recycling in mobile home parks discussion. Mayor Taylor stated he would adjust the agenda according to the audience.

ORDINANCES & RESOLUTIONS: Resolution 660 - Mayor Taylor explained that the City has been reviewing various uses of property for parks in the City. Also, the Blue Heron Recreation District supports parks and recreation in the Canby area and have submitted bonds to the voters in the past that were not successful.

The City has a Parks and Recreation Committee which has been involved in conversations with the Blue Heron District about a specific piece of property, referred to as the 'Honda Pits,' near the railroad at the end of N.W. Third Avenue. The proposed park for this area will have skate board areas, walking paths, ball fields and other recreation facilities.

****Councilman Lucas moved to adopt Resolution No. 660. A RESOLUTION AUTHORIZING THE CITY PARK AND RECREATION ADVISORY BOARD AND BLUE HERON RECREATION DISTRICT SUPPORTING THE DESIGN AND IMPLEMENTATION OF A NEW REGIONAL PARK LOCATED IN THE NORTHWEST SECTION OF CANBY. Seconded by Councilman Harris.**

DISCUSSION - Councilman Lucas said the plan needs fine tuning, however, the three groups are in support of a regional park.

Tom Keenan with the Blue Heron Recreation District and Canby Kids, said the resolution is an opportunity to support a park that is needed in the area. He urged Council support.

John Falkenstien, with Canby Community School, noted that over the past few years, there have been surveys regarding recreational concerns, master plans developed and the City visioning process which included recreation. He said all of these planning tools issues have led to the proposal brought to the Council tonight. Mr. Falkenstein urged Council support of the resolution.

Nancy Salber, representing Walter West Construction, stated that Walter West Construction has offered to donate \$3500 towards a skate park for the youth. Ms. Salber said the skate park would be good for the community, she turned the check over to the Mayor.

Michael Carroll and Jeff Gerhardt said they were willing to help in any way possible to

facilitate the skate park and regional park. Jeff presented some sketches for a proposed park.

Councilman Lucas said a trip is being planned to some area skate parks, as well as securing plans of those skate parks.

Mayor Taylor said he had discussed the project with the Army Corp of Engineers and they are willing to assist in the project, however, they prefer to have plans in place prior to committing their services.

Brooke Cates, Trost PE Teacher, urged support of the regional park. She said it would be a safe place for not only children but adults to experience recreation.

Pat Ewert, said the proposed park would help implement the Parks Master Plan. She agreed with others, saying it will be a "win-win situation for the community."

Carol Meeuwsen, from Canby Community School and lifelong resident, asked that the Council look at this as an opportunity for future solutions in recreation.

Lila Gottman, Chair of the Bike & Pedestrian Committee, said that the committee supports the proposal and urged the Council to do likewise.

Blaine Oswald, representing Canby Football, said they support the proposal and said it would be a positive opportunity for the youth of the community.

Nan Olson, Canby Adult Center, said this is a proposal that she felt the seniors of the community would support.

Mayor Taylor reminded everyone that the proposal has a walking and trail system.

Councilman Harris said there are two things going on, one is the resolution to support the regional park, and the second is the need for the skate board park. He said he felt the regional park would entail a longer process and the skate board park is needed now. Councilman Harris suggested that the skate board park be separate from the regional park so the process can be expedited.

Administrator Jordan noted that some design is necessary to properly locate the skate board park, and this could be done rapidly. He said the project could be phased. Mr. Jordan said the Blue Heron District will be seeking a tax base for the proposal in November 1998, and funds would be made available in November 1999.

Councilman Harris said a skate board park cost projection was from \$30,000 to \$40,000, and 10% has already been donated. He suggested that a park could be

ready by May, 1998.

Councilman Lucas asked if the park could be started if the tax base was approved in November 1998, on a basis of borrowing the funds.

Mr. Jordan said tax anticipation notes could be used.

Councilman Lucas said the design should not take long, and SDC funds are available. He said once the design is firm, the skate park could be built right away.

Councilman Gerber noted that the audience represented a large amount of the community that was in support of the regional park. He reminded everyone that this will benefit the community in the future. He added that this was a great opportunity for the City since many citizens were willing to work on the project.

Mayor Taylor agreed that the portion of the project regarding the skate park could be expedited.

****Resolution No. 660 was approved by roll call vote, 5-0, with Councilwoman Strong abstaining.**

Mayor Taylor accepted another \$300 dollar donation check.

Resolution No. 659 - Administrator Jordan stated that the Council recently passed a resolution supporting the Gramor Annexation, with a caveat to reserve rights to later file an objection if the Boundary decision was positive. Mr. Jordan noted that the City recently passed a Charter change that future annexations must go to a vote of the people. A positive vote on the resolution would place the Gramor annexation on the March ballot, a negative vote would cause the annexation to become final, 45 days after the Boundary decision.

Councilman Gerber noted that the Council always has the right to object to an annexation, even without the caveat.

****Councilman Lucas moved to adopt Resolution 659, A RESOLUTION OBJECTING TO A MINOR BOUNDARY CHANGE BY THE PORTLAND METROPOLITAN AREA LOCAL GOVERNMENT BOUNDARY COMMISSION APPROVING 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 SE FIRST AVENUE, EAST OF THE MOLALLA FOREST ROAD. Motion seconded by Councilman Nolder.**

DISCUSSION - Barry Cain, Gramor Development, said his firm wished to present a schedule regarding the proposed traffic improvements and the results of a recent survey.

Mark Butorac, with Kittleson and Associates, addressed the Territorial and Redwood intersection improvements. Handouts showed the time schedule for the project if it is approved now, and a schedule after the March election. The project will take about 14 months, 10 months for design and review, and 4 months for construction. The March election will delay the project about 7 months.

Mayor Taylor questioned the one month approval schedule with ODOT. Mr. Butorac said some of the process involving design can be condensed. Mr. Cain noted that Gramor has been working with ODOT all along.

Philip Moore, with Market Decisions Concept, passed out a local survey report his firm completed regarding the Gramor Annexation. He said he has an Economics Degree from Reed College and a Master Degree in Political Science from Rice University. Mr. Moore briefly reviewed some of his past experience. Mr. Moore stated that 350 registered Canby voters were surveyed in the study that was commissioned by Gramor. The survey asked the outcome of a possible March annexation; how opinions affect the vote, specifically the Arneson Azalea Garden and road improvements; and if the resolution is denied what the public opinion would be for an administrative resolution rather than a voter approval decision.

Mr. Moore presented the following results:

If an election were held tomorrow for the Gramor Annexation 53% were in favor of new commercial annexation.

When road improvements and Arneson Azalea Garden were detailed, then more support was received.

Mr. Moore said if this goes to a vote of the people, it will be approved.

Mr. Moore briefly reviewed the respondent profile: 72% think Canby is headed in the right direction, and only 16% are not happy. He added that 72% of the citizens voted in the last five elections, the gender breakdown was almost even, and 43% get their local news from the Canby Herald.

Mr. Moore said that 55% of the respondents were in favor of an administrative resolution to the annexation.

Mr. Cain reiterated that the survey supported the fact that the annexation would pass in an election. Mr. Cain noted that three years ago Gramor spoke to the Arneson's and at

that time they did not want to move, they wanted to live their life out at their present home. One year ago, the Arneson's called Gramor and said a big company was under construction next to them and they would close their business. He said the right thing to do consider this annexation on the rules in place prior to the voter annexation approval, just the same way the Tofte annexation was approved by the same rules at the last meeting. Mr. Cain noted that two dangerous intersection could be improved seven months earlier and perhaps save a life. The Foursquare Church will be able to make improvements once the Territorial intersection is improved. Mr. Cain said the Council has an opportunity to do "a lot of right things tonight."

Doug Sprague, 641 NE 22nd Avenue, said he was not addressing this issue because of his involvement in the church or because of his construction business. He said this decision affects the Arneson's and Gramor and if this resolution is passed, then the City is changing the rules. He urged the City to do the right thing and follow the process that was in place when the application was filed.

Michael Runyon, noted that all government agencies have agreed to resolve the Territorial issue, and the approval would actually come at the end after the entities participated. He noted that rail inputs are typically when the project is approved, but in this matter the railraod has been part of the process from the start. He said that putting the two intersections together would speed up the process. He added that a difference could be made in saving a life. It will make a difference to the church, it will make a difference to Gramor, it will make a difference in economic development and more importantly it will make a difference in saving a life.

Randy Carson, 556 SE 10th, said the only vote acceptable on the resolution was negative, and reiterated this was an annexation decision only. He said the development will bring jobs to the area and increase the tax base. He added that the "whole picture" should be reviewed in continuing to develop the commercial area.

Councilman Gerber asked if Gramor could ask for an injunction to prohibit the City from objecting, even though they declared they would not; and what legal precedence could a judge make on implementing an injunction, and the consequences to the City.

Attorney Kelley said they could ask for an injunction, and he reminded the Council that he had cautioned them of this possibility. He said the legal theory could be because the City had recommended approval to the Boundary Commission, then the City should be legally stopped from presenting a objection. Mr. Kelley said there is no case law on this matter to set legal precedence. He noted that action would be necessary prior to an election, and if an injunction is upheld, the annexation would then be approved. He added that the time frame for this procedure would be extended into the future. Mr. Kelley stated that, based on the Gramor survey, a resolution would be reached earlier if it went to an election which the survey indicated that Gramor would win.

Councilman Gerber asked when the Council would “normally” submit an objection on an issue.

Mr. Wheeler said if an application changed, for example if more property were added at the Boundary Commission level.

Mr. Kelley said the objection process is intended for the applicant that goes straight to the Boundary Commission and does not go through the City for a recommendation. He said the statute is intended to protect the City in this scenario. Again, he cautioned that there has been no court interpretation of this statute.

Councilman Gerber said this is not an appropriate use of the objection statute and the City is manipulating the process.

Mayor Taylor noted that the Council has voted on this matter a couple of times, and at the last meeting several Councilors indicated a desire to send the annexation to a vote of the citizens. The caveat was placed on the adopting resolution to notify the Boundary Commission of the City’s intent to object. Mayor Taylor said what he resented about the process is that the presentation keeps changing to meet the current need. He added that at the last meeting, both the City Attorney and Gramor Attorney suggested the objection route, which is currently being done, so the matter can be presented to a vote of the citizens.

Councilman Gerber said his interpretation of adding the caveat to the adopting resolution to later object was merely a reiteration of the Council rights, and he said he would have voted against that resolution if he realized the caveat was not intended as only a reiteration.

Councilman Lucas reminded the Council that both attorney’s recommended adding the objection clause to be able to assure the annexation would be presented to the citizens for a vote.

Councilwoman Strong noted that other annexations, even one that was submitted after this one, were approved and she felt it was unfair to treat annexations differently. She reminded the Council that the area is an Industrial Park and the applicant is offering to install a traffic signal which is a “big plus,” and is a win-win situation for the City.

Councilman Gerber said he had discussed this with many citizens and no one thought it was the right thing to do by presenting this annexation application to a vote of the citizens.

****Resolution 659 vote was YES - Nolder, Harris & Lucas; NO - Gerber, Daniels and Strong. Mayor Taylor explained his reason for voting as follows:**

The three large hearings on the subject had a lot of testimony regarding the future impact on the City, the culture of the City, and it doesn't fit with what people in the community want. He said the Council then started a process and committed to the citizens that if the City approved the annexation, the citizens would have an opportunity to vote on the issue; he said he did not want to violate that process. He added that this gives the Council the opportunity to move forward.

Mayor Taylor voted YES, and Resolution 659 to object to the Gramor annexation was approved 4-3.

An election in March will be held on the Gramor annexation.

Mayor Taylor called for a short recess at this time.

APPEAL: SUB 97-06, Riverside Homes - Jason Kruckeberg said the appeal is on one condition of a 41 lot subdivision on the west side of N. Redwood, east of the Logging Road and south of Territorial and north of 99E. The Planning Commission unanimously approved the final order on October 13, 1997. The applicant is appealing the following condition:

"A 10 foot paved panel will be extended from the northern end of the subject property north to the improved portion of N. Redwood Street adjacent to the Redwood Estates subdivision."

Mr. Kruckeberg said the road is currently 18 feet wide and the proposal is to have it 28 feet wide.

The applicant believes that the Planning Commission improperly applied 16.46.101(A)(1), which does not explicitly authorize the City to require road improvements beyond the applicant's frontage; and 16.46.101(F), which specifically deals with N. Maple and S. Elm and does not explicitly mention N. Redwood.

The Planning Commission interprets that the 28 feet applies to any street in town, and after review, staff believes that is not explicitly in the code.

Staff options were to remove the condition completely from approval; and a compromise could be to extend a two foot paved panel to provide a ten foot travel lane with no parking on the street; up hold Planning Commission decision for the 10 paved panel on the street; or remand the matter back to the Commission, however, this is not recommended because of the 120 day rule.

Staff recommends the two foot paved panel to the improved portion of N. Redwood.

The Council is to make a decision based on Code 16.88.140.

Councilman Harris asked about the recourse of violating the 120 day period if it were remanded back to the Commission. Mr. Wheeler replied that the applicant could take the matter to circuit court. Mr. Kelley cautioned that the City could be liable to pay attorney fees and the application fees.

Mayor Taylor asked if the 10 foot panel was discussed in the hearing. Mr. Kruckeberg said it was not in the original staff report, but was brought up by a Commissioner.

****Councilman Gerber moved to approve a ten foot panel from the northern end of the subject property north to the improved portion of N. Redwood Street adjacent to the Redwood Estates subdivision. Motion seconded by Councilman Daniels.**

A point of order was noted that the appeal process had not been properly followed.

****Councilman Gerber withdrew his motion. The second, Councilman Daniels concurred.**

Mayor Taylor reviewed the appeal procedure with the Council. Mayor Taylor asked the hearing body to declare any conflict of interest in the subject matter.

Nolder - no conflict and will participate.

Gerber - no conflict and will participate.

Harris - no conflict and will participate.

Taylor - no conflict and will participate.

Daniels - no conflict and will participate.

Lucas - no conflict and will participate.

Strong - no conflict and will participate.

Mayor Taylor asked the hearing body to declare any exparte contact on the hearing subject, including a visit to the site.

Strong - none.

Lucas - none.

Daniels - none.

Taylor - none, but has driven by the site.

Harris - none.

Gerber - none.

Nolder - none, but has drove by the site.

Staff report has already been presented.

APPLICANT - Ken Sandblast, with Compass Engineering represented Riverside Homes, and noted that they felt there was no justification in the code to support the

interpretation that imposed the 10 foot panel to make the road a total of 28 feet. He added that the suggested two foot paved panel by staff would be adequate. Mr. Sandblast said it was the applicant's opinion that the Commission did not correctly interpret the requirements of this title, the Comprehensive Plan, or other requirements of law.

Mayor Taylor asked where the wider road would be and it was pointed out on the map that the road would be wider on the frontage of the four tax lots and the two feet panel would then continue on to the next development.

Mayor Taylor asked if anyone else wanted to submit testimony, none was voiced.

QUESTIONS BY HEARING BODY - Councilwoman Strong asked if the two feet width would occur on only one side of the road, and was informed it would be an additional two feet for a total street width of 20 feet.

Councilman Nolder said a couple of years ago a subdivision was denied on N. Maple because of the width of the street and the safety concerns. He said he felt the Planning Commission made a correct interpretation and a wider street is necessary to accommodate the subdivision in a safe manner. Mr. Nolder said he lives on Maple and deals with that narrow street. He added that some streets were specifically listed that need to be wider, and Redwood Street was left out.

Mayor Taylor noted that the actual street width in front of the subdivision will be wider and be able to adequately accommodate the lots that will be developed. He added that as other areas on Redwood are annexed, they will need to widen the road.

Councilman Nolder stated that this is a 41 lot subdivision, and reiterated that a Maple Street subdivision was denied because of the safety of the narrow street, and it contained only 23 lots. He said this scenario was no different.

Councilman Gerber reiterated that the street will be totally developed in front of the proposed development. He added that on the Maple Street development, it could not be fully developed because Montecucco would not give rights for development of one side of the street.

Mr. Wheeler said when Section F of this ordinance was initiated last year, it specifically named N., Maple because it has only one outlet; and S. Elm was named because it has only one outlet. He noted that all other streets, including Redwood, have two ways to travel for outlets. Mr. Wheeler said since that time there has been an interpretation by the Commission that all streets need to have the ten foot paved width, and that is why this appeal has surfaced.

Councilman Nolder pointed out that in the future a traffic light at the end of Redwood is being considered and that street should be brought up to the proper width.

Councilman Harris pointed out that there are at least two options for emergency vehicles to enter, unlike the one way on the Maple Street subdivision that was denied.

Attorney Kelley pointed out that the Maple Street subdivision was denied because there were inadequate services available. The street was not wide enough to handle in and out traffic. Mr. Kelley said, as in the case of Dolan vs. City of Tigard, you cannot require off-site improvements beyond the increased impact of the area. Mr. Kelley said the Commission made their decision based on the two sections they cited, and if the Council agrees, an amendment to the ordinance might need to be considered. Mr. Kelley reiterated that the City cannot impose off-site restrictions greater than the impact the development puts on the area. He added that at a recent seminar he attended, it was suggested that if a specific dedication requirement is in an ordinance, the City needs to review that requirement. Mr. Kelley said he did not feel the interpretation was correct, and based on the two code sections the City cannot impose off-site improvements.

Mr. Kelley said there is the option available of denying the application based upon the criteria that public services are not available.

Councilman Gerber said if there was time to remand it back to the Commission, they might agree with the Council that the Code sections do not require that off-site improvements are necessary. He added that the applicant is offering to provide more than the code requires with the two foot paved panels.

Jim Wheeler said the Council could possibly use the Dolan case in approving the criteria. He said the improvements to Redwood from the subject property north would cost approximately \$100,000, a ten foot panel would cost approximately 25% of that amount, and a 2 foot panel would be approximately 5% of that cost. If the traffic impact of the subdivision on Redwood is proportional to cost, then it is justified under the Dolan arguments.

Attorney Kelley reminded the Council that the Commission made the interpretation that the two codes 16.46.010(A)(1) and (F) were applicable to their decision.

Mayor Taylor polled the Council on the issue.

Councilman Nolder suggested the appeal be denied and remand it back to the Commission.

Councilman Gerber said an offer of continuance would give the City time to remand it

back to the Planning Commission to set a future standard. If this is not possible, he preferred to see a two foot paved panel.

Councilman Harris agreed with Mr. Nolder's suggestion, the smart thing to do is to start over.

Councilman Daniels said he would like to remand it back to Commissionl.

Councilman Lucas agreed with Mr. Nolder and Mr. Harris, and that the street needs to be ten feet.

Councilwoman Strong said that it does need to be ten feet, however, she felt that the developer was not responsible for the entire street. Mrs. Strong said she would like to see it sent back to the Commission and she would be willing to agree to the two foot paved area.

Mr. Wheeler said a traffic study was done and it indicated that the subdivision would significantly impact Redwood and it is sufficient to handle the traffic. The intersection of Redwood and 99E was the concern expressed in the traffic study.

Mayor Taylor stated that based on the traffic study, the condition of a wider road was not based on the condition of the road or safety concerns.

Mr. Wheeler noted that if the Planning Commission makes another decision on December 8th on a remand, the time frame for the procedure may be cumbersome.

Dan Ewer said the Council, as the policy makers, has the burden to decide if the Planning Commission interpretation of the two specific codes is correctly interpreted. In regards to the Dolan vs. City of Tigard, because the system needs to be adequate to justify the 41 additional lots in the subdivision; the policy issue is up to the Council to see if the Commission made the correct interpretation. He added that a remand back to the Commission would probably result in no change to the decision.

****Councilman Gerber moved to uphold the appeal of SUB 97-06 and to amend condition 16 by substituting two feet in lieu of ten feet; and that the traffic study reports justifies the two feet paved panel. Motion seconded by Councilman Daniels.**

DISCUSSION - Councilman Nolder asked if the Council had upheld the Planning Commission ruling, could there have been any further appeals. Attorney Kelley replied they could appeal to LUBA.

Councilman Gerber wanted to be sure that the intent of the motion was that off-site

development is proportionate to the impact of the development.

****The motion to uphold the appeal was approved 4-2, with Councilors Nolder and Harris voting NO.**

Dan Ewert informed the Council that the Planning Commission plans to initiate an ordinance amendment on this very issue.

NEW BUSINESS: Letter from Traffic Safety Committee - Chief Giger noted that a few years ago a workshop was held regarding the traffic congestion in the SW Second and SW Third and Elm area. This area continues to present problems. An informal survey of area residents was completed regarding parking and traffic flow. The Traffic Safety Committee is requesting a workshop on this issue.

Chief Giger reported that the Traffic Safety Committee had a concern on SW Third and Ivy for pedestrians, and a crosswalk for the area is requested as recommended by Roy Hester.

The third item reported by Chief Giger was to inform the Council how successful the bike lane on S. Redwood has become after a controversial beginning.

After the holidays, a workshop will be scheduled.

Mr. Jordan noted that the County will have to give approval prior to the installation of a crosswalk on S. Ivy.

****Councilman Daniels moved to approve a crosswalk at S.W. Third and Ivy, after the County approves the project. Motion seconded by Councilman Nolder and unanimously approved, 6-0.**

ORDINANCES & RESOLUTIONS: Resolution No. 658 - Mr. Jordan stated that this resolution supported the decision of the Tofte annexation.

****Councilman Daniels moved to adopt 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 LOT 100 TO TAX MAP 4-1E-4D, LOCATED ON THE SOUTH SIDE OF SE 13TH STREET, EAST OF S. IVY STREET AND WEST OF THE TOFTE FARMS I SUBDIVISION. Motion seconded by Councilman Nolder.**

DISCUSSION - Councilman Harris noted that there was no plan for development of the property at this time. He added that he has been questioned by citizens as to why

there was not Council concern about approving this annexation when the Gramor annexation was in doubt. Councilor Harris said his vote was for approval because no development is planned for the immediate future.

Councilwoman Strong agreed with Mr. Harris, and felt that this annexation should also go to a vote of the people.

Councilman Gerber agreed, what is good for one, is good for another.

Mayor Taylor noted that a hearing was held on this annexation and approved. He questioned what would happen if this resolution was denied.

Mr. Jordan said if this resolution is denied, another resolution would need to be drafted for denial.

Attorney Kelley stated that a positive vote has been made to approve the annexation, and if this does not happen, then a Councilor on the prevailing side should make a motion to reconsider the matter.

****Resolution 658 was approved 4-2, with Councilors Harris and Strong voting NO.**

UNFINISHED BUSINESS: Yard Debris Recycling in Manufactured Home Parks -

Attorney Kelley noted that a couple months ago, the City held a workshop on yard debris recycling. A decision to include manufactured home parks in the yard debris program was postponed at the earlier workshop. Mr. Kelley reported that there are five manufactured home parks in Canby: Elmwood, 112 units; Redwood, 70 units; Canby Manor, 55 units; Village on the Lochs has 133 units; and Pine Crossing has 58 units. He added that they range in size from very small on a cement pads to some that are triple wide units with yards and shrubbery. He said Elmwood, Pine Crossing and Village on the Lochs are single family residential type units and Canby Manor and Redwood are the mobile home park type with smaller units.

Mr. Kelley said the Council decision is whether to treat any, or all of the manufactured homes as single family residences in the yard debris recycling program. He added that a rate resolution will be necessary if changes are made, and rates for the indigent will be included in that resolution.

Roger Reif, representing Canby Disposal, suggested that Pine Crossing and Village on the Lochs represents a single family residential look with larger lots; Elmwood is a marginal park and is smaller than the first two mentioned and generates yard debris in the summer; Canby Manor is a small mobile park home; and Redwood is extremely small with primarily planter boxes. He pointed out that all units in all the parks have individual garbage pick-up. However, the Pine Crossing and Village on the Lochs

garbage service is paid by the owner of the individual units. In the other parks, there is a contract and the developer pays for the tenants.

Mr. Reif said their recommendation would be to have Village on the Lochs and Pine Crossing pay the same rates as a single family residence. He suggested that the disposal company reserves the right to negotiate a yard debris pickup for the other three manufacture home parks.

Councilman Nolder asked if the two suggested parks would generate enough yard debris for a weekly basis. Mr. Kahut stated that the program was originally based on picking up yard debris only once a month for everyone. During the peak season, there is a weekly pick up, then the yard debris becomes much less to a point of none picked up in some months. Mr. Kahut said it was difficult to make an accurate need assessment.

Councilman Daniels asked if there should be some criteria set for manufactured home parks in the future so this issue would not need to be addressed again.

Mr. Kahut said because the program is just getting started it has been difficult to set criteria, and when the park owner pays for garbage pickup it sets a standard.

Mayor Taylor asked if the disposal company could work out a rate for homeowners that want to combine their yard debris pickup into a larger container. Mr. Kahut said that could be worked out.

Attorney Kelley suggested that Estele Harlan set a definition for the individual manufactured homes that pay for garbage service, such as Pine Crossing and Village on the Lochs.

Jim Wheeler stated that there was very little distinction between the terms of "modular home" and "manufactured home."

Councilman Harris noted that some cities have the disposal company negotiate with the parks and the city is not responsible for setting the criteria.

Mayor Taylor said this would give individuals the option to not participate and he was opposed to that scenario.

Councilman Lucas suggested that the Council decide on a case by case basis for future manufactured home parks.

Attorney Kelley asked if apartments have designated yard debris containers.

Mr. Kahut said some apartment complexes have designated yard debris containers and some apartments mix the yard debris with the garbage.

Councilman Nolder said his preference was a specific designation.

Councilman Gerber said his preference was on an individual basis.

Councilman Harris had no preference.

Councilman Daniels, Councilman Lucas and Councilwoman Strong all agreed to an individual basis for the structure for yard debris pickup for manufacture home parks.

Administrator Jordan asked for a clarification on the fact that all manufactured home parks will participate in a yard debris program, even the parks that are designated to be negotiated with the disposal company on terms. The Council agreed with that scenario.

Staff will prepare an appropriate resolution indicating that Pine Crossing Manufactured Home Park and Village on the Lochs will participate in the yard debris program as an individual home; and Elmwood Park, Mobile Manor and Redwood Mobile Park will have their yard debris program negotiated with the disposal company.

MANAGER'S REPORT: Industrial Park Master Plan - Another stake holders meeting will be held at 10:00 a.m. at Cutsforth's Old Town Hall on Wednesday, December 17th, to review the plan that will be presented to the policy group.

EID - An ordinance will be presented at the next meeting setting procedure for adoption of an EID. Also, the first hearing for the downtown/commercial EID as proposed by the Canby Business Revitalization Group will be held at the next meeting.

Access Management - A meeting will be held next week with ODOT staff and the City Planning Department to draft the process the Council requested, including a citizen advisory committees.

Workshop - Mr. Jordan reminded the Council of the December 10th workshop session at Trost School cafeteria with the School Board and Planning Commission.

Attorney Kelley reminded the Council that he is working with the Police Department on the Curfew Ordinance, and currently is awaiting input from the school board. An ordinance will be brought back to the Council after the first of the year.

COUNCILORS' ISSUES: Councilman Nolder reported that he and Sarah Jo Chaplen have been working with DEQ personnel regarding our test station. DEQ will be

changing their testing equipment and procedure which does not comply with the Canby test station. He added that they are searching for options to maintain the test station, including another location. He said he wanted Council permission to continue pursuing options. Council concurred with Mr. Nolder's request to continue searching for options.

Councilman Daniels thanked the Chamber of Commerce for the Wait Park lighting ceremony, and the CUB staff for their assistance.

Mayor Taylor said at the lighting ceremony the City parks crew, CUB, Swan Island Dahlias, Chamber and specific business donations were thanked for their participation in the event. The Whiskey Hill Jazz Band and Joni Harms provided entertainment.

Councilwoman Strong asked if a fee has been initiated at the RV Dump. Mr. Jordan said he was not sure if it has been initiated because the availability of the key, however, no complaints have been received. Mrs. Strong suggested hours be set for keeping it open and then not charge a fee. A reconsideration of this issue did not meet Council approval at this time.

Councilman Gerber asked about the computer network bidding process. Mr. Jordan said RFP's are out at this time.

Mayor Taylor expressed a concern about the existing condition of Cedar Street. Mr. Jordan said because of weather conditions, the final paving layer will not be done until Spring. He added that the manholes are painted florescent orange to make them visible. Mr. Jordan said the initial paving was started late in the season and the company had a number of projects in the community they were working on at the same time.

Chief Giger said that another problem was that they were waiting to make sure no water or sewer lines had to be installed in this street.

Mayor Taylor said he felt this "was a lousy way to do business, and it is dangerous and he is personally not satisfied with that approach."

Mr. Jordan noted that in subdivisions, usually there is a time period between the time the first paved layer is applied until the final paving. However, this is generally not done when improving an existing street.

Mayor Taylor noted that Mr. Jordan's performance review has not been done and he requested the Council schedule this process. The Council agreed to the review in executive session at the December 17th meeting.

Mayor Taylor said he has been talking to staff in Deschutes County and they are

pursing a concept of "community justice." with a merchants board that works with the juvenile and corrections boards. He added that theft crimes can be set with a mediation board and has been successful with offenders that are juveniles. The general consensus of the Council was to pursue this matter.

- ACTION REVIEW:**
1. Notify Mr. Brown of his appointment to the Planning Commission.
 2. Implementing Riverside Homes Appeal.
 3. Set workshop for SW 2nd & 3rd traffic issues with Traffic Safety Committee.
 4. Coordinate with Clackamas County for a crosswalk on S. Ivy Street.
 5. Recommend approval of Tofte Farms Annexation to the Boundary Commission.
 6. Set the Gramor Annexation for a vote on March election.
 6. Work with Blue Heron Group for Regional Park.
 7. Draft rate resolution for yard debris program in manufacture home parks.
 8. Research possible second pavement lift on N. Cedar Street.
 9. Schedule performance review of the City Administrator at next meeting.

Mayor Taylor adjourned the session at 11:15 p.m. (Approximate time.)



Marilyn K. Perkett
City Recorder



Scott Taylor
Mayor