

CANBY CITY COUNCIL
WORKSHOP SESSION
NOVEMBER 5, 1997

PRESENT: Mayor Taylor, Councilors Nolder, Harris, Daniels, Gerber, Strong and Lucas, Michael Jordan, Sarah Jo Chaplen and Chaunee Seifried.

Mayor Taylor called the session to order in a classroom at the Canby Adult Center at 6:00 p.m. A light dinner was served.

The purpose of the session was to meet the new City Treasurer, Chaunee Seifried.

Mayor Taylor adjourned the session at 6:45 p.m.

Regular Session

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, Finance & Administrative Director Sarah Jo Chaplen, City Treasurer Chaunee Seifried, City Recorder Mairlyn Perkett, City Attorney John Kelley, Library & Recreation Director Beth Saul, Planning Director Jim Wheeler, Planning Associate Jason Kruckeberg, Planning Commissioners Keith Stewart, Jean Tallman, Terry Prince, and Dan Ewert, Barry Cain, Steve Abel, Jerry Johnson, Marc Butorac, Jim Hensley, Steve Neville, Nathan Clayton, Nancy Salber, Michael Runyon, Harry Lee Kwai, Dean Hinchliff, D'Anne Tofte, Curtis & Lila Gottman, David Kelley, Bruce Makowski, Bob & Marge Peterson, Patti Flagg, Sidney Miles, Lyle Lea, Frank & JoAnn Remsing, Irene Burden, Mavourn Stuart, Sheldon Hatheway, Ivan, Robertha & Glen Arneson, Jennifer and Dee Walluck, Dan Wilcox, Bill Scidl, Frank Cutsforth, Randy Carson, George Diamond, David Morgan and family, Roy Zimmer, Jacob Givson, Curtis Hammond, Marshall Hutchison, David Traaen, Don & Peggy Peterson, B.W. Todd, Linda Geddes, Kevin & John McCullough, Stephen Blunck, Chris Little, Zach Bemis, Jeff Schwedon, Tim Maples, Philip Moore, Cathy Salber, Barbara Tracy and others.

Mayor Taylor called the session to order at 7:00 p.m. in the Canby Adult Center dining room.

Opening ceremonies of the flag salute, meditation and roll call were observed.

NON-AGENDA ITEMS: Nathan Clayton thanked the Council for submitting the measure to the electors for the voter approved annexation matter, which was approved on Tuesday, November 4th.

Mr. Clayton noted that King City had a measure on the ballot to eliminate the voter annexation approval process and it was defeated 2-1. Also, St. Paul passed a voter approval annexation process by 83%.

CONSENT AGENDA: **Councilman Harris moved to adopt the consent agenda as presented: Minutes - August 20, 1997, August 25, 1997, September 2, 1997, September 3, 1997, October 15, 1997 and October 27, 1997; and Accounts Payable - \$230,835.56. Motion seconded by Councilwoman Strong and approved 6-0.

COMMUNICATIONS: None presented.

PROCLAMATION: Geography Awareness Week - Mayor Taylor read a proclamation drafted by three Ackerman students, Rory Morgan, Kevin McCullough and Goali Saedi, proclaiming November 16-22, 1997 as Geography Awareness Week. The three students were present to accept the original proclamation.

PUBLIC HEARINGS: Land Use Code Revisions - The hearing was opened at 7:10 p.m. Mayor Taylor explained that the Planning Commission and City Council have met in workshop session to prepare revisions to ordinances regarding land use issues.

STAFF - Jim Wheeler briefly reviewed the primary revision for the code:

1. Application and submittal requirements is basically defining an application, with forms, fee requirements, label requirements and site plan and narrative requirements. A complete application, with the 120 day review process, will be defined.

Mr. Wheeler stated that Section 12 in Ordinance 981, should not be adopted. This is regarding annexations and due to the approved measure for the vote approved annexation process.

2. Cell tower siting regulations have been generated, currently the City has no cell tower regulations. Cell towers will not be permitted in low density, medium density, high density or commercial residential zones.
3. The voter approval annexation process, regarding elections, minor and major applications are defined, and annexation approval criteria amendments defined. He added that there are provisions for exceptions to the process, an example would be a special elections or the eliminating of one hearing.

4. Miscellaneous amendments include implementing interpretations by the City Council and Planning Commission regarding the following : arbors and fences; mechanical units in side yards; clarifying when signs would be reviewed under site and design review; tent structures reviewed under site and design review; code change for variances, specifically set backs for gas station canopies; single family driveway standards; and reducing the appeal period for minor land partitions and subdivisions to the same as other land use applications.

Dan Ewert, Planning Commission Chair, said he appreciated the work done on this amendment package and noted that the City Council may see a revision package every six months on planning issues.

Mayor Taylor asked if there was anyone in the audience who wanted to comment or provide testimony on the land use revisions.

Kevin Martin, Land Use Coordinator for Sprint US, said he just found out about the proposed code amendment and had been unaware of the workshops. He expressed a concern about the cell facilities not being allowed in any residential or commercial residential zones. Mr. Martin questioned those restrictions. He pointed out that they had several installations on light standards, three are at Lake Oswego High School. He said his firm needs the ability to locate where the service needs to be provided and it is a good revenue source for schools and other agencies. Mr. Martin said he has not had time to review the affects of the regulations as currently proposed.

Mr. Wheeler noted that the proposed regulations are..is meant to exclude tower facilities from residential zones and commercial residential zones. He said attached facilities, which are such things as antennas attached to light standards, are permitted as a conditional use in a residential zone.

Mayor Taylor asked the audience for additional input. None was voiced.

Mayor Taylor suggested that Mr. Wheeler and Mr. Martin schedule a time to review the proposed revisions.

The hearing was closed at 7:24 p.m.

****Councilman Daniels moved that Ordinance No. 981, AN ORDINANCE FOR THE CITY OF CANBY, COUNTY OF CLACKAMAS, OREGON, AMENDING TITLE 16 OF THE PLANNING AND DEVELOPMENT CODE; AND DECLARING AN EMERGENCY, be posted and come up for final reading on November 19, 1997; and that Section 12 be deleted from the proposed ordinance. Motion seconded by Councilman Harris and approved 6-0.**

Mayor Taylor introduced four members of the Planning Commission present for the hearing, Dan Ewert, Jean Tallman, Terry Prince and Keith Stewart. He noted that a vacancy exists on the commission and applications are available at City Hall.

Mayor Taylor called for a short recess at 7:24 p.m. The session was reconvened at 7:37 p.m.

ANN 97-05. Gramor - Mayor Taylor explained that at the October 15, 1997 meeting, a motion was made to reconsider Resolution No. 952, to deny the Gramor annexation. The Council is now back into consideration of the following motion:

****Councilman Harris moved to adopt Resolution No. 951, A RESOLUTION TO THE PORTLAND METROPOLITAN AREA LOCAL GOVERNMENT BOUNDARY COMMISSION RECOMMENDING DENIAL 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 MOLALLA FOREST ROAD. Motion seconded by Councilman Nolder.**

The question was called and the motion was defeated with a unanimous no vote of six.

Mayor Taylor noted that the Council was now back into public hearing on ANN 97-05 at 7:40 p.m. The public hearing procedure was reviewed by the Mayor.

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

Nolder - none and will participate.
Gerber - none and will participate.
Harris - none and will participate.
Taylor - none and will participate.
Daniels - none and will participate.
Lucas - none and will participate.
Strong - none and will participate.

Mayor Taylor asked the hearing body to declare any ex parte contact on the hearing subject.

Nolder - drove by the site and had talked to numerous citizens about the annexation. Mayor Taylor asked if anyone wanted to question Mr. Nolder, none were voiced.

Gerber - visited the site and had discussed the annexation with numerous people. Mayor Taylor asked if anyone wanted to question Mr. Gerber, no questions were asked.

Harris - drove by the site and had discussed the proposal with several people. Mayor Taylor asked if anyone wanted to question Mr. Harris, no one came forward.

Taylor - drove by the site and had discussed the proposal with several citizens. He asked if anyone wanted to question him, no one came forward.

Daniels - drove by the site and had discussed the annexation with numerous individuals. Mayor Taylor asked if anyone in the audience wanted to question Mr. Daniels, none were voiced.

Strong - visited the site and discussed the subject with numerous people. Mayor Taylor asked if anyone wanted to question Mrs. Strong, no one came forward.

STAFF - Jim Wheeler had presented his staff report at a previous session.

APPLICANT - **Barry Cain**, stated that four additional people will speak and they will all try to be very brief. Mr. Cain said when the denial of the application was made because of the concern about the Redwood signal, it was apparent that there had been a communication problem. Mr. Cain clarified the fact that the Four Square Church did not submit a letter with their initial application, he said they had no direct contact with the church.

Mr. Cain introduced the other speakers for Gramor, Steve Abel their attorney; Jerry Johnson from Hobson, Johnson & Associates will address the economic impacts; Mark Butorac of Kittelson & Associates will address the traffic improvements; and Jim Hensley a landscape architect will speak about the Arneson Gardens.

Steve Abel addressed the legal issues and pointed out that the eight criteria for annexation should be focused upon. He said if there is a negative recommendation from the City, success at the Boundary Commission is doubtful and there would be no vote. Mr. Abel said the only way to have a vote of the citizens of the community is to approve the annexation and send it to the Boundary Commission with a positive recommendation. Mr. Abel said, according to the statutes, a positive recommendation does not preclude the City from entering an objection after the Boundary Commission action. He added that if the City makes a positive recommendation to the Boundary Commission; the Boundary Commission makes an approval; the City has 45 days for the City Council to enter an objection and then a vote of the people is automatic.

Mr. Abel said that Gramor will bring no action against the City if the Council chooses to follow the recommendation of approval and then an objection to bring the matter to a vote of the people. He said there is no claim Gramor can make, and if there was one, they would not make that claim.

Mr. Abel said there have been concerns about #3 and #8, and basically #3 is related to transportation. Mr. Abel said to assure that certain transportation improvements will be made and the funding available, a development agreement can be made for this matter.

Mr. Abel reiterated that the City should approve the annexation and reserve the Council rights to a later objection which assures a vote of the citizens.

Jerry Johnson said the site is approximately 31 acres, with 18 acres in commercial/manufacturing and 13 acres of industrial development. Mr. Johnson cited the following economic impacts for the development:

- * approximately 660 on-going commercial, office and industrial jobs if the site is fully developed.
- * 22.9 million dollars will result from construction; 17.6 million dollars per year from employment on the site.
- * the development will have approximately 40 million assessed valuation, creating approximately \$480,000 annually in property taxes.
- * about 150% of its cost to the school jurisdiction when fully built.
- * will create more residential jobs, current estimates are that 65% of residents work and shop out of the City.

Mr. Johnson said a survey was done with approximately 400 citizens of the area on a market survey, which indicated a large amount of "leakage" from the area. Leakage refers to residents that leave the area to shop and the survey shows that 24% shop for groceries out of Canby; and 95% shop for clothing out of Canby. He said the leakage indicates that the center would be supported on its own. He added that an estimate is that over 23 million is annually spent outside of Canby. The survey indicates that the development could support about 131,000 square feet of retail development immediately; and by the year 2015 there could be 266,000 square feet of development which is more than physically possible on the site.

Mr. Johnson said the development would give more retail choices and less need to travel outside the area for shopping. He said that leakage shopping trips estimate of miles driven out of Canby is 1.1 million miles.

Mr. Johnson said the downtown area usually becomes more of a specialty retail center for shopping. Also, their survey of specialty shopping districts in Portland, indicates that shopping centers were not a major threat to their businesses.

In conclusion, Mr. Johnson said the development will create many new jobs; add more tax money to the City; reduce leakage of retail sales; free-up industrial development behind the site; and create an overall positive economic affect.

Marc Butorac, traffic engineer with Kittelson & Associates, reminded the City that his firm prepared the City of Canby Transportation Plan and Highway 99E Access Management Plan.

Mr. Butorac said he would address some of the concerns regarding traffic safety issues, specifically two 99E intersections and the cost for improvements.

Mr. Butorac first addressed the intersection of NE Territorial/Highway 99 E, and stated there is a vertical alignment issue with that site; the past accident history shows one fatality at the intersection and two other accidents, and two rail incidents; and peak hour delays occur at the approaches.

SE First and Redwood is an off-set intersection with vertical and horizontal alignment issues. He said the conflicting left-turn movement creates a problem

Mr. Butorac displayed two conceptional designs for improvements of the intersections and reviewed the physical improvements.

Mr. Butorac stated that the proposed Territorial/Highway 99E improvements is just over one million dollars. The Redwood/Highway 99E proposed improvements is approximately \$850,000. He said if they are done separately, the projects will be more costly, but if done as a public combined project, a 5%-10% savings should be realized. He further added that if a private-public project is pursued, another reduction of 5%-10% should be realized. Mr. Butorac stated that Gramor will fund the entire project at Redwood/Highway 99E for an estimate of \$850,000. The Territorial/Highway 99E project had a cost analyses as follows: Gramor will transfer their SDC's to this project in the amount of \$250,000; New Life Foursquare Church has committed to \$200,000 for the project; and other sources of \$425,000. The other sources could include other SDC's, ODOT funds, grant money, private developments or LID's.

Some of the benefits resulting from a public/private partnership would be the obvious deficiencies at those two intersections with the improvements; approximately \$300,000 would be saved; the New Life Four Square Church would be allowed to expand; and future access is provided to the industrial area. He added that without this project, another mechanism for access to the industrial area will need to be developed.

Jim Hensley, landscape architect, presented a slide show of various hybrid azaleas developed by the Arneson's over the past 30-50 years. Mr. Hensley said some of the projects his firm has worked on are Tom McCall Waterfront Park, River Place to Salmon Street Fountain area, End of the Trail Interpretive Center in Oregon City, Maple Street Park and the proposed Oregon Gardens in Silverton.

Mr. Hensley said there are historic areas near the site, including a cemetery on the north end of the industrial property, wetlands pond area, and a large forest area on the Arneson property which includes a 3-4 acre azalea park.

Mr. Hensley said the park can become a "hub" for a pedestrian corridor for the area.

He said this park is equal to Portland's Crystal Spring Garden and has more varieties of azaleas than any other garden in the United States.

PROPONENTS - Michael Runyon, an architect representing the Four Square Church, said he has worked with the church to address traffic issues. He said that a light needs to be installed at Territorial and 99E prior to expansion of the church. The church is concerned about safety issues because of accidents in the area, and the near miss of the train derailment, which cost \$200,000 to clean up. Mr. Runyon said the church is interested in supporting the Territorial light and will commit funding.

Mr. Zimmer said he would allow his time to someone else.

Nancy Salber, 1391 SE 10th, spoke as a local citizen and noted that she worked for a local developer. Ms. Salber said this is a viable application and the property has been designated as Class A and B priority for annexation. She said the Council should consider the 8 points of criteria in considering the application. Ms. Salber said that in 1993, her employer Walt West, contributed money for the traffic lights that were being discussed. She urged the Council to keep an open mind when considering the application.

OPPONENTS - Harry Lee Kwai, asked whose plan this was, did it come from the business community, residents or Council. He said the plan is from Gramor Development and not part of this community. Mr. Lee Kwai noted that voter approval for annexations recently was approved by citizens and this should be considered as a consistency issue in development. He said, money can't buy livability or quality of life. Mr. Lee Kwai said a strip mall will impact the downtown business district by impacting the social, cultural and economic values of the community. He said he was reluctant to believe that strip mall business will support civic events; involvement of citizenry will be diluted; and quality of life will be a concern. Mr. Lee Kwai said that convenience shopping is not a high enough priority for him to support a strip mall. Mr. Lee Kwai said, "right now we don't need that land, someday we will."

Nathan Clayton, stated that Mr. Lee Kwai covered several of his concerns. He said the vote yesterday on the voter annexation issue should be "proof positive" that Canby citizens want a voice in the development since the hands of the Council are tied because of annexation criteria. He said the citizens of Canby should make the final decision on the proposal.

Terry Prince, Planning Commissioner, said "we're ahead of ourselves." He said when Phase I development was considered, the infrastructure and design was in place and in this scenario it is not in place. He said the City should value the current businesses, there will be an economic impact. Mr. Prince said many people work out of the area and that probably accounts for some of the "leakage" shopping statistics. He

questioned how much leakage would be captured by a strip mall. Mr. Prince stated that during the visioning process, the revitalization of downtown was a priority. He urged that voters have a chance to vote on this issue.

Dean Henchcliff recommended that the City Council deny the Gramor Annexation. He said the design review by the Planning Commission is "toothless" and once the annexation is granted, the City will have to "accept and swallow" whatever Gramor wants to put into the site. He noted that SDC fees are City money, not Gramor money to allocate. Mr. Henchcliff said as development continues around the area, refunding of some or all of Gramor's money for the proposed intersection projects will occur. He added that the \$200,000 from the Four Square Church is not tied to the annexation. Mr. Henchcliff stated that Mr. Cain met opposition from the Chamber of Commerce for this proposal. Mr. Henchcliff urged the Council to use their broad discretionary powers to deny the application.

REBUTTAL - Barry Cain, stated that the plan did not come from Gramor and they are not asking for any Comp Plan or zoning changes. He said the Arneson's did not decide to sell their property until the City started implementing the Comp Plan by annexing 60 acres that surrounds them, and allowing Shimadzu to start construction next door to them.

Mr. Cain said that retail is a constantly changing, fluid environment and the downtown buildings were built many years ago for a different period of time. He said that revitalizing downtown will not help, the future of downtown can be much more than what the past was by creating speciality shops and eating establishments. He stated that as people come back to Canby to not only sleep, but work, the downtown will revitalize itself and the Gramor Development will help that scenario.

Mr. Cain said the City is not ahead of themselves, and, in fact, a Master Plan is currently being designed for the industrial park area and Gramor will have to comply with that Master Plan. He added that the leakage in Canby is much higher than normal.

In regards to the SDC's, he agreed that it was the City decision on spending those fees, however, Gramor SDC's will only be realized if the development is approved. He said they were trying to assist with some measures and implement to correct safety concerns.

Mr. Cain said the approximate \$800,000 from Gramor for the Redwood intersection will not be reimbursed to them from anyone at any time. He said that was money out of their pocket and gone for good.

Mr. Cain pointed out that other people have come to Canby to become citizens and part of the community and increase the livability of the community, and Gramor wants to add

to the livability of the community. Finally, he said the proposal from Gramor to fix two dangerous intersections, which may not have been addressed for many years; and to dedicate a very special park that honors longtime citizens, make it clear that Gramor is concerned about livability.

DISCUSSION - Councilman Gerber asked Mr. Abel to comment about his suggestions that the Council should approve the annexation with a reservation to object to the approval so the issue will go to a vote of the people. Mr. Gerber said that originally Mr. Abel said this was against state statutes. Secondly, he asked if Gramor would consider withdrawing the annexation application and reapply under the voter annexation measure.

Mr. Abel said there was no argument from him regarding the annexation process of approving the issue and later objecting to send the matter to the voters. He said he has been consistent in advocating this process. Secondly, Gramor has been in this annexation process for almost a year and cannot start over.

Councilman Gerber asked Mr. Abel if starting over wouldn't be a more straight forward process, rather than voting one way and objecting. Mr. Abel said it was totally appropriate for the Council to approve the annexation on the criteria, and if they want to send the matter to a vote, then object to the Boundary Commission approval.

Councilman Gerber asked Mr. Cain if Gramor intended to entirely fund the Redwood intersection improvements without forming a LID. Mr. Cain said that was correct, However, the City may want to generate a LID for the street system in the Industrial Park, but that would not pay back any funding to Gramor for the intersection.

Councilman Gerber asked Mr. Wheeler how many acres would benefit from the signalization of Redwood and 99E. Mr. Wheeler said approximately 300 acres of Phases II and III of the Industrial Park, and another 80 acres on the north side of the highway.

Councilman Gerber asked if the promise to fund the Redwood intersection is only a promise. Mr. Cain said letters have been submitted that speak to the value of their promise and they are willing to enter into a development agreement to commit to the intersection funding.

Councilman Gerber asked if there was anything to preclude this issue from resulting in the scenario of Dolan vs. The City of Tigard. Mr. Cain said if Gramor volunteers to the agreement and implementing the intersection, there should be no problem.

Councilman Harris asked Mr. Cain for a clarification on the complete improvement at the Redwood intersection. Mr. Cain said it would be the signalization and quite a bit of

road work.

Councilman Harris asked if it included purchase of necessary property involved. Mr. Cain said if there was additional cost involved in that, they would take care of it, but thought it could be arranged without that being necessary.

Councilman Harris asked Mr. Cain if he was comfortable with the projected costs for the two intersection improvements. Mr. Cain said construction drawings have not been done and the project has not been bid, however, he was comfortable with the projected costs. He reiterated that Gramor would totally take care of the Redwood intersection. However, there may be some unforeseen issues on the Territorial intersection. Mr. Cain noted that the estimates were prepared by Ron Failmezger, ODOT District Manager, and he was comfortable with the cost estimates,

Mayor Taylor called for a short recess at 8:50 p.m. The regular session was reconvened at 9:00 p.m.

Attorney Kelley said there is still a concern regarding the statute that states the Council may make a recommendation to the Boundary Commission for approval, and then after the Boundary Commission approval that the City object within the 45 day period, raises a question that this scenario would allow the applicant to go into circuit court and ask for an injunction to prohibit the City from objecting on the bases that it was already approved. Mr. Abel had indicated that Gramor will not do that, and Mr. Kelley said Gramor is the only party with standing that could object. Mr. Kelley said if the Council wanted to get the matter to a vote of the citizens, this is the process the Council should pursue, but there is a risk involved with the applicant seeking to block the Council objection. He pointed out that Mr. Abel pronounced that he would not make any claim against the City if we objected to the Metro decision to force the matter to a vote of the people.

Mr. Kelley said in regards to the Dolan vs. Tigard issue, which would be to request that the applicant pay for the entire intersection improvements when they are not responsible for the entire amount, only an appropriate share. Again, Mr. Abel proposed that the applicant will enter into a development agreement to relieve the City of any Dolan concerns. He noted that the Council has no agreement to approve at this time, and the annexation cannot be conditioned upon that criteria. Again, he noted that the Council would have to take the word of Mr. Cain and Mr. Abel that they will follow through with their promises.

Mr. Kelley said if the Council recommends denial, there is a 95% chance that the Boundary Commission will deny the application. He said if the Council is willing to assume the risks, the only way to get the annexation to a vote of the people is make a recommendation for approval to the Boundary Commission.

Councilman Gerber asked if there is anything that can be done during the annexation process to insure the Dolan issue or promises made by Gramor are insured. Attorney Kelley said these issues are not relevant to annexation, because there is no development application.

Councilman Nolder stated that the City can deny the application and have Gramor reapply under the new Charter change.

Councilman Harris stated that once an annexation is approved, there is no "Un-annexation" process. He added that he opposed the strip mall, but realized it could happen in the future. He added that he was uncomfortable with approving and objecting to the annexation, and preferred that the applicant re-apply under the new Charter amendment.

****Councilman Harris moved to deny the Gramor Annexation 97-05 and direct staff to prepare the appropriate resolution. Motion seconded by Councilman Nolder.**

DISCUSSION - Councilman Gerber asked if the City would face a law suit if we deny the annexation based on the fact that Council would like them to reapply. Attorney Kelly pointed out that the basis of the decision must be based on the eight criteria. Attorney Kelley encouraged the Council to base the decision on the appropriate criteria, and the reasons should be stated in the resolution to be prepared by staff.

Councilman Nolder reiterated that he preferred to bring the issue to a vote of the people. He added that he had no reason not to trust Mr. Cain and any suggestions Gramor has regarding the development. Mr. Nolder said his obligation is to represent the people in the community and their recent approval of a voter approved annexation gives him direction.

Councilman Daniels noted that the Council previously objected to the annexation on Criteria Number 8, because of the cost of the proposed traffic signal. He asked Mr. Kelley if the Council is safe in referring this to a vote of the people.

Mr. Kelley said the Council must make a determination on how the application fails to meet the necessary criteria. He reminded the Council that even the new City Charter amendment requiring a vote on an annexation requires a public hearing and a decision from the governing body if the application meets the criteria prior to presenting it to a vote of the people. He reiterated that a decision must be made that it meets the criteria or it does not meet the criteria.

Mayor Taylor said he understood the Council's desire to want the matter to go to a vote of the people. However, he said that keeping the Comprehensive Plan in mind, and examining the eight possible criteria, he could not justify any failure to meet that criteria

for this application. He also noted that no business has ever offered to pay \$800,000 to install a traffic signal that everyone wants. Mayor Taylor pointed out that both the Canby Square Shopping Center and Hiway Market Shopping Center contain small business owned by individuals; and the grocery stores in town use names of a much larger corporation. The Mayor stated that because an industrial commercial growth offers to meet the vision to develop an area, to raise funds to offset residential growth, to help pay for schools, and to deliver services to offset citizens taxes and that the Council now has the ability to move the process back to the citizens to vote on the matter, then to retain the integrity of the process he urged the Council to allow the matter to go to a vote of the people.

Councilman Nolder said Criteria Number 3 and 8 are legitimate reasons for denying the application.

Councilman Daniels said he has a concern that if the Council keeps changing the criteria, it could open the City up to a law suit.

Councilman Gerber said voting to approve this and then objecting so it can go to a vote of the people is wrong, even though he would like to see the citizens be able to vote on the matter. He reminded the Council that the application was presented prior to the voter approved annexation measure; the signalization is not an issue because it cannot be a condition and annexation does not require the signal, even though it is needed; and the Planning Commission has made it clear that future development will not occur until the signalization is in place and it would be required at a later date. Denying the application to put it to a vote of the people is wrong, and if the process is flawed than the process should be "fixed." Mr. Gerber said the area is zoned for the proposed development and the application meets all eight criteria.

Councilman Lucas stated that the citizens have spoke regarding voter approval for annexations. He said if two attorneys suggest that the City can approve the application and then object to the matter, then it should be fine. He was not in favor of the strip mall but the citizens should have the option of voting on it. Mr. Lucas agreed that Gramor's offer to pay for the traffic signal was admirable, even though they would not provide the survey information he requested.

Councilman Gerber reiterated that approving the application now and later objecting is wrong.

Councilwoman Strong agreed with Mr. Gerber and the Mayor, the application meets the necessary criteria.

Councilman Nolder stated that each Councilor has been voted into their position, and that each of them only need to represent the people since each is not a planner or

attorney.

Councilman Harris said Criteria Number 8, justifies his vote because of the economic impact on the existing business community and the potential of expenses associated with improvements because of the annexation. Mr. Harris noted that to improve the two intersections an additional \$425,000 will need to be generated, and that clearly is an economic impact.

Councilman Gerber asked if Gramor can allocate the suggested SDC funds of \$250,000 for the Territorial signal, or does it need to be included in the methodology.

Administrator Jordan said the \$250,000 in the Gramor chart dedicated to the Territorial signal with SDC funds, is currently not in the present SDC methodology and therefore it could not be applied for that area. However, if the methodology is adjusted to include that area, it could then be applied. In regards, to the Redwood signal, Gramor is not expecting any reimbursement, but only SDC's have been suggested for the Territorial signal. A public/private partnership was suggested for the signalization. Mr. Jordan said an advanced financing district would be appropriate for the project.

Councilman Harris said he did not expect Gramor to reapply, he is opposed to a proposed strip mall in the area.

Councilman Gerber reiterated that the Council is not considering the development, and this application is not about a strip mall, it is about annexing 33 acres. Mr. Gerber said there is an outstanding development process with the Planning Commission and designed with a matrix, with the end goal of a development beneficial to the community.

Mayor Taylor reviewed the motion saying it is to deny the annexation, citing Criteria Number 3 and 8. ****The motion was denied 2-4, with Councilors Harris and Nolder voting yes; and Gerber, Daniels, Lucas and Strong voting no.**

****Councilman Gerber moved to approve ANN 97-05, applicant Gramor. Motion seconded by Councilman Daniels.**

DISCUSSION - Councilman Lucas asked if the City could add a resolution to disagree later. Mr. Kelley said the resolution would have language setting the background for the approval, and the reservation to object at a later date could be added.

Councilman Gerber said it is a question of integrity regarding the denying or approving the annexation, and the proposed objection is not in his motion.

****The motion to approve the annexation was a tie vote, Councilors Harris, Lucas and Nolder voting no; and Councilors Daniels, Gerber and Strong voting yes.**

Mayor Taylor voted No to break the tie and the motion was denied 4-3.

****Councilman Lucas moved to approve ANN 97-05, of the Arneson and Walluck property, with the a resolution to object at a later date. Motion seconded by Councilman Daniels. The motion resulted in a tie, with Councilors Harris, Nolder and Strong voting no; and Councilors Daniels, Gerber and Lucas voting yes. Mayor Taylor voted yes, to break the tie, and the motion was approved 4-3.**

Jim Wheeler asked for a clarification on how the Council wanted to inform the Boundary Commission of the decision. The Council concurred that a verbal communication from Mr. Wheeler to the Boundary Commission would be appropriate.

Mayor Taylor called for a short recess at 9:50 p.m. The meeting was reconvened at 9:58 p.m.

NEW BUSINESS: None presented.

ORDINANCES & RESOLUTIONS: Ordinance No. 980 - Mr. Jordan noted that this ordinance was being considered for final action.

****Councilman Daniels moved to adopt Ordinance No. 980, AN ORDINANCE AUTHORIZING THE MAYOR AND CITY RECORDER TO EXECUTE A CONTRACT WITH CURRAN-McLEOD, INC. CONSULTING ENGINEERS FOR ENGINEERING SERVICES ON AERATION BASIN IMPROVEMENTS, EFFLUENT FILTRATION AND BIOSOLIDS DE-WATERING AT THE WASTEWATER TREATMENT PLANT; AND DECLARING AN EMERGENCY. Motion seconded by Councilman Harris and approved 6-0, by roll call vote.**

Resolution 656 - Mr. Jordan reminded the Council that in 1991 improvements were started at the Wastewater Treatment Plant and the last sewer rate increase was July 1994. The proposed increases for the next three years are to fund Sewer Revenue Bonds.

Mr. Jordan noted the increase will fund a list of capital improvements which includes storm drainage improvements, sewer collection improvements and facility improvements. He added that the sewer bonds will be an estimated 1.25 million dollars, and in September the Council authorized issuing up to 1.5 million dollars in revenue bonds. He noted that there is a 60 day waiting period prior to taking action on the revenue bonds.

Mr. Jordan said the rate chart was presented to the Council at an earlier workshop: December 1, 1997, a \$2.00 increase; July 1, 1998, a \$1.00 increase; and a \$1.00 increase on July 1, 1999. Mr. Jordan said, if necessary, in the year 2003, another

\$1.00 per month may be initiated.

Councilman Gerber asked how the Canby rates and bonds relate to other jurisdictions.

Mr. Jordan said in regards to the monthly rate within the metropolitan area, we are probably in the 60% area, slightly above the middle; and statewide we are probably below the middle. He noted that rural communities have had to make large capital improvements, rates have gone very high. He gave the example that Dallas has a \$50 per month rate due to a great deal of necessary construction. Mr. Jordan said in regards to bonds, statewide we are probably average.

Mr. Jordan reminded the Council that the proposed improvements include, for the first time, the storm water system.

Councilwoman Strong asked about the commercial rates. Mr. Jordan stated that commercial and industrial rates are based on water usage. Also, school rates are based on student enrollment.

****Councilman Gerber moved to adopt Resolution No. 656, A RESOLUTION PRESCRIBING MONTHLY RATES TO BE CHARGED FOR SANITARY AND STORM SEWER SERVICE. Motion seconded by Councilman Lucas and approved 6-0.**

UNFINISHED BUSINESS: None presented.

MANAGER'S REPORT: Business Revitalization Group - Mr. Jordan said City staff is preparing the initial steps to form an Economic Improvement District (EID). The first of two public hearings has been scheduled for December 17th being an informational hearing. Mr. Jordan said that ultimately all participates in the proposed district will be sent a notice, with a proposed assessment and therefore have a chance to remonstrate against the formation of the EID.

Industrial Park Master Plan - Mr. Jordan said the third technical advisory meeting was held. The physical layout will soon be ready, but the next step will be a meeting with the policy group. A joint meeting with the Planning Commission and the group might be scheduled prior to the Christmas Holiday.

Mr. Jordan said, depending on the agenda with the School District on December 10th, it can be held at that time.

Measure 50 - Mr. Jordan informed the Council that the rollback due to Measure 50 has been received, the City real market value is 629 million dollars, the Measure 50 rollback value is 494 million dollars; and permanent rates should be available next week.

Mr. Jordan noted that some revenue issues need to be resolved because of Measure 50, and a Supplemental Budget will also need to be addressed. Mr. Jordan said the Council needs to set some priority goals. Also, a two year budget will need to be developed.

Mr. Jordan suggested setting a time in January for a day to review these issues, specifically goals.

Councilman Harris suggested a memo be sent to the Budget Committee letting them know when they will next meet and why no September meeting has been set.

IGA between City and County Transportation - Mr. Jordan said a feasibility study is proposed regarding the Territorial and 99E intersection. A feasibility study estimate is \$40,000, the City share would be one-third.

Councilman Gerber suggested that the County and State pay for the study if the City is planning to fund the intersection improvements.

Mr. Jordan said the County has been the force behind the study because of land use applications that cannot be approved until the intersection problems are addressed. He added that none of the information supplied by Gramor has been forwarded to the County or State Transportation Departments.

Workshop - A Parks Master Plan workshop will be held at the Library on Wednesday, November 12th at 7:00 p.m.

City Treasurer - Mr. Jordan introduced Chaunee Seifried the new City Treasurer, and said she has been working in that position on an interim basis for the past few months.

COUNCILORS' ISSUES: Councilman Lucas informed the Council that the City has advertised and no new applications were received for the Bike/Pedestrian Committee.

****Councilman Lucas moved to appoint Mel Thayer to complete a three year term on the Bicycle Pedestrian Committee. Motion seconded by Councilman Harris and approved 6-0.**

Councilman Harris pointed out that Library Director Beth Saul has applied for a federal grant of \$50,000 for workstation computers.

Councilwoman Strong asked if the computer contract issue has been resolved. Mr. Jordan stated that Chief Giger and Lt. Jim Scharmota are pursuing the issue and will review it with the Computer Committee.

Councilman Gerber asked how someone could bid on the computer contract. Mr. Jordan replied that they could contact City Hall.

- ACTION REVIEW:**
1. Post Ordinance No. 981 prior to second reading.
 2. Prepare Resolution approving ANN 97-05, with the reservation to objection after the Boundary Commission decision.
 3. Inform Mel Thayer of his appointment to the Bike/Ped Committee.
 4. Implement Ordinance 980, contracting with Curran-McLeod for engineering services for Sewer Plant improvements.
 5. Implement new sewer rates as per Resolution No. 656.

Mayor Taylor adjourned the session at 10:30 p.m.



Marilyn K. Perkett
City Recorder



Scott Taylor
Mayor

PROCLAMATION

WHEREAS, Geography will help you learn about and communicate with different countries and cultures all over the world; and

WHEREAS, day by day we know more of the mysterious of our world and we should strive to expand that knowledge through Geography; and

WHEREAS, the subject of Geography will help us to understand what is happening in the news and newspaper, open up job opportunities and help in the adventure of traveling; and

WHEREAS, Geography plays a part in the clothes we wear, houses we live in and our life destiny and goals; and

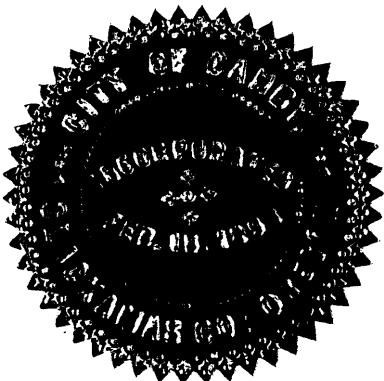
WHEREAS, Geography Awareness Week is being celebrated all across the United States, Canada and Puerto Rico.

THEREFORE, I, Scott Taylor, Mayor of the City of Canby, hereby proclaim the week of NOVEMBER 16 - 22, 1997 as

GEOGRAPHY AWARENESS WEEK

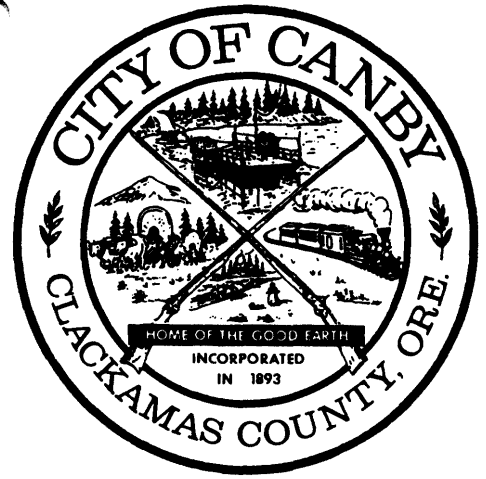
and urge the citizens of our community to join with the Ackerman School students in exploring the world through the field of Geography.

IN WITNESS WHEREOF, I have hereto set my hand and cause the Seal of the City of Canby to be affixed this 5th day of November in the year of our Lord One Thousand Nine Hundred Ninety-Seven.



Scott Taylor, Mayor

PROCLAMATION



WHEREAS, the City of Canby, County of Clackamas, Oregon, held a General Election on **NOVEMBER 4 1997**, to consider the following measure:

MEASURE NO. 3-98

Shall all future annexations, including delayed, unless mandated by law, require a majority vote of the electors to be valid?

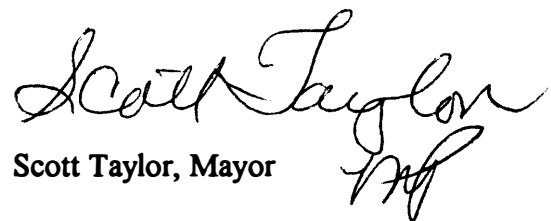
WHEREAS, the Clackamas County Elections Department offers the following as an unofficial count of votes as of 8:30 A.M., **NOVEMBER 5, 1997**.

YES - 2,123

NO - 1,513

NOW, THEREFORE, I, Scott Taylor, Mayor of the City of Canby, Oregon, do hereby proclaim the foregoing to be a true and accurate accounting as presented.

Dates this 5th day of November, 1997.


Scott Taylor, Mayor

11/ 7/97 16:06:59

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** OFFICIAL CANVASS WITH OVER AND UNDER VOTES **

CLACKAMAS COUNTY
SPECIAL ELECTION
NOVEMBER 4, 1997

* I, JOHN KAUFFMAN, COUNTY CLERK, CERTIFY THAT THE VOTES * BY : *
* RECORDED ON THIS ABSTRACT CORRECTLY SUMMARIZE THE *
* RESULT OF VOTES CAST AT THE ELECTION INDICATED. *

John Kauffman

* DATE OF ABSTRACT : *
* NOV 12 1997 *

CITY OF CANBY MEASURE 3-98 MEASURE REQUIRING A CITY WIDE VOTE ON ALL ANNEXATIONS

A -- YES
B -- NO

Precinct	A	B	over	under	total
0122	399	274	0	57	730
0123	234	156	2	27	419
0124	567	456	0	77	1,100
0125	421	314	0	68	803
0126	512	316	3	66	897
TOTAL	2,133	1,516	5	295	3,949

RECEIVED

CITY OF CANBY

PROCLAMATION

Proclamation announcing the passage of an Amendment to the Canby City Charter at a regular election held November 4, 1997.

Be it hereby proclaimed by the Mayor of the City of Canby that an amendment to the Canby City Charter was approved by the electors of the City at a regular election held on November 4, 1997. The following language is hereby adopted:

“Chapter 1, NAMES AND BOUNDARIES, Section 3:

Section 3. BOUNDARIES. The corporate limits of the City shall include all territory encompassed by its boundaries as they now exist or hereafter are modified by a majority of the voters. Unless mandated by law, annexations, delayed or otherwise, to the City of Canby, may only be approved by a majority vote among the electorate. The Recorder shall keep at the City Hall at least two (2) copies of this Charter in each of which shall be maintained an accurate, up-to-date description of the boundaries. The copies and descriptions shall be available for public inspection at any time during regular office hours of the Recorder.” (All amended portions are in bold.)

The Amendment was passed by the following vote: YEAS - 2133 and NAYS - 1516, as submitted by the Clackamas County Elections Department.



Scott Taylor, Mayor