

CANBY CITY COUNCIL
WORKSHOP SESSION
SEPTEMBER 17, 1997

PRESENT: Mayor Taylor, Councilors Nolder, Gerber, Harris, Daniels, Lucas and Strong, Administrator Michael Jordan, Finance & Administration Director Sarah Jo Chaplen, Jason Bristol, Fred Kahut and Roger Reif.

Mayor Taylor called the session to order at 6:00 p.m. in the Library Conference Room, a lite dinner was served.

The purpose of the session was to discuss the yard debris program.

Mayor Taylor adjourned the session at 7:25 p.m.

CANBY CITY COUNCIL
REGULAR SESSION
SEPTEMBER 17, 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, City Attorney John Kelley, Finance & Administration Director Sarah Jo Chaplen, Library & Recreation Director Beth Saul, Police Chief Jerry Giger, Planning Director Jim Wheeler, City Recorder Marilyn Perket, Michael Robinson, Barry Cain, Irene & Michael Breshears, Dan Ewert, Harry Leekwai, Connie Childers, Roy Zimmer, George Diamond, Jennifer & Dee Walluck, Rick & Diane Bronn, Randy Carson, Ivan, Robertha & Glenn Arneson, Jim & Georgia Newton, Tony Weller, Jason Bristol, Frank Cutforth, Don & Peggy Peterson, Dean Hinchcliff, Nathan Clayton, Terry Prince, Alicy Clymens, Curtis & Lila Gottman, Linda Geddes, Dana Tyler, Mike Duncan and Jeff Bachrach.

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.

MINUTES OF PREVIOUS SESSIONS: None available.

CITIZEN INPUT ON NON-AGENDA ITEMS: Commissioner Ed Lindquist, from Clackamas County, addressed the Council regarding the proposed Clackamas County transportation funding package that will appear on the November ballot. The proposal will have a \$15 increase in vehicle registration with a sunset clause for the end of the ten year time period; and a one cent a year gas tax increase for the next three years, which will also sunset in ten years. Commissioner Lindquist stated that 60% of the money will go the County and 40% to Cities. He added that four other area counties are submitting similar ballot measures; Washington, Yamhill, Marion and Multnomah counties. He further added that the Commissioners are eager to meet with state legislatures to prepare and equitable transportation funding package. The money raised from the registration fees will be used for maintenance and the gas tax funds will be used for safety factors, new construction will not benefit from the proposed funding.

Mayor Taylor said he was concerned with the formula used for fund distribution. Commissioner Lindquist stated that because of the vast amount of residents in the North Clackamas area, which is actually rural, the proposed road mileage and population formula appeared to be most equitable.

Mayor Taylor asked if the Clackamas County Commission was perceptive to discussing the possibility of the County upgrading county roads within the City to an acceptable standard, and then the City would be willing to accept ownership and maintenance of those roads. Commissioner Lindquist said they were very perceptive to that scenario.

Commissioner Lindquist stated that if funding is not made available, some rural roads will be turned back into gravel. He added that \$45 million dollars of construction on roads in the northern Clackamas County is happening now, \$35 million is coming from tax commitments, \$10 million from SDC's and only \$1 million from County transportation funds, therefore, growth is paying for itself in that area.

Mayor Taylor thanked Commissioner Lindquist for appearing before the Council to explain the proposed County Transportation Funding package that will be on the November ballot.

Irene Breshears, NE 10th, represented the Veterans of Foreign Wars and explained that Friday, September 19th is a day set aside for the national observance of Prisoners of War and Missing in Action members from our country. She urged that the City fly its POW/MIA flag on Friday. Mrs. Breshears handed out envelopes, pre-stamped, with the POW/MIA stamp and emblem on the envelope.

Connie Childers, NE 10th, asked the Council if the yard debris monthly fee is a state mandated law.

Mayor Taylor explained that the City is required to meet state recycling laws which set a limit on what can be in the garbage, and by eliminating yard debris from the stream of garbage. The City is close to complying with the state law.

Attorney Kelley reviewed the OAR which states that the City must charge all garbage customers the same fee, whether they choose to recycle yard debris or not.

Ms. Childers said she was concerned about imposing this fee on elderly citizens on a fixed income, and during the winter months when it is not used.

Mayor Taylor explained that during the earlier workshop, the Council reviewed this issue and is developing a financial hardship criteria for exemption.

Councilman Gerber suggested that Ms. Childers contact DEQ, who set these standards.

Councilman Daniels pointed out that the monthly fee averages throughout the year, because the program will be used heavily during the summer and less often during the winter. He added that early surveys indicate that citizens are using the yard debris cans and recycling.

Ms. Childers also asked about the burning issue the Council had discussed. Mr. Jordan noted that the City added "grass" to the list of materials DEQ has deemed illegal.

Jason Bristol, S. Redwood, informed the Council that the Traffic Safety Committee met a week earlier than he was informed, and the committee approved the bike path as it was originally proposed. A committee member informed him that the site was not visited and the no parking area was to be 30 feet, when it actually will be 150-200 feet. Mr. Bristol stated that he cannot back out of his driveway in a safe manner with the proposal.

Mayor Taylor noted that Mr. Bristol was told he would have the opportunity to address the Traffic Safety Committee, and that was a violation of the process.

The Council requested this matter be placed on the October 1, 1997, agenda so both Mr. Bristol and the Traffic Safety Committee can make a presentation.

Lila Gottman, Chair of the Bike/Ped Committee, noted that Mr. Bristol's proposal was thoroughly reviewed by the Traffic Safety Committee.

COMMUNICATIONS: Canby Communication Classic - Mr. Jordan reviewed the request from DirectLink to hold their annual run in the City streets on Saturday, September 20th. Canby Police Reserve, Clackamas County Sheriff's and volunteers will provide

traffic control.

Mayor Taylor noted that he was a participate in the annual event, however, he wanted a letter sent to DirectLink advising that the City of Canby requires more than three days notice prior to the requested event, and if this practice continues, "there will be no race."

Councilmen Gerber and Harris agreed.

Councilman Gerber also suggested that a memo be sent to the Public Works and Police Department noting that streets will not be blocked off unless approved by the City Council.

****Councilman Daniels moved to approve the Canby Communication Classic event as proposed in the letter, and to ask them to coordinate with the Public Works and Police Department for this event. Motion seconded by Councilman Lucas and approved 4-3. Voting NO - Councilors Harris, Gerber and Nolder; and voting YES, Councilors Daniels, Lucas and Strong and Mayor Taylor.**

PUBLIC HEARING: Annexation 97-05, Gramor Development - Mayor Taylor reviewed the procedure for a public hearing. Noting there were many people wishing to testify on the subject, he set a three minute time allowance for the opponents and proponents wishing to testify.

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

Councilwoman Strong-none and will participate.

Councilman Lucas-none and will participate.

Councilman Daniels-none and will participate.

Mayor Taylor-none and will participate.

Councilman Harris-none and will participate.

Councilman Gerber-none and will participate.

Councilman Nolder-none and will participate.

Attorney Kelley asked if anyone wished to question a member of the hearing body. No one came forward.

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

Councilman Nolder stated he has driven by the site and talked to a couple of citizens about the annexation process, not the specific application. Mayor Taylor asked if anyone wished to question Mr. Nolder, no one came forward.

Councilman Gerber had visited the site and drew no conclusions.

Councilman Harris visited the site and spoke with Frank Cutsforth and informed

him he could not discuss the subject because he would have to declare the conversation. Mayor Taylor asked if anyone wanted to question Mr. Harris, no one came forward.

Mayor Taylor visited the site and drew no conclusions.

Councilman Daniels visited the site and drew no conclusions.

Councilman Lucas visited the site and discussed the annexation process and voter approval annexation process with Harry LeeKwai. Mayor Taylor asked if anyone wanted to question Mr. Lucas, no one came forward.

Councilwoman Strong visited the site and drew no conclusions.

Mayor Taylor informed the audience that the hearing body must make its decision on the eight criteria, 16.84.040 Standards and Criteria, posted on the wall. The proposed development on the site is not a consideration for the annexation. He stated that the decision of the Council will be a recommendation to the Metropolitan Boundary Commission for a final decision.

Councilman Gerber reiterated that arguments and testimony should be tied to the eight criteria.

Mayor Taylor opened the hearing at 8:32 p.m.

Mayor Taylor informed the audience that the Council will listen to anything they had to say, not just the eight criteria arguments.

STAFF - Jim Wheeler reported that the annexation application from Gramor Development is for 31 acres and three tax lots on the south side of Highway 99E and SE First Avenue, east of the Logging Road. Property owners are Ivan and Robertha Arneson and Dorothe Walluck. The property has two homes on it, currently 26 acres is a nursery business. He said the Comprehensive Plan has listed the property to be zoned as Commercial Manufacturing/Heavy Industrial. The properties are priority "A" and "B", and this is the last non-residential priority "A" property left to be annexed into Canby. Mr. Wheeler said a benefit to the City will be the improvement of the intersection at Highway 99E and Redwood with development of the property.

Mr. Wheeler said the Planning Commission vote for approval of the annexation was 5-1, with the dissenting vote being that the community is not ready for commercial development of this size; the downtown businesses will be adversely affected by the potential development; the agriculture uses on the properties should be retained for as long as possible; and potential traffic hazards will not be adequately addressed with development of the properties.

Mr. Wheeler stated there are few vacant commercial properties within the City of significant size. He said approximately 8 City blocks of the downtown area would equal the proposed development of the 18 acre subject site.

Mr. Wheeler said there is a parcel north and east of the subject property on Highway 99E that is designated for Highway Commercial, but it is not contiguous with any current City property, further away from City services and not a logical expansion of services in Canby.

Staff recommendation was for approval. There was an option to recommend denial, which means staff would revise Resolution 652 to reflect that decision. If Council approves the annexation, then the resolution can be passed.

Councilman Lucas asked about the strip of land north of 99E from Grant Street to the river, is it buildable property for commercial development. Mr. Wheeler said it is very narrow and has some development potential, but not for a large project.

Mayor Taylor asked about the interest that has been generated about the process of citizens voting on an annexation today, prior to the November ballot. Mr. Wheeler said if the Council wants to refer this to voters, the Council will need to find that the application meets the criteria for approval. Prior to the Boundary Commission decision. The only time the City can refer a Boundary Commission decision to the citizens is if it does not go through the City process and is approved by the Boundary Commission. In this situation, we will refer the application to the citizens before it goes to the Boundary Commission, if the electors say yes, that will be the recommendation of the City to the Boundary Commission, if the electors say no, then no application will be forwarded to the commission.

APPLICANT - Barry Cain, Gramore Development, informed the Council that Mike Robinson, their attorney. and the property owners, the Arneson's and Walluck's, were present. The property owners were concerned about the proposed development and reviewed other projects Gramore has developed. He said Gramore has just started their 24th project the in Portland area, and have a total of 60 projects including their Seattle office. Their projects are tailored to the individual community and is of a high quality design and well landscaped. Mr. Cain said his firm has the experience and ability to make the community proud of the project. Mr. Cain said the arrangements made with the property owners is that Gramore will go through the annexation process, work through the master planning and when they are at the design review stage then they will commit to purchase of the property and give the owners six months to relocate. He felt the inclusion of this development would aid the master planning of the Logging Road Industrial Park that OTAK has been hired to do by the City. He added that they have worked with the adjacent property owners, the Zimmer's and Burden's.

Mr. Cain said his firm will do a good job on the project and try to involve the City.

PROPONENTS - Irene Burden, said she does not live in the City but is a City landowner and lives adjacent to the proposed annexation. She pointed out that some years ago the subject site was to be phase 2 of the Logging Road Industrial Park, and

she felt a good intersection at S. Redwood and Highway 99E would help create a good growth area to attract industry and other services to the City.

Roy Zimmer, said he had lived in the subject area longer than anyone, he will have the only parcel of ground not annexed. He added that he wants to see this area developed so the proposed intersection at S. Redwood and Highway 99E is constructed.

Ivan Arneson, property owner, informed the Council that 45 years ago he predicted that the subject area will have industry. He said it would be good for the City, more taxes will be generated for the City; and the industries and businesses will benefit the area. He added that competition of similar business to those existing may create concern. In regards to the annexation, he said he would like to "stand up for it."

Jennifer Walluk, said they have been neighbors of the Arneson's for 35 years, and her family is in favor of the development for the area. She added that Gramore is a great company to work with and the shopping center would satisfy the need of more choices.

Robertha Arneson, property owner, stated that their property is surrounded on three sides by the City and industrial development. She added that after reviewing several developers, they selected Gramore because they will help the City rather than hinder the community.

OPPONENTS - Nathan Clayton, NE 34th, asked if the Council had anything in their packets that addressed the #8 criteria, "Economic impacts which are likely to result from the annexation."

Councilman Gerber stated that it was addressed in the staff report.

Mr. Clayton said his concerns were what it will cost the City in the future for this development; who is paying for the proposed traffic signal at Redwood and 99E; and what will be the cost to the taxpayers for this development.

Mr. Wheeler said City funds for the intersection are not available.

Mr. Clayton said this will be a cost to the local business community. He compared to Woodburn that will spend \$1 million dollars for revitalization because of strip malls. The applicant did a project in Sherwood, and in talking to people at Sherwood they were concerned about the impact on existing businesses.

Frank Cutsforth, business owner and resident, said this may financially impact his business. He added that he is a businessman, property owner, father, financial supporter, civic volunteer, coach and "Canby is my heritage." He said that criteria #8 will be impacted and specifically business. Mr. Cutsforth said the past "visioning process" resulted in a goal of a strong and viable downtown. He added that the

downtown revitalization project will be hurt by this proposal. Mr. Cutsforth said regardless of the outcome, he will not stop giving to the community. He asked if the citizens could have a vote on the issue to decide the livability of Canby.

Harry LeeKwai, N. Holly, said he has been very involved with civic projects. He said the personal investment and involvement of businesses and residents should be considered. He added that "we" serve on school boards, committees, Council, coach and care for each other, and this gives the town spirit. Mr. LeeKwai said even if he has to pay higher prices, it will come back ten-fold in sponsorship of youth recreation, community causes and special events. He said that is why there is community pride and why people want to move to Canby. He suggested that the community spirit may not be part of the proposed strip mall. He suggested that some of the current businesses will not be able to withstand the corporate competition. He questioned the support of the proposed downtown revitalization project. As a citizen, he asked that he be allowed to vote on the issue. Mr. LeeKwai presented a petition signed by downtown business owners requesting a vote of the people on the matter.

Dana Tyler, NE 20th, said she has lived in Canby all her life and only so many businesses can be supported in a community. She noted that local businesses support a vast variety of youth activities. The involvement of citizens and businesses is what makes Canby unique. She was a member of the growth visioning group, and this was not in compliance with the results of that group's vision. She asked that the Council consider giving the citizens the right to vote on the issue.

Dan Ewert, resident and Planning Commission Chair, said he was the only descending vote on the commission. He said the annexation issue was difficult because everyone knew what would be developed on the property. He said his negative vote was because of criteria #7, "Effect of the urbanization of the subject property, on specially designated open space, scenic, historic or natural resource areas; and Policy 1-R (a), which states that valuable agricultural land should be retained as long as possible. He noted that the owners did not want to farm anymore. Mr. Ewert said it will adversely affect the downtown area, pointing out the annexation, not the project, is really to be considered. His traffic concern was in regards to ramifications other than just the site, added traffic on other streets are not designed to withstand heavy traffic. He cited a section of Chapter 16.84, "vehicular traffic" is of critical importance in considering an annexation. (Mr. Ewert said he was speaking for Linda Geddes.)

He cited criteria #2, "Compliance with other applicable City ordinances and policies," and the Transportation Plan goals should be considered: improve vehicular and pedestrian crossing of SP railroad; insure adequate capacity for future travel demand on arterial and collector streets and on Highway 99E; improve the local circulation system to reduce community reliance on Highway 99E; preserve a small town atmosphere through effective transportation planning; enhance the vitality of Canby's downtown area and insure an effective maintenance program; and ensure sustained

funding for transportation projects.

Mr. Ewert said before annexing such a large parcel the City should consider what it will cost the City in regards to necessary upgrading to support the project.

Mr. Ewert said the bad traffic at the Sunnyside Development built by Gramore is a concern, and Gramore's comment was even though they built the development it was not their fault that the transportation planning around it does not work.

Mr. Ewert cautioned that the City should plan ahead before approving such a project. He recommended denial, or if it is approved, send it to a vote of the citizens.

Terry Prince, NE 12th Way and a Planning Commissioner, said the commission did not have the input from the business community and this was important to him for this decision process. He added that the ODOT study recommended waiting until after the phase 2 study is completed prior to making a decision, which complies with criteria #2; and consider the downtown businesses and competition that the commission did not consider, which complies with #8 criteria. In closing, he said he would have voted differently if he heard the testimony presented tonight. He urged a vote of the matter to the citizens.

REBUTTAL - Mrs. Burden responded to the financing of the light at the intersection, it was explained to them how these things were financed during phase one, and she wanted staff to reiterate those comments.

Mike Robinson, Attorney representing Gramore, responded to some comments.

Mr. Robinson noted that the Prince comments regarding the ODOT letter were response referring to the project and not comments regarding the annexation. He said if the property is annexed, the applicant still has to go through the review and subdivision procedures, which involves careful review from the City. Transportation concerns of adequate streets, sidewalks, etc. can be considered during that process. ODOT suggested the site require design review, the code requires this already. Secondly, ODOT said potential improvements must be examined by them, but it is real clear that ODOT and the City do not have the funds to pay for the intersection; and this is where development pays its own way. He said to keep in mind that development is not being approved, only an annexation.

The criteria makes it a "level playing field" when out of town attorney's and developers must compete with local citizen input on proposals.

Mr. Robinson referred to Mr. Clayton's economic impact concerns and said new jobs and new business opportunities will occur, specifically small starter businesses. He reiterated that this is the last priority "A" commercial land available to annex. This

provides opportunities for residents to work in businesses and start their own business to support the City. He reported that despite the Gramore shopping center in Sherwood, their downtown area is very viable. Competition makes a better retail environment.

He cited the following: Economic Policy 2, (A), to develop and implement a downtown revitalization plan; and provide additional land for urban development consistent with the Comprehensive Plan Map designations, both commercial and manufacturing.

Mr. Robinson said Mr. LeeKwai made one of the better presentations, however, it really didn't address the approval criteria. He said the same jobs and businesses from the downtown area that support the community, will be the same situation in the proposed project.

Mr. Robinson said he already covered some of Mr. Ewert's concerns, such as development pays its way. He noted that currently there is a master planning process underway for 300-400 acres of the industrial area. This is a 30 acre annexation request. He asked why a plan was developed that designates the UGB that includes this area; why does the plan map designation show commercial and manufacturing; why do we have a master planning process underway to assure proper infrastructure; and these tools suggest that development will be done correctly. The transportation plan prepared by Kittleson gives the City a plan which will aid in avoiding some of the problems that Sunnyside experienced.

In regards to referring the matter to the voters, he asked if the City has done this before and he noted that the Charter does not require it. He said the Council has been well informed to make the decision, more so than an election would provide.

Barry Cain said Gramore is proud of the project they did on Sunnyside and pointed out that the traffic is created by a reserve of land that has only one way out of the area. He added that competition at this time is out of town. In regards to business, their survey indicates 40% of grocery shopping is out of town and 100% of soft goods is done out of town. A large part of the bill for a traffic light and road realignment will be paid by Gramore, and many jobs will be created. He encouraged the Council to make a decision now, specifically so the Arneson's can proceed with their plans to build another home. He added that Gramore should be involved in the master planning process.

Dean Hinchcliff, 1991 NE 20th, (came in late and requested to speak as an opponent) urged the Council to put the issue to a vote of the citizens. He said the development will affect the unique character of Canby. He agreed that the industrial park is great, but this development will create jobs that will not provide a "living wage" and big corporate businesses will not contribute to what is happening in Canby.

REBUTTAL - Barry Cain agreed that Canby is unique and the intent is not to destroy that feeling. He added that one-third of their project will be an industrial component, other than just retail businesses. He further added that some businesses will have lower wages, this could be an employment opportunity for youth. Mr. Cain said national companies often support youth, noting that at Sunnyside the Albertson Store donated \$10,000 to the elementary school. He said there will be a variety of jobs, doctors, small business owners, insurance agents, and the people who want to be in Canby.

Mayor Taylor closed the public hearing at 9:48 p.m.

Councilwoman Strong asked if this was to be proposed to a vote of the citizens, when could it be placed on the ballot and the financial impact. Mr. Jordan replied that a special election would be quite costly, the next regular election is March, 1998, and if other agencies have issues on the ballot the cost could range from \$2,000 to \$3,000.

Councilwoman Strong pointed out that the subject matter is annexation of priority "A" property, not the proposed development.

Councilman Gerber asked that Mr. Wheeler explain ORS 222. Mr. Wheeler said it is the state law that deals with the annexation procedures and it outlines various rules and guidelines. It refers to the type of application submitted, in this case the type is a double majority, both property owners and electors on the property have signed a petition for annexation.

Councilman Gerber asked if the Council were to deny it, would there be additional costs to the City. Mr. Wheeler said if the City denies, then the City would not forward it to the Boundary Commission. However, if the applicant submits an application to the Boundary Commission and it is approved it, it would then be the City's responsibility to pay for the election.

Councilman Gerber asked if the Transportation Plan is an ordinance or a policy. Mr. Wheeler said it is part of the Comprehensive Plan.

Councilman Gerber asked if Mr. Cain's comments about the OTAK master plan inferred that the OTAK plans would not work unless they were involved. Mr. Cain said his intention was that it was more complicated than just hiring an architect to design streets, that long term residents need to become involved to help make it work. He noted that if this project is prolonged until a March election, this will essentially set the Arneson's back a year in their building plans.

Councilman Nolder asked if there would be negative impacts if the City were to deny the application and the applicant submitted it to the Boundary Commission and they approve the application. Mr. Wheeler said yes, the Boundary Commission would contact the City for the documentation of denial; and if the Boundary Commission

approved it, the City would probably refer it to a vote of the people; and the Boundary Commission is generally reluctant to approve an application that the City recommends for denial. He added, if it were denied the reasons will need to be made and one may be economic adverse impact.

Councilman Lucas asked who would pay for the intersection improvements and realignment. Mayor Taylor said that when the development is proposed the costs will be assessed at that time.

Councilman Gerber said an argument could be made under criteria #1, that this annexation is not compatible with the Comprehensive Plan because a road plan for arterial and collector streets; and communities must coordinate with County and state, and ODOT has recommended we delay approval.

Administrator Jordan stated that the City has a Transportation System Plan and we currently have an interim approval of this plan because ODOT has not acknowledged the plan due to the access management component.

Councilman Gerber reiterated that an argument could be made that the 99E and Redwood intersection could be considered in regards to the economic impact. Mr. Jordan said the amount of money spent on such a development could be considered an economic impact.

Councilman Gerber pointed out that Stoel Rives sent a FAX stating that they did not agree with the final order. Mr. Wheeler said the problem was the wording of #5. The applicant wanted to know how much of the financial obligation for the improvements of the intersection Gramore would be responsible for and how much allocated to other property owners.

Mr. Robinson noted that ODOT only makes recommendations at the time, when the development reaches the permit stage, ODOT will have more to say. He added that Gramore knows they will be "part" of the responsibility for the improvements of that intersection.

DISCUSSION - Mayor Taylor said during the visioning, there was a desire to have managed growth, a revitalized downtown area and a desire to have family wage jobs locally. Also, as a citizen, he said he wanted the opportunity to choose where he does business. He added that no matter where the businesses are located they consider themselves part of the business community. He further added that this area was zoned in anticipation of growth in that direction. Mayor Taylor said the concerns about who pays for some of the infrastructure is valid, but will be discussed in depth during the development stage. The Mayor said he understands the desire to keep the quality of life, however, he thought the development process would aid in this area. He also indicated that his view of the voter annexation process would be for residential

expansions, which is different than a commercial/industrial tax producing annexation.

Councilman Harris said he will vote with the criteria in mind, however he has been a local resident for 40 years and feels this develop will create a cultural change. He said a strip mall will create competition that demands different ways of doing business and will affect the "rural feeling" of the community. He said that he intends to resist urbanization, and there are things in the criteria that he can justify with his vote.

Councilman Daniels said as a businessman for over 20 years, the current shopping center was reluctant to work together and participate in Chamber activities, however, some participate today. He said it will further divide the downtown area.

Councilman Gerber reminded the Council that this is not about a strip mall, it is only about annexation of property and the assessment must be based on the criteria. He added that he was struggling to find anything that does not meet the criteria. Mr. Gerber recommended approval of the annexation and then send the matter to a vote of the citizens.

Councilman Lucas agreed with Councilman Gerber. In his opinion, he felt the development would not be good for Canby and he was concerned about the resulting traffic problems. He felt it should go to a vote of the people.

****Councilman Gerber moved that ANN 97-05 meets the annexation criteria and that the City Council refer it to a vote of the citizens in March, 1998, as allowed in the ORS. Motion seconded by Councilman Daniels.**

DISCUSSION - Councilman Gerber commented that there will be economic impacts from the development not the annexation.

Councilman Lucas asked that if survey quotes are used in the future, he would like to see the survey.

Councilman Harris agreed there will be economic impacts resulting from the annexation. He noted that the annexation is the first step in the process, and the improved intersection will be an economic impact.

Councilman Gerber noted that if the Planning Commission needs to speak to the Council regarding actions taken on this matter, the meeting should be scheduled quickly.

****The motion to approve the annexation and refer it to a vote of the citizens was approved 5-1, with Councilman Harris voting no.**

Mayor Taylor called for a short recess at 10:30 p.m. The regular session was reconvened at 10:38 p.m.

Zone Change 97-01 (Pahlisch Duncan Homes) - Mayor Taylor reviewed the criteria for the public hearing, and noting that the decision of the Council must be made on the record.

Mayor Taylor asked the hearing body if anyone had any conflict of interest regarding the subject.

Nolder-none and will participate.

Gerber-none and will participate.

Harris-none and will participate.

Taylor-none and will participate.

Lucas-none and will participate.

Daniels-none and will participate.

Strong-none and will participate.

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

Strong-none.

Lucas-none.

Daniels-none.

Taylor-none.

Harris-none.

Gerber-visited the site and drew no conclusions.

Nolder-none.

STAFF- Jim Wheeler noted that the application is for rezoning for 24 acres on the east side of the Tofte Farm Subdivision and south of SE 13th Avenue. He said it is currently zoned Agricultural and the application is for Low Density Residential, which is in compliance with the Comprehensive Plan. It is part of the 38 acre annexation of two years ago. He noted that the Planning Commission vote on this issue was for approval by a 3-2 vote. The negative votes expressed concern regarding the desire to retain agricultural land as long as possible, and that there is sufficient buildable land within the City limits and the rezoning was not needed at this time.

The proposal is for the entire 24 acres, however, they have submitted a petition to subdivide one parcel and to split off a parcel of land that has the existing irrigation well used for the property. They are proposing Phase II of only 9 acres, and the remaining 14+ acres will be continued to be farmed by Mr. Tofte. He noted that agricultural operations are permitted outright in a Low Residential zone.

Mr. Wheeler said the recommendation is for approval as proposed. He noted that options are for approval by adopting Ordinance 977; option to deny with findings; or parcels one and two can be approved, leaving the remaining area as agricultural.

Councilman Harris pointed out that a recent projections was that the City had enough residential property for development for the next 3 years and 2 months. Mr. Wheeler said this area is included in that calculation, without this property it would bring it down approximately 8 months.

Councilman Gerber asked what policy the sufficient buildable land came from. Mr. Wheeler said it was Housing Element Policy One, which said the annexation criteria and growth phasing should be done by maintaining two to three years of buildable land in the City limits.

APPLICANT - Jeff Backrack, attorney for the applicant, reminded the Council that the property was annexed two years ago as a priority "A", and it is only a continuing of the subdivision with the next phase. He added that the houses sell well and the majority are Canby residents, noting need is not a criteria.

Councilman Gerber said that Housing Element Policy One refers to buildable land, and he felt need was criteria. Mr. Wheeler reviewed the Housing Element Policy regarding the need for buildable land, which set standards for a minimum need and was more explicit for annexation, rather than a zone change.

PROPONENTS - none.

OPPONENTS - none.

Mayor Taylor closed the hearing at 11:00 p.m.

****Councilman Daniels moved that Ordinance No. 977, AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF CANBY, COUNTY OF CLACKAMAS, OREGON FROM AN AGRICULTURAL ZONE DISTRICT TO A LOW DENSITY RESIDENTIAL ZONE DISTRICT FOR TAX LOT 5800 OF TAX MAP 4-1E-3CB. Motion seconded by Councilwoman Strong.**

DISCUSSION - Councilman Harris said without the zone change there is adequate buildable land, and the encouragement of maintaining the agricultural land.

Councilman Lucas asked why only part of the zone change land is going to be developed and was informed that Mr. Tofte wanted to continue farming part of the parcel.

Councilman Gerber suggested that the Council only approve the 9.6 acres to be rezoned.

Mayor Taylor noted that the Planning Commission had a close vote on the issue,

however, when the land was annexed, it was done with the clear understanding of a residential phased development.

Councilman Daniels asked if the other 16 acres could be denied for rezoning in the future if the Council only approved 9 acres. Mr. Wheeler replied only if additional annexations come in for residential building, or if building activity drops off considerably.

Councilors Harris, Lucas and Gerber agreed that phasing in the rezoning was a good approach.

****Ordinance No. 977 failed on first reading, 2-4, with Councilman Daniels and Councilwoman Strong voting for the motion.**

****Councilman Gerber recommended a zone change, with the appropriate ordinance to be drafted, for parcel one and two. Motion seconded by Councilman Harris and approved 5-0, with Councilwoman Strong abstaining.**

NEW BUSINESS: Accounts Payable - **Councilman Harris moved to approve payment of accounts payable in the amount of \$335,709.22. Motion seconded by Councilman Daniels.

DISCUSSION - Councilman Harris pointed out that a payment to Moore Excavation, contractor for the Logging Road Industrial Park, was in the amount of \$196,000.

****Accounts payable were approved by roll call vote, 6-0.**

ORDINANCES & RESOLUTIONS: None presented.

UNFINISHED BUSINESS: None presented.

COUNCILORS' ISSUES: Councilman Nolder asked if a special election could be held for the Gramore Annexation. Administrator Jordan said a special election could be held, the process will need to be reviewed.

Mayor Taylor asked when the National Guard was coming through town and was informed it would not be until Spring.

Councilman Gerber asked if it is presumptuous to have an ordinance placed on the agenda prior to an actual decision on an annexation.

Some Councilors felt it just speeded up the process and it was not a concern.

Councilman Harris asked about the status on the concession stand building at Eccles ballfield. Mr. Wheeler said the permits were expected to be ready this week.

The Council consensus was to expedite the permits and have them ready for the concession stand project this week.

Councilman Harris said the exclusion ordinance for a drug free zone is to be on the October 1st agenda, he suggested that the recently passed Seaside ordinance be reviewed, a ninety day exclusion from the area and a fine are specific in that ordinance. Mr. Kelley said he had a copy of the Seaside ordinance.

The Council consensus was to be sure and send a memo to the Public Works Department informing them not to act on recommendation from any committee, only from the Council.

OTHER REPORTS OR ANNOUNCEMENTS: Mayor Taylor reminded the Council that some local businesses had provided funding to maintain additional hours at the library. He asked the Council if they were willing to commit some additional funding for three months for the library, until such time as figures are available under Measure 50.

Ms. Chaplen noted that the Library has large cards that patrons sign to send to the business that has donated funds to the library and it is very visible in the library.

Councilman Harris asked what risk there would be to budget the needed funds for the next three months. Mr. Jordan said there would be little risk.

****Councilman Harris moved to authorize additional funding to keep the Canby Public Library open the additional hours for the next three months. Motion seconded by Councilman Daniels.**

DISCUSSION - Councilman Gerber asked what else had been cut during the budget process, and questioned the prioritizing for the expenditure.

Mayor Taylor said there should be some unexpected savings or gains throughout the year and the risk is minimal. At the end of the three months, the Council can review the issue.

Councilman Gerber agreed that this has been a good effort of the community, and this might be his first choice in funding, he would have liked more time to look at the other issues on the list of cuts.

****Motion to approve additional library funding was 5-1, with Councilman Gerber voting no.**

Ms. Chaplen noted that Beth Saul had reported that Kate Brooks has started a fund raiser for the track and field project. Also, Jeff Snyder from the Parks Department has posted the "closed" signs, both in English and Spanish, at the Locust Street Park.

MANAGER'S REPORT: Treasurer Position, Mr. Jordan said 15 applications have been received and he asked if the Council wanted to be a part of the process.

Mayor Taylor asked about the qualification of those applications. Mr. Jordan said the applications were marginal. Mayor Taylor suggested re-advertising for a larger pool. Mr. Jordan said there are three applicants that could be interviewed.

Councilman Nolder suggested interviewing the three applicants before advertising again.

Councilman Gerber said the City may want to assess why qualified applications were not submitted.

Senator Wyden will be in Canby on September 28th, 1:00 p.m., for a ribbon cutting ceremony on the remodeling of the Kelley Building, Council is invited.

Clackamas Cities Meeting will be at Sandy on September 25th, the subject will be the proposed County gas tax.

RARE Employee, Mr. Jordan noted that Clint Chiavirini is working for the City under the RARE program at a cost of \$15,000 annually to the City. He said there is a candidate from the University of Oregon that would like to work for the City under the same program and could be helpful on the Comprehensive Plan revision. The Council unanimously decided to pass the opportunity for a RARE employee at this time because of uncertain budgetary constraints.

Industrial Master Plan, Mr. Jordan reported that a meeting has been scheduled at Old Town Hall this Friday and all property owners were invited to review designs.

Councilman Gerber noted that DirectLink sent a letter regarding the City's lack of participation in the Web Link that was set up last April. Mr. Cole said that DirectLink had spent time and funds to begin the project. Only one City department had supported the project.

Administrator Jordan said that City staff did not have the time to support the project at this time.

Councilman Gerber asked if a Citizen Internet Committee, city-wide might be interested in this project.

Councilman Harris said that staff assured the Council, prior to staff shortage, that this would not interfere with daily work. He suggested that the City drop out of the project.

Mayor Taylor said he wanted to talk to Mr. Cole about this project and asked that Mr. Jordan bring this back to the Council on October 1st.

Councilwoman Strong noted that the Traffic Safety Committee has made a proposal about one-way traffic on SW Second and Third, and she suggested that Second Street consider this scenario clear through to Birch Street.

Councilman Harris noted that the last time the Council heard this issue, the area residents did not want one-way traffic, now residents have signed a petition for this proposal.

Councilwoman Strong did not suggest one-way traffic between Elm and Birch, only a review of the congestion of that street.

Chief Giger stated that the Traffic Safety Committee is only seeking input on the matter at this time from area residents. He pointed out the problem of trucks having a problem getting into the card-lock fuel system.

Jim Wheeler said he needs to send a document to DLCD regarding proposed ordinance revision changes.

Mayor Taylor said one concern was the number of Councilors to vote on exceptions, and that recommendation was five members.

Attorney Kelley reported that in his research the exception portion may not be legal, and, in fact, that provision has never been used.

Jim Wheeler said the wording of our proposed ordinance will not allow for an exception, only for an exception in procedure.

The Council decided to go with a regular quorum majority.

Mr. Wheeler said the review standard regarding economic impacts was of concern. The Council decided to leave it in the proposed ordinance revision.

- ACTION REVIEW:**
1. Set the Bid/Pedestrian proposal on S. Redwood for next agenda.
 2. Send a letter to CTA regarding timely request for use of City streets, but approving the annual Communication Classic.
 3. Approve Gramore Annexation 97-05, and prepare a Resolution for a March 1997 ballot on the annexation.

4. Revise Ordinance No. 977, regarding the zone change.
5. Authorize funds to maintain additional hours at the library for the next three months.
6. Communicate with David Cole regarding the Web Page project.

****Councilman Daniels moved to go into Executive Session under ORS 192.660 (1) (I), regarding the performance and evaluation of an employee; and (1)(f), regarding exempt documents. Motion seconded by Councilman Harris and approved 6-0.**

Mayor Taylor recessed the regular session at 12:03 a.m. to go into Executive Session. The regular session was reconvened at 12:20 and immediately adjourned.

**EXECUTIVE SESSION
SEPTEMBER 17, 1997**

Present: Mayor Taylor, Councilors Nolder, Gerber, Harris, Daniels, Lucas and Strong, Mr. Jordan, Ms. Chaplen, Mr. Kelley and Cam Sivesind.

Mayor Taylor called the session to order at 12:07 a.m. in the CUB conference room.

ORS 192.660 (1)(f) - The Council discussed the Canby Herald request for public records.

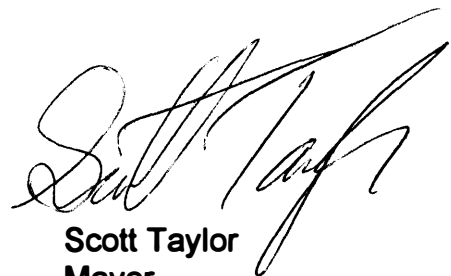
The Council discussed the Administrator's contract.

The Council discussed a memo from Attorney Kathy Peck.

Mayor Taylor adjourned the session at 12.17 a.m.



Marilyn K. Perkett
City Recorder



Scott Taylor
Mayor