

**CANBY CITY COUNCIL
REGULAR MEETING
JANUARY 18, 1995**

WORKSHOP: Present: Taylor, Prince, Nolder, Harris, Stark, Strong, and Daniels. Also, Administrator Jordan, Sarah Jo Chaplen, Beth Saul and Bob Hoffman.

The workshop was held at 6:00 p.m. in the CUB conference room. The purpose was to discuss Management Performance/Compensation matters.

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

Also present: Administrator Michael Jordan, Assistant to the Administrator Sarah Jo Chaplen, Chief Jerry Giger, Leslie Ann Hauer, Tom Kendall Barry Staton, Ed Sullivan, Jack Martin, Betty Faist, Larry Graff, Gertrude Thompson, Jay Boxberger, Joan Jones, Dennis Kenagy and Doug Myers.

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

Roll call of the Council showed a quorum to be present.

MINUTES OF PREVIOUS SESSION: **Councilman Prince moved to approve the minutes of regular session January 4, 1995. Motion seconded by Councilwoman Stark and approved 6-0.

PRESS RELEASE: Chief Giger reported that a missing person report had been pursued by the Canby Police Department and through the investigation they found a homicide had occurred. The body was recovered today. A suspect was apprehended and currently in jail. Chief Giger commended the local officers for a job well done in solving the crime.

Mayor Taylor also commended the Police Department for their job performance in this situation.

ANNEXATION 94-02, APPLICANT TOM KENDALL: Attorney Kelley reviewed annexation criteria using Municipal Code Section 16.84. He noted that the procedure requires a public hearing and also reviewed that process, under Municipal Code Section 16.88,130 (C).

Mayor Taylor asked about the Minor Land Partition Appeal, and if it would be combined with the annexation application. Attorney Kelley reported that he had discussed the matter with Attorney Sullivan, who represents the applicant. If the annexation is denied, it would not be necessary to review the MLP; if the annexation is approved, then the Council would need to address the MLP Appeal which was denied by the Planning Commission.

Mayor Taylor asked if any member of the hearing body had a conflict of interest on the matter to be heard.

Nolder - No conflict and will participate.
Harris - No conflict and will participate.
Prince - No conflict and will participate.
Taylor - No conflict and will participate.
Stark - No conflict and will participate.
Strong - No conflict and will participate.
Daniels - No conflict and will participate.

Mayor Taylor asked the hearing body to declare any ex parte conflict at this time.

Nolder - No contact.

Harris - No contact.

Prince - No contact. He did read an article in the local paper and has not formed a decision. Attorney Kelley asked if anyone wished to question Councilor Prince. No questions were asked.

Taylor - No contact.

Stark - No contact.

Strong - No contact.

Daniels - No contact.

Mayor Taylor opened the hearing at 7:45 p.m.

STAFF - Assistant Planner, Jim Wheeler, explained that the proposed annexation record is inclusive in the City Council packet. The Faist property is located on the north side of S.E. 13th, immediately east of Valley Farms subdivision, and south of Trost Elementary School. The entire parcel is 40 acres, but the portion to be annexed is about 30 acres. In accordance with the Comprehensive Plan the property is a priority "C" area for annexation.

Mr. Wheeler reviewed the criteria for annexation from the Comprehensive Plan. In April, 1994, this property was proposed for annexation and was withdrawn after the Planning Commission found insufficient information regarding appropriateness. In the present application the applicant has supplied more information. The Planning Commission considered the following issues: the need for developable land; the availability for priority "A" or "B" lands for annexation; viability for agricultural; the benefits of annexation; more efficient use of existing utilities; and contribution toward Logging Road Industrial Park Improvements.

The Planning Commission recommended denial for the annexation based on the following findings: 1. The subject property is economically viable agricultural land; 2. The property is a priority "C" property and will not procure "special benefits" to the City. Also, the efficient use of the utility facilities located adjacent to the property is not a "special benefit;" 3. There are sufficient lands designated as priority "A" and "B" for annexation within the UGB; 4. The subject property perpetuates an "imbalance" between annexation of lands designated for commercial/industrial and residential development; and 5. The subject property perpetuates a geographic imbalance of the residential growth of the City since the past two years concentrated growth has been in that area.

Mr. Wheeler pointed out that a draft resolution recommending denial has been prepared for Council consideration.

APPLICANT - Ed Sullivan, Attorney for the applicants, requested the Council send the application to the Portland Metro Boundary Commission with a favorable recommendation.

Mr. Sullivan noted that they had filed an eleven page report to support approval of the annexation. City staff recommended approval, however, the Planning Commission recommended denial of the request by adopting six findings.

Mr. Sullivan addressed the Findings:

1. Preservation of agricultural land. Mr. Sullivan stated that this parcel is in the UGB and by State law is to be urbanized. Therefore, the issue is "when" that land is to be converted. If the Council was to amend the Comp Plan to add farm land, then this finding

would be applicable. The subject property is in the UGB and the underlying planned designation is for Low Density Residential.

2. There were no "special benefits" to the City if the annexation was approved. Mr. Sullivan pointed out that the utility facilities would benefit by having additional users and taxpayers; and repayment of the Advanced Financing would be an immediate benefit to the City. Other benefits would be: to relieve the shortage of lots and additional choices for residential uses; and it provides land for housing to accommodate the Logging Road Industrial Park.

3. The interpretation is that priority "A" and "B" lands be annexed first. Mr. Sullivan said this is only a general guideline. He stated that half of priority "B" land available is in commercial and industrial designations. He added that the Council has annexed many acres in "B" and "C" prior to annexing priority "A" lands. He said a survey was in the record of lands that were not annexed and not available to be annexed.

4. The imbalance between commercial/industrial and residential development. Mr. Sullivan said the inventory of the two different types of lands was not considered. However, there is a short supply of residential land in the City. Also, there is no "criteria" regarding an "imbalance" between commercial and residential lands.

5. The annexation would create a geographic imbalance. Mr. Sullivan stated that this is not a criteria component in the annexation process.

Mr. Sullivan reiterated that the five findings he addressed did not make sense in considering the annexation. He asked for a favorable vote on the annexation.

Councilman Prince asked about the challenge from the applicant regarding percentage of priority "A" and "B" lands yet to be developed. Mr. Wheeler said he merely used the map to increase the percentage of densities, and more than half of the priority "A" listed in the 1984 Comp Plan has yet to be annexed.

Leslie Ann Howard, representing the applicants, pointed out that the Plan is to be a "general guideline." She stated that about 33% of the proposed "A" priority land is still not annexed, of the "B" and "C" area 70% and 88% are left. She said there is no other large track of land available with facilities at the boundaries. A need is demonstrated by the low vacancy rate in Canby. Ms. Howard said she found seven items that have changed since the adoption of the priority scheme, such as: numerous annexations have already occurred, the new Elementary School in the S.E. section of town, the sewer bond measure, the Logging Road Industrial Park, etc. In regards to viable farmland, she said the Comp Plan sets no guidance as to what viable means. Ms. Howard stated that their figures demonstrate that farming is not economically viable on the subject property. She said the proposed annexation meets the City's criteria and should be approved.

Councilman Prince questioned how much developable land was left. Ms. Howard said about 1/3 of the priority "A" is left, and much of it is in small parcels or in agricultural use.

Councilman Prince questioned why the subject property was not economically viable for agriculture when similar soil areas were being farmed. Ms. Howard said she had no definition for viable, but they provided figures from the state as to what is expected as a crop yield from the property. Also, in this case the subject site is affected by people due to the new school and adjacent subdivisions.

PROPOSERS: Mayor Taylor asked for comments from proponents, no one came forward.

OPPOSERS: Mayor Taylor called for opponents comments.

Doug Myers, 1086 S. Redwood, said his property abuts the subject property. He said that

he has heard comments have been made about City services that are "maxed out," such as schools, sewers, water and possibly police and fire services. Mr. Myers questioned how priorities are established as to which land should be developed first depending on City services. He questioned whether the subject land was viable for farming. He reiterated that the City should consider availability of services prior to developing land.

REBUTTAL: Ed Sullivan addressed concerns raised. Regarding economically viable farmland, he stated that the issue is a land use matter, not how well the farmer does farming his land. Also, the land is in the UGB with a Low Density Residential use designation. In regards to the A - B - C priorities he pointed out the parcel's proximity to existing urban growth and facilities, the available services, shortage of residential lots, and impacts of adjacent farm use.

Mr. Sullivan said the suggestion from Mr. Myers that services are "maxed out" is not consistent from the reports submitted by the service providers, such as schools, City, police, etc. He stated that growth should be allowed where it is practical. Again, he asked for a favorable consideration on the proposal.

Mayor Taylor closed the hearing at approximately 8:35 p.m.

QUESTIONS BY HEARING BODY: Councilman Nolder asked if the applicants table that listed available land was accurate. Mr. Wheeler said it was.

DISCUSSION: Councilman Nolder said we should follow our Comprehensive Plan and felt we might be out of sequence by annexing this property.

Councilman Prince said we are trying to develop the City uniformly, which is why areas are prioritized. He pointed out that priority "C" parcels should be considered last, specifically farmland.

Mayor Taylor asked if the land was already designated for R-1 use. Mr. Wheeler said that when it is annexed, it would come in as Low Density Residential zoning.

Mayor Taylor asked if it was more of a "timing" issue, as to when the land should be annexed. Mr. Wheeler agreed that was a timing issue.

Councilman Harris asked if the determination for annexation is made by the Council. Mr. Wheeler explained that the owners will initiate an annexation, but the ultimate decision is made by the Metropolitan Boundary Commission; however, the Council makes a recommendation to the Boundary Commission. He pointed out that the applicant can also make direct application to the Boundary Commission, but the Council recommendation is highly considered.

Councilman Harris said he understands the priority issue, but that the property will ultimately be annexed. He stated that he was inclined towards a favorable vote after listening to the proponents of the application.

Mayor Taylor said in regards to the visioning process, growth has been one of the main topics discussed.

Councilman Prince again referred to the Plan saying that we should comply with and follow the criteria set forth.

****Councilman Prince moved to adopt Resolution No. 579, A RESOLUTION RECOMMENDING TO THE PORTLAND METROPOLITAN AREA LOCAL**

GOVERNMENT BOUNDARY COMMISSION DENIAL OF THE ANNEXATION OF THE CITY OF CANBY, CLACKAMAS COUNTY, OREGON (APPLICATION OF THE FAIST), OF A PORTION OF TAX LOT 2000 OF TAX MAP 4-1E-3, LOCATED ON THE NORTH SIDE OF S.E. 13TH AVENUE, EAST OF THE VALLEY FARMS SUBDIVISIONS AND SOUTH OF TROST ELEMENTARY SCHOOL. Motion was seconded by Councilman Daniels.

Discussion - Councilwoman Stark asked if the Boundary Commission could approve the application even if the Council recommended denial. Mr. Wheeler stated that this could happen, but it is unlikely.

****Roll call vote**, showed a tie vote, with the YES votes as Prince, Nolder and Daniels; and the NO votes as Stark, Strong and Harris. Mayor Taylor voted YES to break the tie vote. The motion was to approve Resolution 579, 4-3 for denial of the annexation.

APPEAL MLP 94-07: Ed Sullivan said at this point the appeal would be withdrawn since annexation was denied.

CITIZEN INPUT ON NON-AGENDA ITEMS: None presented.

Mayor Taylor recessed the regular session for a few minutes at this time.

COMMUNICATIONS: Meetings - Mayor Taylor reminded the Council of the Clackamas County Cities Meeting for next Thursday. Also, there is the annual Chamber of Commerce fund raising dinner the same night, January 26th.

Councilman Daniels suggested the members splint their attendance on these two functions.

Planning Issue - Councilman Nolder said in listening to the tapes on the proposed annexation, he felt the Planning Commission was not getting the "complete" information necessary from the school district. He commended the Planning Commission on the hard job they have setting the future of the community. He pointed out that there was "no input" from the school district on this proposal for 150 additional homes.

Councilman Prince said the request for information for this proposal was made in October, and we are now meeting with the district regarding such issues.

Councilman Nolder said that when he questioned the Planning Department about the school district input he got a negative response. He suggested that the schools are not taking an active interest in the process.

Mayor Taylor said the visioning process is addressing the issue, also there are more joint meetings planned between the City and school district.

Councilman Nolder reiterated that he felt the school district should have been present for this hearing since there would have been 150 homes affecting enrollment in a school that is at capacity, and students would face being bused elsewhere.

NEW BUSINESS: Accounts Payable - ****Councilman Daniels** moved to pay accounts payable in the amount of \$151,958.03. Seconded by Councilman Prince.

Councilman Daniels noted that there was a repair bill for the crane in the amount of \$12,000.

****The accounts payable** were approved for payment by roll call vote, 6-0.

ORDINANCES & RESOLUTIONS: Ordinance No. 930 - Jack Martin, Senior Utility Worker with the Parks Department, requested the purchase of a universal play structure from Recreation Resources of Salem, Oregon. He stated that the product is one of the best in the northwest. The price variations were due to not being able to meet some of the general requirements in the bid quote. Mr. Martin said that specific equipment is needed to fit in the limited space and still comply with safety requirements. Maintenance consideration were a priority in selecting the supplier. He noted that Recreation Resources guarantees their product for 100 years.

****Councilman Daniels moved that Ordinance No. 930, AN ORDINANCE AUTHORIZING THE MAYOR AND CITY RECORDER TO EXECUTE A CONTRACT FOR THE PURCHASE OF PLAYGROUND EQUIPMENT FOR THE SOUTH LOCUST PARK; AND DECLARING AN EMERGENCY** be posted and come up for final action on February 1, 1995. Seconded by Councilman Harris and approved 6-0.

Mayor Taylor thanked Mr. Martin for his extensive research and was happy to know the quality and longevity of the equipment was a top consideration.

UNFINISHED BUSINESS: None presented.

OTHER REPORTS OR ANNOUNCEMENTS: Meeting - Administrator Jordan reminded everyone of the Policy meeting for the 2040 Plan in Sandy on January 24th.

Improvements - Councilman Prince noted that Mr. Hester had helped obtain financing for a sidewalk near Pine Street from Southern Pacific. Administrator Jordan said improvements on the west side of the crossing near Pine Street and 99E of a handicap landing, sidewalk and curbing were essential. Mr. Jordan said the sidewalks will certainly be a safety improvement in the area and Roy Hester is to be commended for this project.

Mr. Jordan also informed the Council of past problems on N. Redwood, an area which the City fondly calls "Lake Redwood" during rainy periods. Mr. Hester developed a low cost effective interim solution until development occurs. Mr. Jordan said there is no more flooding in the area since Mr. Hester solved the problem.

Visioning - Mayor Taylor reported last night's visioning meeting resulted in voting on prioritization. He said we now have five task forces with outcomes and measures and we will keep people advised about the results. Mayor Taylor commended Sarah Jo Chaplen for her participation in the visioning process.

Councilman Daniels noted that the participating citizens volunteered an average of 25 hours for the vision process, and this was commendable.

ACTION REVIEW: 1. Ord. 930, will be posted for second reading regarding purchase of playground equipment.

****Councilman Prince moved to go into Executive Session under ORS 192.660 (1)(e), regarding real property, (10)(h), regarding pending litigation and (1)(i), regarding performance of a City employee. Motion seconded by Councilman Harris. Motion approved 6-0.**

Mayor Taylor recessed the regular session at 9:20 p.m. The regular meeting was reconvened at 10:10 p.m.

Alarm Contract - Administrator Jordan advised the Council regarding the issue of the Police Department taking over private alarms was being delayed due to liability concerns.

Administrator Jordan read the language in the proposed contract regarding the liability that Attorney Kelley had drafted.

Councilman Nolder commented that he still would like to have the City named as an additional assured. However, the contract can be signed if CTA does not want to name the City as an additional insured.

Measure 11 - Mayor Taylor informed the Council that he was also the chairman of the Mayor's Public Safety Committee and in that role he is working on Ballot Measure 11. He advised that Cities will be involved with people being released in regards to Ballot Measure 11, and he is advocating that local Cities become involved in this issue. Mayor Taylor said he would like to arrange a local Public Safety Seminar, for citizens, schools, police and others so they can best respond to people living in the community who are criminals. He added that the "hottest" types at this time are burglary victims and sex offenders. In the past the state and counties have dealt with these matters, Mayor Taylor said he would like to see local cities involved.

Mayor Taylor pointed out that part of Measure 11 is to have a certain amount of the proposed facilities, or beds, to be built in the local community, rather than in prisons.

The Council gave a general consensus of approval for the Mayor to pursue initiating a local Public Safety Seminar.

Purchasing - Councilman Prince questioned the purchasing problems with regard to the amount that could be spent without Council approval. Administrator Jordan informed the Council that City staff will have training regarding purchasing laws and procedures.

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

EXECUTIVE SESSION
JANUARY 18, 1995

Present: Mayor Taylor, Councilors Daniels, Strong, Stark, Prince, Harris and Nolder, Administrator Jordan, Attorney Kelley and Assistant to Administrator Chaplen.

Mayor Taylor called the session to order in the CUB conference room at 9:27 p.m.

ORS 192.660 (1)(e) - The Council discussed the Kraxberger property.

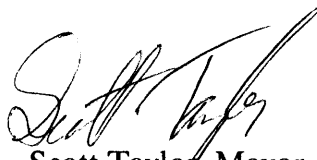
ORS 192.660 (1)(h) - The Council discussed the following possible pending litigation cases:

Rinkes vs. City of Canby
Broetje
Patterson
Schmitt

ORS 192.660 (1)(i) - The Council discussed the performance of City employee Virginia Biddle.

Mayor Taylor adjourned the session at 10:05 p.m.


Marilyn K. Perkett, City Recorder


Scott Taylor, Mayor