

CANBY CITY COUNCIL
REGULAR SESSION
NOVEMBER 6, 1996

Mayor Scott Taylor presiding, Council members present: Dennis Nolder, Roger Harris, Terry Prince, Cheryl Stark, Shirley Strong and Walter Daniels.

Also present: Administrator Michael Jordan, Assistant to the Administrator Sarah Jo Chaplen, Attorney John Kelley, Planning Director Jim Wheeler, Library Director Beth Saul, Bill and Pam Kraxberger, Fred and Bettie Postlewait, Lloyd and Joann Walch, George Wilhelm, Wayne Scott, Tom Lichatowich, Mike Eickenberger, Dan Onion, Lyle Read, City Treasurer Virginia Biddle and Police Chief Jerry Giger.

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 SESSION: **Councilman Prince moved to approve as distributed the minutes of the regular session, October 16, 1996. Motion seconded by Councilman Harris and approved 6-0.

CITIZEN INPUT ON NON-AGENDA ITEMS: None presented.

PROCLAMATION: Mayor Taylor proclaimed the week of November 17-23, 1996 as American Education Week in Canby.

PUBLIC HEARINGS: Supplemental Budget for 96-97 Fiscal Year - This hearing is not quasi judicial.

STAFF REPORT - Virginia Biddle, City Treasurer, explained that the supplemental budget request was funds left over from the last fiscal year and noted that the Budget Committee designated these funds as 80% for each department and 20% to the Capital Reserve for the respective departments. She added that the required publications were made in the local newspaper on two occasions.

Mayor Taylor asked if anyone in the audience wished to address the supplemental budget request. No one came forward.

**Councilman Nolder moved to adopt Resolution No. 626, A RESOLUTION ADOPTING A SUPPLEMENTAL BUDGET FOR FISCAL YEAR 1996-1997. Motion seconded by

Councilwoman Strong and approved 6-0.

ANN 96-03, Willow Creek Estates - Mayor Taylor reviewed the format for the hearing procedure that would be followed for the three land use public hearings.

Mayor Taylor asked the hearing body if anyone had a conflict of interest on the hearing matter:

Nolder - None, and will participate.

Harris - None, and will participate

Prince - None, and will participate.

Taylor - None, and will participate.

Stark - None, and will participate. Mrs. Stark noted that she lived in Willow Creek. Mayor Taylor asked if anyone in the audience wanted to ask questions of Councilor Stark. None were presented.

Strong - None, and will participate.

Daniels - None, and will participate.

Mayor Taylor next asked the Council to declare any exparte' conflict on the hearing subject.

Daniels - None.

Strong - None.

Stark - None.

Taylor - None.

Prince - None.

Harris - None, other than driving by the area.

Nolder - None.

Mayor Taylor asked the audience to declare an intention to participate. Only two expressed interest in participating.

STAFF REPORT - Jim Wheeler, Planning Director, stated that the application for annexation is for approximately five acres, adjacent to the Willow Creek Subdivision. He noted that the property is priority "B" for annexation purposes.

Mr. Wheeler said the major concern with the Planning Commission was the intersection on Highway 99E and Territorial, specifically traffic. He said a traffic study determined that the level of service was "F" (failing), made during peak hours. The traffic from a proposed development would have a negligible impact, the major volume of traffic is the current flow on 99E. ODOT Region One, did a traffic study and determined that the intersection warrants a signal, however, they did not determine that this must happen. ODOT said it could cause as many problems, as possible solutions. The final ODOT recommendation was to have the subject intersection signalized, however, no funding was proposed from the State.

Mr. Wheeler reported that the Planning Commission discussed this application at three meetings and concluded that development of the property is needed to help gain signalization at the subject intersection. Mr. Wheeler added that one suggestion for funding was to revise the SDC's set forth in the Transportation Plan. Also, to make this intersection an SDC Project, in a priority one category. However, he pointed out that this suggestion, which is being pursued by staff, would be independent from the recommendation of approval or denial of the annexation.

Mr. Wheeler stated that the applicant has agreed to be bonded for a reasonable amount of money to pay the increase which could be set forth with new Transportation SDC fees.

The Planning Commission unanimously forwarded a recommendation of approval for the proposed annexation.

QUESTIONS - Councilman Harris asked what a signal would cost and how much would SDC fees contribute. Mr. Wheeler said the 1994 Transportation Plan sets an estimate of \$150,000. However, because of the railroad and additional signaling needed it could be as much as \$250,000. Mr. Wheeler said approximately \$9,000 has been collected from Willow Creek in past fees for the signalization, and the remaining total amount would be SDC funds.

Councilman Harris asked how many lots were included in this proposal. Mr. Wheeler said approximately 25 lots. Mr. Jordan pointed out that the City would not just assess the 25 lots, the charge would likely be incorporated in Transportation SDC charges. Currently, the charge is approximately \$819.00 per household for roughly \$10 million dollars in projects. Mr. Wheeler added that the Transportation SDC's are collected for developments in the City for growth related projects. He said, based on current methodology, the proposed project would collect approximately \$20,000.

Councilman Harris asked if the SDC funding went directly to the proposed signalization, then would other projects in the City be prolonged. Mr. Wheeler said, that if there is a specific project to be done, the SDC's collected go to that project and any left over goes toward the next project. The next phase would be to have the Council determine if this is a priority project, and where it would be placed on the list, which could lower priority levels of other projects. SDC's collected go into a "pool" for transportation projects set forth on the priority list in the Transportation Plan.

APPLICANT - George Wilhelm, representing Willow Creek Estates, said his client was in agreement with the appropriate criteria and reports prepared by the City staff.

Mr. Wilhelm referred to a traffic study prepared by Kittleson & Associates that indicated that the intersection of 99E and Territorial warrants a traffic signal. He said excessive

speed and increased speed is what they believe to be the contributing factor to the traffic problems in that area. He added that an increase of traffic from Territorial Road from the development will have no significant impact on the intersection problem, and this is backed up by the traffic study. He further added that the funding provided by this development will provide additional funding for the needed traffic signal. He agreed that the City should amend the Transportation Plan to include the subject traffic signal.

Mr. Wilhelm pointed out that this property is priority "B" and he listed out priority B and C properties that have been annexed recently. He said the subject property has all urban services and Willow Creek abuts two sides, full length, of the subject property.

Mr. Wilhelm said his applicant agrees with the Planning Commission recommendation and urged a favorable recommendation from the City Council.

PROPOSERS - None.

OPPOSERS - None

REBUTTAL - None.

QUESTIONS - Councilman Harris asked if there had been any opposition at the Planning Commission level. Mr. Wheeler replied there had been none.

Mayor Taylor closed the public hearing.

DISCUSSION - Councilman Nolder noted that the various agencies that serve the property received notification and a form to complete on the proposed annexation, and ODOT had no comments from the district office.

Mayor Taylor noted that recently there has been a great deal of conversation about phasing in growth. Also, he questioned the "logic" of increasing the population in that area only to force a signalization of the intersection on Highway 99E and Territorial. He pointed out that the City has the ability to raise the funds to put in a signal. He asked why the City would want to create more traffic congestion with additional residences until the signal could be installed for a better management of the traffic. Mr. Wheeler said the City does not have the ability to construct the light, since the main ODOT office has not approved such a project. The past history is that ODOT does not want it, and it will cause more problems than it will solve at this time.

Mayor Taylor again reiterated that in his opinion that was a weak gamble, regarding the logic to force something to happen when there are other avenues to approach the matter.

Councilman Prince asked if development would not occur in the area if the signal project were not amended into the Transportation Plan. Mr. Wheeler said no, and there were alternatives discussed; that being one of them. No development until the Plan has been amended.

Councilwoman Strong asked how many "A" priority lands were available. Mr. Wheeler said over 200 acres. Councilwoman Strong reiterated that past history provided that the priority A be a top consideration. Mr. Wheeler said the Commission took that into consideration, however, the facilitation of providing the signalization at 99E and Territorial would be enhanced with the development was a greater priority to the Commission. Councilwoman Strong agreed with Mayor Taylor that this type of rational was a weak point.

Councilman Daniels asked if ODOT reported a favorable approach to the signal if there were a development. Mr. Wheeler said ODOT has no money for funding such a project. Mr. Wheeler said a development would not make any difference to ODOT regarding their funding any or a portion of a signal, only the fact that they would approve a signal at that sight with other funding.

Councilman Prince reported to Councilwoman Strong that there were 396 acres of A and B priority land available for annexation, and 264 is priority A. He added that there is no problem of annexation; however, development might be a concern, due to the intersection concerns.

Councilman Prince said the signal project should be added to the Transportation Plan. He also asked if \$10,000 was the amount of funding needed to implement the number four criteria in the findings. Mr. Wheeler said a definite amount has not been determined.

Councilman Harris commented that the Planning Commission unanimously approved the annexation, even though the community appears not to want rapid expansion.

Councilman Nolder pointed out that the subject site has sat idle for many years, and the Planning Commission unanimously approved the annexation with apparently no opposition. Councilman Nolder noted that ODOT will not do anything about the subject intersection. He added that the Commission made the right decision.

Councilman Prince said an identification has been made of an infrastructure that is failing and then approval is being considered to allow development. He questioned the precedent that was being set with this judgement. Councilman Prince stated that he preferred to have new SDC methodology in place prior to development.

Councilman Daniels commented that many of the residents in that area may be putting

more traffic on Birch Street on their way to work.

Councilwoman Stark agreed with Councilman Harris and reiterated that at this time the property is only being considered for annexation and felt the Planning Commission did a good job in this matter.

Administrator Jordan informed the Council that if the City changed the Transportation methodology to fully fund the subject signal, this would send a clear signal to ODOT that the City is prepared to pay for the signal. He agreed with many of the Council comments; however, he cautioned the Council when dealing with other jurisdictions regarding these matters.

Mayor Taylor commented that this appeared to be an urgency, and he questioned this urgency prior to having necessary things in place.

Councilman Harris asked what time frame is expected to set methodology and preparation prior to making these decisions.

Mayor Taylor said he had no specific time frame. He added that, in his opinion, if the Council approves the request it appears that the prime reason is to obtain a signal at 99E and that commits the City to spending the funds for that specific project.

Councilman Harris agreed that if this annexation was only to provide pressure to either the City or ODOT for the signalization, this is a weak argument. He questioned what other motivation, other than for the developers, was provided by this application.

Councilman Daniels suggested that the City try to work in cooperation with ODOT in this matter and perhaps something can materialize in implementing the signal. He reminded the Council that the signal at 13th Avenue looked like a long term project, however, it has materialized.

Councilman Prince argued that 13th was one of three lights, including Fairgrounds and 99E and Pine that had been designated as trouble areas during discussions. One has been accomplished and the second one may be done soon, it appears to be obvious that the City needs to work toward accomplishing this projects.

Councilman Nolder agreed that if the sole reason for approval of the application is to force ODOT into aiding in the signal, this is wrong.

Councilwoman Strong noted that the subject signal is outside the City limits, and the other two signals, 13th and the Fairgrounds, were in the City limits. Mr. Wheeler said the City has the capability of using City SDC funds for the light at 99E and Territorial.

****Councilman Daniels moved to adopt Resolution No. 627, A RESOLUTION RECOMMENDING TO THE PORTLAND METROPOLITAN AREA LOCAL GOVERNMENT BOUNDARY COMMISSION APPROVAL OF THE ANNEXATION TO THE CITY OF CANBY, CLACKAMAS COUNTY, OREGON, OF TAX LOT 600 OF TAX MAP 3-1E-27DB, LOCATED ON THE SOUTH SIDE OF N.E. TERRITORIAL ROAD WEST OF HIGHWAY 99E. Motion seconded by Councilwoman Stark.**

DISCUSSION - **Councilman Prince asked if the motion could be amended to include lists 1, 2, 3 and 4, striking b and c off of number 4, on page 8 of the document. The amendment died due to lack of a second.

Jim Wheeler stated that page 8 of the packet should include numbers one through four in the resolution. Councilman Daniels, maker of the motion, and the second, Councilwoman Stark approved the amendment.

****Resolution No. 627, as amended, was passed 4-2, with Councilors Prince and Strong voting nay.**

ANN 96-04, Willow Creek Estates - Mayor Taylor asked the hearing body to declare any conflict of interest.

**Nolder - None, and will participate,
Harris - None, and will participate.
Prince - None, and will participate.
Taylor - None, and will participate.
Stark - None, and will participate.
Strong - None, and will participate.
Daniels - None, and will participate.**

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

**Daniels - None.
Strong - None.
Stark - None.
Taylor - None.
Prince - None.
Harris - None, only driving past area.
Nolder - None.**

Mayor Taylor asked how many would be testifying in the hearing and two indicated interest.

STAFF REPORT - Jim Wheeler stated that the application is 9.71 acres of four parcels located between N. Redwood and the Logging Road, with three existing homes. It is immediately south of property already annexed to the City and east of 12th and 11th

Ways. Mr. Wheeler said the property is considered priority "A" for annexation and a traffic study was done for the impact on Redwood and 99E at level service "B" with no other traffic concerns. Storm water was a concern brought to the Commission; specifically, a drainage flow between Redwood and the Logging Road then across Redwood into the wetlands near Territorial. Recommendation was for a specific site storm drainage plan at time of development. Mr. Wheeler pointed out that a letter was received at the office from Mr. Lichatowich and signed by several area residents concerning storm water drainage. He added that there was no testimony on their concern at the Planning Commission level. Mr. Wheeler said their concern was valid, however, it is independent of the annexation application. Mr. Wheeler said there was also a concern of fill on the Zacker property to the north and a culvert has been placed there; however, it is too small. He added that this concern can also be addressed at time of development.

Mr. Wheeler stated that the Planning Commission recommends approval. He added that if the Council recommends approval, he suggested the six understandings be added to the resolution, like the previous one adopted.

Councilman Prince pointed out that number 6 of the understandings states there are no natural hazards, and he was concerned about the drainage areas in the pictures presented by Mr. Lichatowich that shows flooding. Mr. Wheeler said that was not a natural hazard, however, there was some flooding in February and additional flooding due to Zacker's fill, and that culvert will be addressed. He added that it is not listed as a hazardous zone in the Comp Plan and is not in the 100 year flood plain.

Councilwoman Stark questioned the small culvert and said Redwood often has a section that floods. Mr. Wheeler said it was his understanding that the culvert is not large enough to handle the water running through that particular swell. He added that the water coming from the Logging Road is further north and then runs across Redwood.

Councilman Prince asked about the diversion of water from the Logging Road. Mr. Wheeler said drywells and wetwells were attempted in the area and were found to be not efficient. As a solution, pipe was placed in the subdivisions along the Logging Road and water crosses that road into a culvert. He added that the Storm Water Plan does call for handling that storm water drainage further for approximately \$662,000; with approximately \$200,000 allocated for acquisition of property.

At this time, Mr. Rinkes asked if he could impose on the Council since he was not able to address the Council under citizen input. He had been at the Police Station.

Mayor Taylor said after this hearing was concluded Mr. Rinkes could impose on the Council.

APPLICANT - George Wilhelm, representing Willow Creek Estates, stated that staff has prepared a complete report and felt the applicant met the criteria for approval. He pointed out that the Planning Commission unanimously approved the application.

Mr. Wilhelm said the storm water concern was a condition of Planning Commission approval.

Mr. Wilhelm addressed two issues of the October 24th letter regarding storm water concerns: how to handle run-off from developments bordering and west of the Logging Road; and what should be done with the natural run-off from the south obstructed by the fill on Zacker's property.

Mr. Wilhelm used an aerial photo to point out an area of a natural low area, a swell, that provides drainage for the natural drainage of that basin. He added that the Zacker property had a fill constructed across the natural swell. Mr. Wilhelm said the area west of the Logging Road has soil conditions that will not allow the drainage to filtrate back into the soil and wetwell systems will not work in the area. He added that a widely used system is to discharge in to the natural drainage after reducing flows to natural run-off rates, and this plan usually requires a plan by local governments and often uses LID's. Mr. Wilhelm said his first knowledge of the problem in that area was in 1989 with the 12th Avenue addition. All of the developments between Pine and the Logging Road from 12th north have the same problems. Wetwells do not work in that area. He added that the problem requires cooperation from all of the property owners in the area and the applicant is willing to work with the City to provide solutions. He said most of this area is beyond the area considered for annexation.

Mr. Wilhelm said a drainage swell runs through the property that is being considered for annexation. The Zacker fill is an area of concern. He said that based on Oregon Law, property owners have the right to discharge drainage to the natural drainage basin and downstream property owners have an obligation to provide for natural drainage across their property. He suggested that this be addressed in the development design by some type of pond or perhaps filtration system. He added that the Zacker fill provides some blockage.

Mr. Wilhelm stated that this hearing was not the appropriate time to address the drainage problems, however, the applicant is working with City staff on this issue. In summary, he requested a favorable recommendation from the Council for annexation.

PROPONENT - Bill Kraxberger, 1367 N. Redwood, read a prepared letter regarding drainage problems on N. Redwood. The letter stated that after development of N.E. 12th Way, a drainage problem occurred; with the City solving it by installing an overflow drain pipe from the drywell across the Logging Road and extending it north 180 feet into a perforated drain pipe. He said this causes storm drain water to occur on

the private property of Mr. Lichatowich and Kraxberger property.

Mr. Kraxberger said the City is in violation of the Oregon Drainage Case Law. He said he was a proponent of development, however, he made two requests of the City. First, remove the perforated drain pipe and replace it with a solid drain pipe, and extend it past the private properties on N. Redwood Street to a point where the overflow water could be properly disposed. Second, he requested that the City of Canby conduct a hydrological study on the water drainage conditions on N. Redwood and develop a plan of action.

OPPONENTS - Tom Lichatowich, N. Redwood, stated he was a proponent of development but did have some concerns as outlined in his letter, along with the pictures he submitted regarding the drainage problem on N. Redwood.

Mr. Lichatowich stated that the storm drain problems appear to be "piece meal" solutions which could eventually cause problems such as Johnson Creek. He added that he is also requesting an overall storm drain plan be developed. He further disputed the statement that there was no hazard in the area, saying the drain problems have caused several accidents and hazardous conditions. Mr. Lichatowich agreed that the Zacker culvert is not adequate in size. He pointed out that a proposed pond could alter the flow in the swell and damage his 150 tree orchard. Mr. Lichatowich disputed the developers statement that people below a certain area have the obligation to accommodate drainage above them, and case law provides that persons altering a water flow cannot alter it in such a way to damage property below them.

Mr. Lichatowich reiterated that he is not against development and eventually wants to develop himself, but wants the drain problems solved with a comprehensive plan.

Betty Postelwait, 1629 N. Redwood, stated that on the other side of the Zacker property there is a dip, creating a swell in that area.

REBUTALL - Mr. Wilhelm used a map to indicate the area to be considered for annexation and showed that the 12th Street drain problem does not discharge onto the property to be annexed. He added that several parcels of property to the north experience drainage problems and flow is northeast, away from the subject property to be annexed. In regards to a proposed pond discharge, it is a method that discharges rapidly, perhaps two days.

Mr. Wilhelm stated that his understanding of Oregon Law is that downstream property owners have to accept the water from above and is their responsibility to provide for upstream drainage.

Mayor Taylor closed the public testimony portion of this hearing.

At this time, Mayor Taylor offered four minutes to Mr. Rinkes to address the Council.

(The following is a verbatim transcript from the tape of the November 6, 1996 City Council meeting.)

Mike Rinkes - The reason I came down was two different things, along with filing a criminal complaint with the Police Department against your City Attorney.

I was going to introduce a man who is sitting in the back of the room, that's a new business coming into your town - and he operates, and edits, and publishes a newspaper that is hard hitting. It is called the Oregon Observer. Ed Snook, do you want to stand up? (Someone in the audience said "hi.") He was kind of looking for a center of corruption in Clackamas County and I think he decided this is it. So, we'll see.

The other thing, I didn't get here for your Supplemental Budget, and I need to have some input on that because, first of all the City is going to need to pay me one and one-half million dollars rent on our property. And we also filed inverse condemnation, which is another half a million. So you need to work on your budget--considerably.

The other thing is that last meeting, or the meeting before last, I made a public record and John Kelley altered that public record....and I am going to give him a copy here of extrinsic fraud. I didn't use the word extreme fraud, and I'm sure he knows what this means It's a memorandum on extrinsic fraud, which is a reversal of judgement. We'll be going back to court on that matter.

Also, like I say, I stopped at the Police Department and filed and filed complaints. One of them is extortion and the other one will be criminal trespass and the other one will be theft of funds from our court account - \$27,000 and that will include racketeering. And they are going to turn this matter over to the District Attorney's Office. So, that's all I have to say. Thank you.

Mayor Taylor - I would ask that in the future if you come back to visit with us, you make the 7:30 time.

Mike Rinkes - Yeah, I tried to - the Police Department held me up. They refused to take the claim because of a conflict of interest.

Mayor Taylor - O.K. Thank you.

(Back into the regular session)

Mayor Taylor called for a five minute recess at this time.

QUESTIONS - Councilman Harris noted that the Planning Commission voted unanimously for approval of the annexation. However, he asked if they discussed any of the drainage concerns discussed tonight and if any opponents testified. Mr. Wheeler said they did not discuss the drainage pipe but the natural swell and the drainage of the subject property. Also, no opponents testified.

Councilman Prince stated that two different versions of the swell were reported. He agreed that the City should have some type of plan for the area and recognizes the current drainage problem created by the City and felt it should be rectified. He added that the property should be developed. He urged that a condition be applied that future development be contingent upon a drainage plan created by the City,

Councilman Harris suggested sending the application back to the Planning Commission so they could consider the drainage concerns voiced to the Council.

Councilman Nolder agreed with Mr. Harris and felt the Commission needs to review the material the Council considered; specifically, the drainage problems.

Mayor Taylor said page 61 revealed that the Commission was made aware of the swell and water, even though they did not receive some of the documents the Council received. However, the Council has the ability to refer it back to the Commission.

Councilman Prince asked if the 120 day time frame allowed for a referral back to the Commission. Mr. Wheeler said he would have to research the time frame. Mr. Wheeler noted that new information could be supplied to the Council and the Commission was not required to hold a public hearing like the Council. He added that he felt it was not a necessary step to refer it back to the Commission, since additional new information could come to the Council in forming a recommendation to the Boundary Commission.

Councilman Prince pointed out a statement on page 61, "Until such time as a storm water drainage system downstream has been implemented, any storm water has to be detained on site." However, testimony revealed that if this happens, longer runs may adversely affect property below the area.

Councilwoman Stark agreed that a plan needs to be concerned about the water problems, and suggested that the City, County, and developer work out the problems.

Mayor Taylor suggested that there are two different scenarios: one is that the water drainage from NE 12th is creating a problem that the City needs to address whether or not this parcel is annexed. The other question is what would annexation of the parcel add to the problems of drainage, or is it an issue.

Councilman Daniels recalled that at the time NE 12th was developed there was very little development in that area, and at this time we have a developer that wants to help the City with the problems.

Mayor Taylor asked the Council if they wanted to solve the issue or remand it back to the Planning Commission.

Councilman Prince asked if there is time to send it back to the Commission. Mr. Wheeler said a continuance would be necessary because the 120 day period would need to be exceeded.

Councilman Harris indicated he was hesitant to approve the annexation without a definite resolution to the drainage problem.

Mayor Taylor asked if the Council could place restriction on the parcel prior to any development. Mr. Wheeler said a subdivision review would be necessary prior to development. He added that a "detailed" storm water drainage plan would need to be part of the subdivision application. He added that the Master Plan does have a solution for the Logging Road drainage, any additional issues would need to be addressed. He further added that the City cannot place conditions on an annexation, only the Boundary Commission can place conditions.

Councilman Prince said he was not intending to set conditions on the application, but acknowledged that there are natural hazards on the subject property and the City needs to address those problems. He added that we identify special concerns all over town that need to be addressed, and this swell is one of those special concerns.

Mayor Taylor took a poll on who wanted to remand the issue back to the Planning Commission as Councilman Harris suggested.

Councilman Nolder asked Mr. Wheeler if the Council was wasting time sending the matter back to the Commission. Mr. Wheeler said not entirely, there could be a purpose in having others review the material the Council has recently received. However, he said it is not necessary.

Councilman Nolder asked if the Council could accept the application as presented and request emphasis on the drainage concerns, requiring various studies and then deal with the NE 12th Way issue. This scenario was affirmed.

Councilman Harris said he was in favor of referring it back to the Commission out of respect for the decision making process. However, he added that it could just add more time, so he changed his mind on remand and said the Council could handle this matter.

Councilman Prince asked that the section that mentions natural hazards be amended to mention the swells and drainage problems, and the Council can make the decision.

Councilwoman Stark agreed to handle it at the Council level.

Councilwoman Strong agreed to handle the matter at the Council level.

Councilman Daniels agreed to handle the matter and said there will be an opportunity to work with the developer.

Councilman Harris asked how the problem would be handled regarding the NE 12th drainage problem.

Mayor Taylor said the Council would schedule this for discussion.

Administrator Jordan said the issue is funds, it is approximately a \$400,000 project. He added that as a short term solution the perforated pipe could be fixed. He said the Council only needs to set direction to implement the Transportation Plan as financially possible.

****Councilman Daniels moved to adopt Resolution No. 628, A RESOLUTION RECOMMENDING TO THE PORTLAND METROPOLITAN AREA LOCAL GOVERNMENT BOUNDARY COMMISSION APPROVAL OF THE ANNEXATION TO THE CITY OF CANBY, CLACKAMAS COUNTY, OREGON, OF TAX LOTS 1100, 1200, 1300 AND 1301 OF TAX MAP 3-1E-34B, LOCATED ON THE EAST SIDE OF THE LOGGING ROAD, NORTH OF HIGHWAY 99-E, AND WEST OF N. REDWOOD STREET including the understands of the Planning Commission and the testimony given this evening. Motion seconded by Councilman Harris and approved 6-0.**

ZC 96-01 - Mayor Taylor asked the hearing body if they had any conflict of interest on the subject matter.

Daniels - None and will participate.

Strong - None and will participate.

Stark - None and will participate

Taylor - None and will participate.

Prince - None and will participate.

Harris - None and will participate.

Nolder - None and will participate.

Mayor Taylor asked if any member had any exparte' contact.

Nolder - None, only drive by area.

Harris - None, only drive by area.

Prince- None, only drive by area.

Taylor - None., only drive by area.
Stark - None, only drive by area.
Strong - None, only drive by area.
Daniels - None, only drive by area.

No one in the audience wished to question the hearing body on their drive by the area.

STAFF REPORT - Jim Wheeler stated that the decision tonight must be made on the record, with no new testimony allowed.

Mr. Wheeler said the application is a change in the designation of a zoning classification for approximately one-fifth acres of property on S. Ivy between Onion Electric and Wilco Farmers. The property has a dwelling on it and is currently zoned R-1, Low Density Residential. The Comprehensive Plan provides that the subject property be zoned Commercial Residential, which is the request. It is located in an area of special concern, dealing with an increase of traffic. Mr. Wheeler said because the size of the parcel is so small, any use of the parcel will create no impact on S. Ivy in regards to traffic. The potential for the property is open at this time. The Planning Commission recommends approval for the application.

Mayor Taylor noted that no one intended to testify as either an opponent or proponent. Dan Onion, the applicant, was present.

Mayor Taylor closed the public hearing and asked for questions from the hearing body.

Councilwoman Strong asked if it would remain a residence. Mr. Wheeler said he was not aware of development plans at this time. He added that the existing building could be converted without Site and Design Review.

****Councilman Harris moved that Ordinance No. 959, AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF CANBY, COUNTY OF CLACKAMAS, OREGON be posted and come up for final action on November 20, 1996. Motion seconded by Councilman Prince and approved 6-0.**

Councilman Prince suggested that in the future, only two public hearings be scheduled.

COMMUNICATIONS: Letter from the Lions - Administrator Jordan reported that Wayne Oliver of the Lions has requested to use the east end of the Southern Pacific parking lot at First and Ivy as a possible site to sell Christmas trees from December 1 through December 23, 1996.

****Councilman Harris moved to approve the request of the Lions Club to use the east end of the Southern Pacific Parking Lot on First and Ivy from December 1 through**

December 23, 1996. Motion seconded by Councilwoman Stark and approved 6-0.

Mayor Taylor noted that this request is for a longer term than normally requested. However, the businesses in the area reported no concerns.

Letter from Dan Ewert - Administrator Jordan reported that the letter from Mr. Ewert notified the Council that he was interested in pursuing another term on the Planning Commission.

****Councilman Prince moved to appoint Dan Ewert to another three year term on the Planning Commission from December 1996 through December 1999. Motion seconded by Councilman Harris and approved 6-0.**

NEW BUSINESS: Accounts Payable - **Councilman Daniels moved to approve accounts payable in the amount of \$ 145,436.44. Motion seconded by Councilwoman Stark.

DISCUSSION - Councilwoman Strong asked if the aquarium was for the library. Ms. Chaplen said it was for the Police Department and Ray Fillis donated some of the equipment.

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

Appointment to the Budget Committee - Mayor Taylor said a name had been suggested for the budget committee.

****Councilman Prince moved to appoint Mike Shernock to the Budget Committee with his term expiring July 1999. Motion seconded by Councilwoman Strong and approved 6-0.**

Appointment to Adult Center Advisory Board - Mayor Taylor reported that a name had been suggested to serve on the Adult Center PAB.

****Councilman Daniels moved to appoint Keith Murphy to the Canby Adult Center Advisory Board with his term expiring in July 1998. Motion seconded by Councilwoman Stark and approved 6-0.**

ORDINANCES & RESOLUTIONS: Ordinance No. 957 - Administrator Jordan reminded the Council that this was a second reading on an ordinance regarding parental responsibility.

****Councilman Harris moved to adopt Ordinance No. 957, AN ORDINANCE RELATING TO PARENTAL RESPONSIBILITY, CREATING OFFENSES, AND PROVIDING A**

REMEDY FOR VICTIMS. Motion seconded by Councilwoman Strong and approved by roll call vote, 6-0.

Ordinance No. 958 - Mayor Taylor stated that this ordinance amends Chapter 9.24.

****Councilman Prince moved to adopt Ordinance No. 958, AN ORDINANCE AMENDING CHAPTER 9.24 OF THE CANBY MUNICIPAL CODE BY ADDING CERTAIN ADDITIONAL MUNICIPAL VIOLATIONS.** Motion seconded by Councilman Daniels and approved by roll call vote, 6-0.

Councilman Prince noted that C-2 and C-1, were added to the section he questioned.

UNFINISHED BUSINESS: Ratification of Police Contract - Administrator Jordan reported that negotiations with the Police Association have been concluded and the changes in the new contract will have the City implement a long term disability insurance program effective August, 1997; and new salary schedules.

****Councilman Daniels moved to adopt the changes made to the Canby Police Association Contract effective July 1996 to June 30, 1998.** Motion seconded by Councilman Prince and approved 6-0.

MANAGER'S REPORT: IGA for Green Corridors - Administrator Jordan stated that discussions have commenced with Metro, Clackamas County and Sandy regarding Intergovernmental Agreements for Green Corridors and Rural Reserves to solidify the relationship with the Metro Growth Boundary. A draft agreement has been generated.

Councilman Prince noted that this is a good idea, however, it is limited in area and an EFU Farmland agreement might create a better buffer zone. Mr. Jordan said the language in the agreement is to not allow any further development than there currently is now, and most of that land is zoned EFU.

Councilman Prince asked if the area between Canby and Oregon City was discussed. Mr. Jordan said that area is included in the discussion. In fact, the area designated in Canby by Design is the guideline they are trying to stipulate.

Industrial Park - Mr. Jordan said there have been discussions between Canby Utility Board, PGE, Oregon Economic Development and US Bank to provide a study for the second phase of the industrial area. He noted that code development will be a part of the study.

Councilman Nolder asked if the Transfer Station has been started. Mr. Jordan said development has started.

Canby Revitalization Group - Mr. Jordan reported that candidates have been interviewed for the project manager.

COUNCILORS' ISSUES: Councilman Prince suggested that the Council start addressing some of the concerns that have been identified; such as the Transportation SDC's. Jim Wheeler reported that they have talked to a consultant regarding the Access Management Plan and amendments for the Transportation Plan will be forthcoming. Mr. Wheeler indicated that a workshop would be desirable for the Access Management Plan, including citizen input.

Councilman Prince stated that the engineering for the storm drainage near the Logging Road is something that should be pursued. Mr. Jordan said he will speak to Curt McLeod right away regarding the matter.

Councilman Daniels said he attended the meeting November 4th regarding the 13th Street signalization and said the County is still accepting input on the matter. Constructions should start in January and hopefully completed by May.

Councilman Nolder asked if there has been conversation with ODOT regarding the signalization on 99E and Territorial. Mr. Wheeler said during review of the application a meeting was held with ODOT and Clackamas County to express the City's concerns.

Mr. Jordan suggested sending a letter to the new director of ODOT.

Mayor Taylor suggested that a letter be drafted as suggested.

Councilwoman Strong asked for a follow up on the computer system. Ms. Chaplen reported during the last three weeks problems have occurred but everything is now resolved. Ms. Chaplen said Virginia's problems have been resolved and she has been moved to John Kelley's office and John Kelley is now in the Police Department.

OTHER REPORTS OR ANNOUNCEMENTS: None presented.

ACTION REVIEW:

1. Resolution 626 implements the Supplemental Budget.
2. Sending recommendations of annexation to METRO as per Resolutions 627 and 628.
3. Ordinance 959 will be posted prior to second reading.
4. Appoint Dan Ewert to another term on Planning Commission.
5. Appoint Mark Shernock to the Budget Committee.
6. Appoint Keith Murphy to the Adult Center Advisory Board.
7. Ordinance 957, Parental Responsibility and Ordinance 958, Amending Chapter 9.24 will be implemented.

8. Implementing Police Association Contract.
9. Contact property owners in NE quadrant regarding solution to storm drainage problems,.
10. Drafting a letter to ODOT for Council approval.

****Councilman Prince moved to go into Executive Session under ORS 192.660 (1) (e) regarding real property; (1)(h) regarding pending litigation; and (1)(l) regarding performance of an employee. Motion seconded by Councilwoman Stark and approved 6-0.**

Mayor Taylor recessed the regular session at 10:30 P.M. to go into Executive Session. The regular session was reconvened at 12:33 A.M.

The Council decided that an emergency budget session will be scheduled as soon as possible to discuss the concerns due to the passage of Measure 47.

Mayor Taylor adjourned the session at 12.35.

**EXECUTIVE SESSION
NOVEMBER 6, 1996**

Present: Mayor Taylor, Councilors Prince, Nolder, Harris, Stark, Strong and Daniels, Mr. Jordan, Ms. Chaplen and Mr. Kelley.

Mayor Taylor called the session to order at 10:33 p.m. in the CUB conference room.

ORS 192.660 (1)(h) - The Council discussed the Rinkes litigation.

The Maple Street subdivision litigation case was discussed.

The EEOC complaint that has been filed was discussed.

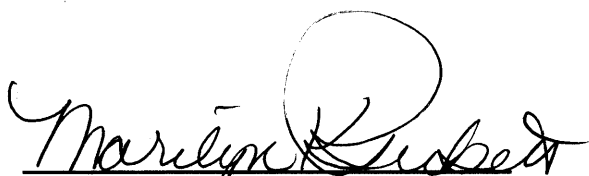
A possible tort claim by Bill Kraxberger was discussed.


A possible litigation regarding toxic wastes in the Eco Park was discussed.

ORS 192 660 (1)(e) - Property negotiation concerning the Swim Center and Adult Center were reviewed.

ORS 192.660 (1)(l) - Two City employees were discussed. The tape recorder was turned off from 11:25 to 11:44 pm for the Council to read a report.

Mayor Taylor adjourned the session at 12.31 A.M.


Marilyn K. Perkett


Scott Taylor

P R O C L A M A T I O N

WHEREAS, throughout American history, schools have helped democratize our nation, strengthen our communities, and widen opportunities for all people; and

WHEREAS, by integrating different groups through commonly shared values, schools prepare this nation's diverse population to live harmoniously in a democratic society; and

WHEREAS, education employees strive continually to serve our children and our communities with dedication, professionalism, and compassion; and

WHEREAS, for generations, our schools have answered the call to cultivate the future leaders of our families, our communities, and our nation; and

WHEREAS, there is no greater legacy than the sound education of our children;

Now, therefore,

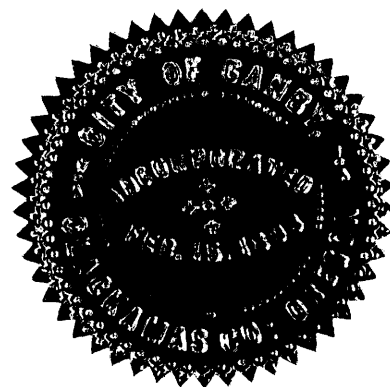
I, _____ SCOTT TAYLOR _____,

serving as _____ MAYOR _____

of _____ CITY OF CANBY, OREGON _____,

Do hereby proclaim November 17-23, 1996, as the 75th annual observance of

A M E R I C A N E D U C A T I O N W E E K



Signed this Scott Taylor day of November 6, 1996