

CANBY CITY COUNCIL
REGULAR SESSION
MAY 7, 1997

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

Also present: Fiance and Administrative Director Sarah Jo Chaplen, Police Chief Jerry Giger, Library and Recreational Services Director Beth Saul, Planning Director Jim Wheeler, City Attorney John Kelley, City Recorder Marilyn Perkett, Dan Ewert, Mark Summit, Roger Reif, Curtis and Lila Gottman, Clint Chiavarini, Harry LeeKwai, Bob Zimmer, Roy Zimmer, Fred Kahut, Estele Harlan, Ivan, Robertha and Glen Arneson, Joe Shaddix, Shijanki Fujimoto, Nathan Clayton, Barry Cain and Ron Yarbrough.

Mayor Taylor called the session to order at 7:30 p.m., followed by the flag salute and a moment of silence.

Roll call of the Council showed a quorum to be present with only one Council member absent, Brad Gerber.

MINUTES OF PREVIOUS SESSIONS: **Councilman Harris moved to approve as distributed the minutes of the regular session April 16, 1997 and Special Meeting, April 23, 1997. Motion seconded by Councilman Daniels and approved 5-0.

CITIZEN INPUT ON NON-AGENDA ITEMS: None presented.

At this time Mayor Taylor adjusted the agenda:

UNFINISHED BUSINESS: Appointment to Bike/Ped Committee - Clint Chiavarini reminded the Council that on April 2nd the Council first considered appointing citizens to the newly authorized Bike/Pedestrian Advisory Committee; and it was the suggestion of the Council to appoint as many members as possible from within the City limits and Urban Growth Boundary (UGB).

****Councilman Daniels moved to accept the recommendation of staff and appoint the following members to the City of Canby Bicycle and Pedestrian Advisory Committee: Lila Gottman, Don Yoder, Ron Marson, Mark O'Shea and Rick Bronn. Motion seconded by Councilman Lucas.**

DISCUSSION - Concern was expressed about the residency of the suggested

appointments. Mr. Chiavarini noted that 3 members live within the City limits and 2 outside the UGB. He noted that his recollection was the members could possibly live in the greater area since they use Canby services and are specifically interested in the issues.

Councilman Daniels noted that this committee should work closely with the Traffic Safety Committee.

****The motion to appoint the Bike/Ped Committee was approved 5-0.**

Mayor Taylor encouraged those not appointed, but interested in this group, to attend the meetings.

PUBLIC HEARING: Advanced Financing District for Public Improvements of SE 4th Avenue and S. Redwood - Mayor Taylor opened the public hearing at 7:40 p.m.

Attorney Kelley explained that this was not a quasi judicial hearing and was informational and an opportunity to accept public testimony.

STAFF REPORT - Curt McLeod stated that notices were mailed to the affected property owners regarding the proposed Advanced Financing District. He explained that the district was formed in January, however, due to the project scope and costs the area is being expanded. He used a large map to specifically show the expanded area. Mr. McLeod explained that the improvements are a 1200 foot extension to SE 4th Avenue and a bridge over the railroad tracks. He stated that the district provides for the repayment of an OEDD loan of \$260,000. He said of the 196 acre district, 21% will benefit from the utility district and 64% from the transpiration services. He further explained that the district will be established for a ten year period, and when one of the property owners within the district develops, then they will reimburse the City.

Curtis Gottman asked if the Logging Road would be improved. Mr. McLeod said a pedestrian path will go under the bridge and onto the Logging Road.

Harry LeeKwai asked where the Zion Cemetery and Arneson property was located. Mr. McLeod pointed out that the cemetery was excluded from the district and the Arneson property was all within the district.

Mr. McLeod noted that the City has an ODOT grant for \$500,000, OEDD is giving the City a \$168,000 grant and the balance of \$37,000 will come from SDC's.

Barry Cain asked why the district was not extended to Mulino Road. Mr. McLeod said because of the amount of money the City is trying to recover, he and the City Administrator decided that it was an equitably balanced district as it is currently laid out. He said when it develops on the other side of Mulino a new district will probably

be developed.

Barry Cain, said he was working with the Arnoson's property development, and he felt the entire area would benefit from the improvements.

Mr. McLeod said that Phase I of the Logging Road Industrial Park had an allocation of \$26,000 per acre for improvements; Phase II, is about \$540 per acre and it could be assessed again, if necessary. He further added that another district beyond Mulino Road could become Phase III.

Councilman Lucas asked how truck traffic would be routed out of the area. Mr. McLeod stated that a document completed in 1998 projected the main road would extend from the highway through to Township with roads branching from that road.

Councilman Daniels asked if Mulino Road was included would the costs be affected. Mr. McLeod said it would reduce the allocations per acre and the assessments by one-third.

Attorney Kelley explained that the City cannot assess out of the benefitted area. Curt McLeod said the bridge could easily be argued as a benefit to the entire area, including Mulino Road if the Council wanted to expand the district.

Bob Zimmer, asked what happened after the ten year assessment period was up and was told the City will be responsible for the loan payment. Mr. Zimmer asked what benefit his parents property would have on SE First (he used the map to point out his parents property, and argued that only property on the proposed road improvement will be benefitted. Mr. McLeod said the transportation assessment of \$130,000 related to \$600,000 street improvements equates to the entire area having the benefit of the looped road through the area for industrial access; and it puts two traffic signal lights for access to the park.

Attorney Kelley read Code Section 4.12.090, which stated that after the ten year assessment retrieval period has ended, the City may apply for a five year extension; and one more five year extension, for a possible total of a 20 year assessment period.

Councilman Harris asked what would happen if the City did not adopt the assessment district. Mr. McLeod said the City will insure that the debt is paid, regardless if the properties develop or not. He added that Shimadzo has paid one-half of the City loan.

Lila Gottman (pointing to the map) asked if the properties on S.E. First would be assessed as a benefitted property. Mr. McLeod said they may not benefit initially.

Councilwoman Strong asked how the City would obtain the money for the project if the advanced financing were not approved. She was informed that possibilities were

budgeted and reserve accounts. Mr. McLeod said the cash flow will tolerate a few years prior to the need of additional funding. He added that this project is a great benefit for citizens at a minor cost for a major development.

Mayor Taylor closed the hearing at 8:05 p.m.

****Councilman Harris moved to adopt Resolution No. 636, A RESOLUTION DESIGNATING THE LOGGING ROAD INDUSTRIAL PARK, PHASE II PROJECT AS AN ADVANCED FINANCING IMPROVEMENT, PROVIDING FOR ADVANCED FINANCED REIMBURSEMENT FROM BENEFITTING PROPERTIES; AND REPEALING RESOLUTION 632. Motion seconded By Councilman Daniels and approved 5-0.**

COMMUNICATIONS: Letter Regarding the Cemetery - Mayor Taylor read a letter from Robert and Shirley Spring commending the City on the appearance of Zion Cemetery and saying the reason they purchased family lots there was because of the well-kept cemetery and courteous staff.

Update on CBRG Project - Harry LeeKwai , President of the Canby Business Revitalization Group (CBRG) reminded the Council that this group had received a \$90,000 grant from the Mt. Hood Alliance for their revitalization project. He read the vision of the group:

"Canby's commercial district maintains its small town feel. It is inviting and comfortable: Businesses provide friendly, personal service and are well kept and attractive. The commercial district is a place where Canby residents and visitors can shop, dine in restaurants, picnic, or enjoy a walk. Residents know that the diverse array of Canby businesses can provide most of what they need so they make few shopping trips out of the area. Canby businesses will respond to market changes to make Canby an even better place to live and do business."

The group will meet to define the "downtown" area.

Mr. LeeKwai informed the Council that the Oregonian was seeking a small community for mindful and thoughtful growth and they have selected Canby to focus on, therefore, several articles should appear in that newspaper.

The Council was reminded of the Saturday Market which has its grand opening on this Saturday, May 10th. Mr. LeeKwai said there will be 28 vendors and 40 spaces have been sold for the event.

Mr. LeeKwai said he would return to another Council meeting soon, with information regarding the groups street-scapes.

NEW BUSINESS: **Councilman Harris moved to approve payment of accounts payable in the amount of \$183,336.79. Motion seconded by Councilman Nolder.

DISCUSSION - Councilman Harris pointed out that the large disbursement of \$67,056 was for improvements of phase II at the Wastewater Treatment Plant.

****Accounts payables were approved by roll call vote, 5-0.**

Hispanic Center Presentation - Mark Summit, director of the Hispanic Center, gave a short review of the center since it opened on October 15, 1996 at the Canby Christian Church. The office is open two days a week and the board meets bi-monthly.

Mr. Summit said he puts emphasis on fund raising; special projects like the recent bone marrow drive; community education; a newsletter that he can FAX to various entities; and a periodic column in the local newspaper.

Mr. Summit related some of their future plans: youth needs assessments, including employment; housing concerns; seeking of grants for various needs; promoting a membership scenario for financial support; culture events bringing the two cultures together; and pursue a permanent site for their center.

Councilman Harris noted that the City has offered a grant for financial support of the Hispanic Center.

Mr. Summit said he was impressed by the City's efforts "to reach out" to the Hispanic population.

Burning of Rubbish - Sarah Jo Chaplen stated that this was a discussion on two issues: burning of yard debris and disposal of yard debris. Ms. Chaplen noted that DEQ allows burning, however, the City can require stricter criteria. She added that the local Fire Department was willing to help the City, but expressed a concern about enforcement and education.

Estele Harlan, explained that Clackamas County started their yard debris program in 1992. She passed out documentation with monthly costs, a rate of \$5.03 on a weekly service and an option of bi-weekly for \$3.44. The proposal is to use a 60 gallon cart, which was present and demonstrated. She cautioned that it could not be filled to full because of the weight calculation.

Ms. Harlan said the recycling rate was the second consideration, and the main impetus is to meet the state recycling goals. She explained that the term "Waste Stream" is the materials that flow from the generator (customer) to the land fill as the flow. She said yard debris in the waste stream is down from 26% to 6% in the County. Ms. Harlan

said because of the ability to burn, Canby probably does not have the 26% that other areas have, and in fact, are probably closer to 15% in the waste stream, with a total recycling rate of approximately 27%, and by the year 2000 the state goal is to be at 50% recycling goal.

In comparison of the financial rates, Canby will experience the lowest rate locally, except for Wilsonville that uses a smaller can and also has a higher garbage rate.

Mayor Taylor asked if this were approved, if it would be included in the garbage pick-up, and not an actual option. Ms. Harlan said that it is to be part of the base rate in accordance with DEQ recycling matters.

Ms. Harlan said the yard debris will go directly from the customer to McFarland's or Scotts Hyponex in Clackamas area. A third alternative could be Grims in the Sherwood area.

Councilman Daniels asked if the bi-annual free pick-up of yard debris would be continued. Mr. Kahut said it had not been considered, but perhaps they would keep one of those events active.

Councilman Lucas suggested a "straw vote" of the public on the issue. Ms. Harlan cautioned that a straw poll is usually not necessary when the City is actually needing to fulfill a mandate in reaching the state recycling goals.

Jim Wheeler noted that odor was a concern of the transfer station site, and removal of the yard debris from the waste stream will help that situation.

BURNING - Councilman Harris said he had been approached by a citizen expressing a deep concern about burning in the City. He was hesitant to mandate "no burning," however, he suggested a barrel may be safer and cause less smoke.

Councilman Nolder stated that he felt it was his "right" to burn, and the use of a barrel for burning and education would be acceptable in his opinion.

Councilman Daniels noted that he composts his yard debris.

Council members expressed concern about enforcement of burning.

Ron Yarbrough, Fire Marshal, (just entered the meeting) and informed the Council that barrel burning would be difficult to monitor, if not impossible, and education would be necessary. He added that the Fire District did not have the man power for enforcement of barrel burning.

The Fire Marshal listed some of the problems that occur when burning: burning to close

to a structure; smoke bothering neighbors; no water available to burn site; and ignited debris traveling to other property.

****Councilman Harris moved to direct staff to prepare an Ordinance to disallow yard debris burning in the City, after the burning season in June. Motion seconded by Councilman Lucas.**

DISCUSSION - Councilman Nolder suggested a recommendation with various choices be reviewed prior to drafting an ordinance.

Mayor Taylor said there is no immediacy on the matter and it will not be implemented until after the next burning season.

****The motion was approved 4-1, with Councilman Nolder voting nay.**

Attorney Kelley asked if July would be an appropriate schedule to return with an ordinance, and was informed that would be fine.

Councilman Lucas suggested that the yard debris recycling/collection be scheduled for the next meeting.

****Councilman Lucas moved to direct staff to draft a resolution for the collection and of recycling yard debris. Motion seconded by Councilman Harris.**

DISCUSSION - Mayor Taylor asked the Council if they wanted the pick-up to be weekly or bi-weekly, the consensus was bi-weekly.

Roger Reif said he had a great deal of yard debris and asked that the Council consider a weekly pick-up of yard debris.

Councilman Daniels asked how soon Fred Kahut would implement a program if a resolution was adopted. Mr. Kahut said approximately 60 days.

Estele Harlan suggested that a schedule with the two rate options be attached as an exhibit to the resolution.

****The motion was approved 5-0.**

Planning Commission Appointments - Mayor Taylor noted that five candidates have submitted applications for appointment to the City Planning Commission. Mayor Taylor appointed an interview committee of Planning Commission Chairman Dan Ewert, Council President Walt Daniels and himself.

Councilman Nolder asked about the Council liaison to the Planning Commission, Mayor Taylor noted that and asked for Council consensus on the interview committee which will convene soon. The Council gave a consensus of approval.

ODOT Fund Exchange Agreement - Curt McLeod explained that this is fund exchange that the City has done for several years with ODOT and they review the project that is funded.

****Councilman Daniels moved to enter into a Fund Exchange Agreement with ODOT for funding used in street projects. Motion seconded by Councilman Harris and approved 5-0.**

Curt McLeod explained that a bid opening was held on Friday for the NW 9th Avenue project between N. Ivy and N. Holly Street and the apparent low bid was from Parker Northwest Paving, \$72,002. He noted that there are two components to this contract, one is for the FEMA repair on the Canby Community Park access road, and approximately 1,000 feet will be paved for \$18,000; and \$52,900 for the NW 9th project. Mr. McLeod pointed out that drainage and water improvements were completed by the City and CUB to keep the costs at a minimum.

****Councilman Daniels moved that Ordinance No. 973, AN ORDINANCE AUTHORIZING THE MAYOR AND CITY RECORDER TO EXECUTE A CONTRACT WITH PARKER NORTHWEST PAVING COMPANY FOR CONSTRUCTION OF NW 9TH AVENUE STREET IMPROVEMENTS; AND THE COMMUNITY PARK ROADWAY REPAIRS; AND DECLARING AN EMERGENCY be posted and come up for final action on May 21, 1997. Motion seconded by Councilman Harris and approved 5-0.**

Liquor License Application for Elm Street Inn - ****Councilman Harris moved to recommend approval to the O.L.C.C. for a Dispenser Class A liquor license for Jarboe's Grill and Bar at 101 N. Elm Street. Motion seconded by Councilman Lucas.**

DISCUSSION - Councilman Harris noted that this is a change in ownership of what was formerly Elm Street Inn.

****The liquor license application was approved 5-0.**

ORDINANCES & RESOLUTIONS: Ordinance No. 971 - **Councilman Harris moved to adopt on final reading Ordinance No. 971, AN ORDINANCE AUTHORIZING PAYMENT OF ELECTRICAL WORK TO THE CANBY UTILITY BOARD PURSUANT TO AN INTERGOVERNMENTAL AGREEMENT WITH CLACKAMAS COUNTY FOR THE INSTALLATION OF A TRAFFIC SIGNAL AT THE INTERSECTION OF SOUTH

IVY STREET/CANBY MARQUAM HIGHWAY #170 AND SOUTH 13TH AVENUE; AND DECLARING AN EMERGENCY. Motion seconded by Councilwoman Strong and approved by roll call vote, 5-0.

UNFINISHED BUSINESS: Appeal fee paid by Dick Morse - Jim Wheeler noted that the applicant requested a partial refund for the appeal fee for the MLP 97-01, since the matter was solved without a full appeal at the Council level. Mr. Wheeler estimated the actual City cost for the appeal processing to be between \$485 to \$655, and the fee was actually \$600. He added that if the appeal had been fully processed the cost could have reached as high as \$780. The recommendation was not to refund the fee.

****Councilman Nolder moved to accept the recommendation of staff and deny the return of any of the appeal fee paid by Dick Morse for MLP 97-01. Motion seconded by Councilman Lucas and approved 4-0, with Councilman Daniels abstaining.**

Annexation by Vote of the People - Jim Wheeler asked if there were any updates on the two legislative proposals, SB 1137 or SB 947.

Attorney Kelley noted that Phil Fell, from LOC, said that SB 1137 which will prohibit cities from enforcing a charter provision or ordinance that requires elections for annexation, will have a stand taken against having this bill approved by Corvallis that currently has the annexation by voter approval. Mr. Kelley said that the Home Builders, DLCD, Realtors and Governor Kitzhaber are in support of this bill. He added that it was suggested that the cities that are interested in approving this bill, "lay-low" and not provide any interest level until this SB is resolved.

Councilman Lucas asked what they base their rationale on. Mr. Kelley said a "no growth" scenario. Mayor Taylor added that it could cause annexation delays and election costs.

Jim Wheeler said that voter annexation has the potential of over-riding a number of state wide planning goals.

Mr. Wheeler suggested the City wait until the legislative issues are decided. He said if the City remains within the Portland Metro Boundary jurisdiction a voter approval annexation creates the possibilities of no annexation coming before the City, but would go straight to the Boundary Commission; and if the Boundary Commission approves an application and refers it to the City, then Canby has the right to refer it to the vote of the people at City cost.

Attorney Kelley said that SB 947 would abolish the Portland Boundary Commission and allow METRO, for which we are not associated, to have authority over all annexations

within that jurisdiction.

The general consensus of the Council was to listen to Nathan Clayton, who has been very involved with this issue on a state level; and to make the public aware of the matter.

Nathan Clayton, Canby N. Maple resident and a member of the Oregon Commission for Voices in Annexations, informed the Council that a number of cities have passed a voter approval annexation through the initiative process. These cities passed the initiative by a 70% vote of the people. He added that in his discussions with legislatures today, the projection was that SB 1137 will "die" in the Water and Land Use Committee, and they have a May 16th deadline on the matter. He further added that he personally testified on SB 1137.

Mr. Clayton said the reason for forming the commission he currently represents, was to preserve and protect system development and land use planning. Also, to provide that developments are paid for by the appropriate developer.

Mayor Taylor questioned the affect voter approval annexation would have on commercial development, siting the time lines that were necessary to accelerate the Schmiadzo project.

Mr. Clayton stated that most communities have annexation on the ballot twice a year. He also stated that he had a different approach to the SB 947, which, in his opinion, was to prevent forced annexation. He read ORS 195.

Mayor Taylor suggested this be reviewed on June 4th.

Attorney Kelley asked why the Governor and DLCD were supporting SB 1137. Mr. Clayton presented a hand-out that stated they felt it took away from affordable housing.

Mayor Taylor said an annexation that was specific to building multi-family apartment housing could face failure if it was passed on a voter approval basis.

Mr. Kelley read that anti-annexation votes could cause land to be used less efficiently.

****Councilman Daniels moved to table the voter approval annexation discussion until June 4, 1997. Motion seconded by Councilman Harris and approved 5-0.**

The Council asked that any information on this matter be forwarded to them at the earliest possible time.

MANAGER'S REPORT: Gas Tax - Ms. Chaplen informed the Council that she had

been advised today that the Transpiration 3-3-3 Gas Tax is out of the House Transportation Committee, and will next go to the House Revenue Committee prior to being forwarded to the Senate. She said it would be late June before the status of this proposal is known.

City Hall Phone System - Ms. Chaplen informed the Council that City Hall has upgraded the phone system and now all employees have voice mail.

Mayor Taylor suggested that research be done to initiate voice mail for the Council.

Councilman Lucas asked if citizens still could talk to a real person. Ms. Chaplen said voice mail does not happen until after hours or when the phone rings more than four times.

COUNCILORS' ISSUES: Councilman Harris questioned what was the appropriate communication level between Councilors and City employees. He suggested formal guidelines be discussed. Mr. Harris said Council members should consider the Council as a whole rather than working on an individual agenda. He suggested a possible chain of command before going to City staff. Mr. Harris suggested that guidelines be discussed and parameters set as to individual approach to City staff.

Mayor Taylor said this can be discussed at the Council Workshop for Wednesday, May 14th, 6:00 p.m. when the Organization and Relationships will be discussed.

OTHER REPORTS OR ANNOUNCEMENTS: Jim Wheeler reminded the Council of the May 16th, 6:30 p.m. workshop regarding the Access Management Plan.

Councilman Nolder urged citizens to contact any Council person with their concerns or thoughts regarding the banning of burning.

Councilman Nolder reminded the Council of the General Canby Day Coronation of King and Queen, Joe and Joann Burleson, on June 12, at the Canby Adult Center.

Mayor Taylor reminded everyone of the Farmer's Market Grand Opening on Saturday, May 10th at 9:00 a.m.

ACTION REVIEW:

1. Schedule CBRG Street-Scape presentation for June 4th.
2. Prepare Yard Debris Disposal Ordinance for the next meeting.
3. Research and gather information regarding burning issue and schedule it for a July agenda.
4. Schedule Voter Approved Annexation issue for June 4th agenda.

5. Research voice mail for City Council.

Councilman Lucas reported that May 17th the Cougar Pride Auction will be held at the Holiday Inn in Wilsonville, tickets are available and many great items are for sale.

****Councilman Daniels moved to go into Executive Session under ORS 192.660 (1)(h), regarding litigation. Motion seconded by Councilman Harris and approved, 5-0.**

Mayor Taylor recessed the regular session at 10:20 p.m. to go into Executive Session. The regular session was reconvened and immediately adjourned at 11:15 p.m.

EXECUTIVE SESSION
MAY 7, 1997

PRESENT: Mayor Taylor, Council members Nolder, Harris, Daniels, Strong and Lucas, Ms. Chaplen and John Kelley.

Mayor Taylor called the session to order at 10:35 p.m. in the CUB conference room.

ORS 192.660 (1)(h) - The Council discussed the following possible litigation cases:

Tort claim filed against the Police Department, naming Scharmota.

Meza claim against the City.

Rinkes vs the City of Canby.

Possible litigation regarding debris pit at City Shops.

Mayor Taylor adjourned the session at 10:48 p.m.


Marilyn K. Perkett
City Recorder


Scott Taylor
Mayor