

**MINUTES
LEBANON CITY COUNCIL MEETING
OCTOBER 25, 1995**

MEMBERS PRESENT Mayor Bob Smith, Councilors, Diane Branson, Ken Toombs, John Richard, and Wayne Rieskamp

STAFF PRESENT Tom McHill, City Attorney; Jim Reuf, Director of Public Works; Douglas Parker, City Planner; Walt Richmond, Chief of Police; Jim Clark, Engineering Division Manager, Charles Eaton, Senior Engineer and Dorothy Nicholson, Secretary

CALL TO ORDER / ROLL CALL

The meeting was called to order by Mayor Smith at 7:30 P.M., October 25, 1995 in the Lebanon School District Board Room at 485 S. 5th Street. Roll call was taken with four members present. Councilors Ron Miller and Floyd Fisher were absent.

APPROVAL OF MINUTES

1. MINUTES OF OCTOBER 11, 1995 CITY COUNCIL MEETING

The Minutes of the October 11, 1995 meeting were approved as submitted.

PUBLIC HEARING

2. LIQUOR LICENSE - DISPENSER, CLASS A - NEW OUTLET

Mayor Smith announced this topic will be carried over because the information is not available at this time.

3. ANNEXATION AND ZONING OF A CERTAIN PROPERTY

City Attorney McHill made the following comments prior to presentation: Oregon law requires certain announcements be made at the commencement of a Land Use hearing. In this case the Council will be considering an annexation recommendation from the Planning Commission which is designated as File No. A-95-3. He stated members of the Council should disclose any ex-parte or any contact or conflicts of interest that under Oregon law need to be disclosed. After the disclosure the Staff Report will be presented by Planner Parker. Included in the staff report, pages 3-3, 3-4 are the applicable relevant criteria that have been identified by staff as having relevance to this hearing. Also, posted on the wall is the criteria that staff has identified. He reminded the audience that whoever provides testimony all of testimony must be directed toward the criteria that has been described or criteria that the audience has identified in the land use regulations, plan or statues that they believe applies to this decision. City Attorney McHill also reminded anyone who testifies that failure to raise an issue accompanied by statements or evidence sufficient to afford the decision maker, the City Council, and the parties an opportunity to respond to the issue will preclude appeal to the Land Use Board of Appeals based upon that issue. After the Staff Report, time will be available for

members of the Council to ask questions of Staff and then the public will be given an opportunity to be heard. Generally the applicant will be heard from first for those in favor of the proposal and then those against the proposal, saving time for rebuttal for the applicant or their representatives. This has been discussed with the Mayor and generally everyone who has relevant material to offer will be given that opportunity. The Mayor will be asking that repetitious testimony not be provided. If those of audience have something new to offer, they will be given that opportunity. After the applicant, proposer, has opportunity to rebut any evidence presented then the public hearing will be closed and the Council will be called upon to deliberate and if possible, make the decision tonight. The subject of tonight's hearing is an annexation request and it is anticipated the decision will be to approve the annexation request or to deny it. City Attorney McHill stated that it was his understanding that the Mayor and all members of the Council received a two page letter from Mr. and Mrs. John W. Davis, copies of which have been provided to the applicant as soon as the City received them.

Mayor Smith declared he has received three phone calls. He has not made comments to any of these callers as to how he felt. He listened to what they had to say and told them about this meeting. He also received a copy of Mr. and Mrs. Davis' letter. Councilor Toombs received a copy of the Davis letter. Councilor Branson declared she had conversations with Terry Williams, Steve Wimer and Mary Stephens and also received a copy of the Davis letter. Mayor Smith asked her if these situations would affect her decision. She stated they would not. Councilor Richard heard from Wimers and three other people and received a copy of the Davis letter. Councilor Rieskamp received the same letter from the Davises and has been contacted by five people in the designated area about their concerns and these contracts would not effect his decision at all.

Planner Parker stated this is an annexation public hearing. It has already gone before the Planning Commission on September 20, 1995 and it involves a 48.5 acre territory which consists of five tax lots, property designated as mixed density residential on comprehensive plan map and would be assigned to residential mixed density as its zoning, upon annexation. The general location of the property is east of River Road, located between the Albany - Lebanon Santiam Canal and the Santiam River. The Planning Commission Staff Report and the approved Planning Commission Minutes from the public hearing have been included in the Councilors' packets, with the County Surveyor approved legal description and annexation map. Also included were the Planning Commission findings from the Public Hearing, resulting with the recommendation by the Planning Commission to the City Council that the annexation proposal be approved and the requested zoning be granted. The Planning Commission heard a subdivision proposal for this same property - first phase a 32 lot, and granted a preliminary approval to that first phase proposal. The approval of the proposal has merit only if the property is annexed. Planner Parker then offered an abbreviated staff report, the Planning Commission Report and their Minutes into the record along with the letter received from Mr. and Mrs. Davis.

Mayor Smith asked if there were any comments or questions from Council. There were none.

Mayor Smith opened the Public Hearing to the applicants.

Jack Burrell, K & D Engineering, announced he was representing Tom Cornell, the applicant and the owner of the land. Mr. Burrell summarized responses to the criteria. 1) Existing services are available to the site and will be extended into the project as it develops. 2) Existing public rights of ways are provided to the site and will be extended into the subject property. 3) City sewer lines are installed adjacent to the property and will be extended through the property upon development. 4) The property development proposal complies with the comprehensive plan policies. 5) This annexation will provide a subdivision to help satisfy the needs for housing. 6) This annexation will allow for orderly and efficient expansion of city limits within city service capabilities. 7) The annexation will not have an adverse impact on community facilities. 8) The annexation will actually result in enhancing transportation facilities with the building of a bridge across Santiam Canal in the second phase, and in the creation of a new park. He requested that his previous submittal package be made part of the record for tonight's public hearing - previously submitted material, including narrative, copies of the tentative plan, utilities plans and the traffic impact study be made a part of the record. K & D Engineering's Traffic Engineer conducted additional traffic counts on Park, Franklin and Milton streets to augment his original study. His additional findings support the conclusion that additional traffic from the first phase development will pass safely over the existing streets to the north. Copies of this study were given to members of the Council.

Tom Cornell from Chino Knolls, California, introduced himself as owner of the property. He has been in building and developing for 21 years. He and his wife design all homes that he builds and have won awards on the quality and designs of these houses. He feels the city will be happy with the houses designed. They will not be building cheap housing. The houses for Phase I will go from approximately 1200 sq ft to 2500 sq ft. They will be giving the city approximately four acres for a future park. A future plan includes a board walk to Gill's Landing. Because of concern expressed at the Planning Commission Meeting regarding truck traffic during construction Mr. Cornell stated they would hold pre-construction meetings - flag men will be used. CC&R's will be implemented and enforced - no junk cars in front of houses, no tin foil on windows and a lot of others.

Mayor Smith opened the Public Hearing to the public for testimony.

Dayle Gonzalez addressed issues regarding the safe and efficient control of traffic brought up at the Planning Commission Meeting where proposed annexation was passed. She also expressed concern regarding the consisting of land use in this area.

Ben Gerry, Park Drive, expressed concern for the traffic in the area. He feels the bridge should be built before the project is started and divert the traffic from the area. He also requested that additional time be given to file an appeal of the Planning Commission's decision of September 20, 1995..

Steve Wimer, 735 Garvord St., stated that he agrees with Mr. Davis' letter on his viewpoints regarding traffic in the area. He asked, regarding River Dr., what maintenance would be kept up, as River Dr. is a county road in that area.

Louise Cline, River Dr., spoke regarding the impact there will be on attendance at Queen Anne School with the school already at capacity. She is also concerned about safety on River Dr. as she feels it is very heavily trafficked and will not be safe even with the construction of a bridge. She also expressed concern about the wildlife in this area. She also objected to the construction of a boardwalk along the river because of danger to children using it.

Terry Williams, Home Builders Association of Linn County, noted this piece of property is in the Urban Growth Boundary. Mr. Williams does not feel traffic will be a problem. He feels Council needs to look at the tax structure this will bring to the city, monies for schools and for the general economy of the city.

Gloria Napp, Garvord St., is concerned with traffic on Park Drive and River Drive.

Pam Wimer asked for those in audience who were concerned about the traffic in this area, to stand.

Kelli Aldrich, Realtor, feels this subdivision will be a great asset to Lebanon.

Don Robertson, Realtor, stated the inventory in Lebanon of houses to sell is very low. Lebanon needs more housing. We must look to the future.

Retha Larson, member of Planning Commission, stated she voted "No" on the request for this subdivision when it came before the Planning Commission. She is concerned about the traffic impact.

Manny Gonzalez stated he does not feel this area should be annexed unless the developers first agree to put another entrance to this area. He stated he feels the bridge should be built before the subdivision is built.

Bud Daily, 2110 River Rd., expressed his concern with where the bridge is going to be built. He feels the bridge should be redesigned and the location of the bridge changed. He stated five school busses are now going into this area. He asked the Councilors to not approve this annexation until the road is improved and until there will be no problem with surface water.

Kay Elliott, Glenwood St., stated there is a water run-off problem in this area. She stated she is in favor of the bridge being built before there are any houses built.

Shirley Davis, Glenwood St., expressed concern with the impression given that "you have to be rich to live in that area". She stated, "We are not rich".

Mayor Smith opened the meeting to any rebuttal from the applicant.

Jack Burrell introduced Tom Lancaster of Lancaster Engineering, Portland, who conducted a traffic study of this vicinity. Mr. Lancaster stated he feels traffic is no problem. They made a level of service analysis and found that added traffic would not be enough to change the present level which is now at Level A and which is the highest and best level to measure streets for traffic capacity. He did not recommend widening Park Street which would leave it more open for faster traffic. The narrowness of the street helps to control the speed.

Councilor Toombs asked what were the peak hours used in making this analysis and what was the total count. Mr. Lancaster responded that 7:00 - 8:00 were the morning hours and 5:00 - 6:00 were the evening hours. In the morning the average volume was 38 cars and in the evening, 60 - 62 cars.

Councilor Rieskamp asked what days of the week the study was conducted. Mr. Lancaster responded that one week - Tuesday and Thursday, the other week - Tuesday and Wednesday.

Jack Burrell stressed that land use laws are being followed. Mr. Burrell showed a map depicting the proposed bridge location after Phase I and subsequent to Phase II. He stated that as part of the analysis of the subdivision they were required to go through the development review with the City Staff. The emergency services reviewed the plans, the planning and engineering concerns that were of issue were brought out. The concern raised about the future bridge and how it will tie into the portion with River Rd., and how it will connect to Russell Dr., was a concern to everyone. It has been reviewed by City Staff and evaluated and approved by Linn County Road Dept. and the Roadmaster. On an overhead projection Mr. Burrell showed how the connection will work. There will not be an access point that will bring all the three intersections into Russell Dr. at the same point. Mr. Burrell feels it will be a very safe situation.

Councilor Rieskamp asked what was the stacking capacity between Russell Dr. and Park St. intersection. Mr. Burrell responded that it is approximately 150' plus. Councilor Rieskamp also inquired about Mr. Daily's remarks regarding larger vehicles i.e. school buses, trucks etc. Mr. Burrell stated that the stacking ability and the good side distances, also curves wide enough to allow vehicles to stay in their lanes of traffic were all considered when designed for final approvals.

Mr. Burrell stated that the bridge will be put in during the second stage; that if the analysis had borne out that it would be unsafe to try to do the development without putting the bridge in first, they would not be proposing it. Their traffic engineer has studied it, the city staff has evaluated it, and agreed. If it is not required at this time it is not prudent to put this time and expense into this development.

Councilor Toombs asked if the undeveloped lots still remaining in the Garvord and Glen Oaks subdivisions were factored into the traffic study. Mr. Lancaster responded that these were not factored in. He stated that with another 30 lots it still would not affect the present Level A.

Mr. Burrell addressed the issue of wildlife. He assured the audience that they will work with this issue and do not wish to disrupt the wildlife. Regarding the concern about construction traffic, Mr. Burrell stressed that at the time of the Glen Oaks Division, construction was done in a safe environment. There were no accidents. There will be city inspections, inspections by private engineers that will be overseeing the project and hometown companies will be doing much of the construction. He does not see any reason to believe there will be problems. He also assured the audience that the developer is obligated to build the bridge during the second phase.

Councilor Branson asked what the time frame is for Phase I and for Phase II. Mr. Cornell responded that they would like to start building houses in Phase I next spring. The absorption will probably will be a year or year and one half for Phase I and will start Phase II when 60%-70% of Phase I has been built. This will be a seven year project.

Mayor Smith declared the Public Hearing closed at 9:00 P.M.

Mayor Smith asked for any questions from the Councilors. He reminded the Councilors that the annexation of the property was the issue, not the subdivision.

City Attorney McHill suggested to the Council that as they come to a decision a two-step process be used: 1) Approve or disapprove the recommendation of the Planning Commission adopting findings of fact supporting either decision and 2) Consulting the proposed ordinance. He stated they have the Staff Report that contains the findings of the Planning Commission and their recommendation or other findings deemed appropriate based upon the evidence and the relevant criteria that they have heard tonight. In the event that the Councilors decide to reverse the Planning Commission's recommendation that they also adopt findings to support their decision based upon the lack of the facts available to support the criteria. In the event the Council approves the recommendation of the Planning Commission, City Attorney McHill suggested they consider the ordinance. In the event they reverse the recommendation of the Planning Commission, there is no need to take up the ordinance. The important part is that whenever a preliminary decision is made the findings upon which the decision is made must be enunciated. Depending on the outcome of that discussion, then they are proceed with consideration of the Ordinance.

Mayor Smith then asked for approval or disapproval of the findings of Staff and the Planning Commission.

City Attorney McHill stated that if the Planning Commission's recommendation is reversed it would be necessary to adopt some findings. If the Councilors decide to reverse the Planning Commission it should be based upon a failure of proof of development of criteria.

Councilor Rieskamp stated that this comes to the Council with recommendation from the Planning Commission, the proposed findings are met by statute or with policy. There is a lot of concern with the neighbors in the surrounding area. Based on a

comparison of other developments the Council has heard, this is a clean and precise proposed development with the attached concerns that are obviously there. He felt this is an addition to Lebanon that is needed and there are issues that are not going to go away but there are facts and findings that substantiate that they have been addressed. Councilor Rieskamp proposed that this request be approved. Councilor Branson spoke to the audience regarding the safety of which they are concerned. Councilor Richard stated he is in favor of the annexation but would like to see the bridge built prior to the building of houses. Councilor Toombs expressed his concern regarding traffic but felt the narrowness of the streets will cut down the speed of cars.

A motion was made by Councilor Rieskamp, seconded by Councilor Toombs and approved unanimously:

That based on Staff report, evidence and recommendation of the Planning Commission the Council approve the annexation and zoning adopting the following findings:

- 1. The proposed annexation complies with City Annexation Policy, Section 1, in that urban services are or can be made available to serve the property and will be enhanced upon completion of proposed public infrastructure improvements included in the development proposal.**
- 2. The proposed annexation complies with City Annexation Policy, Section 2, in that existing public right-of-way is provided and additional ones will be provided upon development.**
- 3. The proposed annexation complies with City Annexation Policy, Section 3, in that city sewer lines are installed adjacent to the subject property and will be extended through the property upon development.**
- 4. The proposed annexation complies with City Annexation Policy, Section 4, in that the property development proposal complies with Zoning Ordinance and Comprehensive Plan policies pertaining to the property and zoning.**
- 5. The proposed annexation complies with City Annexation Policy, Section 5, in that a public need exists for affordable housing to be provided by the proposed subdivision.**
- 6. The proposed annexation complies with Comp. Plan Urbanization element, Phased Growth Program, Policy #1, (page 4-P-1) in that it would be an orderly and efficient expansion of city limits within city service capabilities.**
- 7. The proposed annexation complies with Com. Plan Public Facilities and Services element, General Policy #2, (page 8-P-1) in that the annexation will not result in an adverse impact on community facilities and in fact the proposed development will result in enhancing local community facilities.**
- 8. The applicant will satisfy the requirements of ORS 222.125 by submitting petitions of consent to annexation by a majority of electors within the annexation by a majority of electors within the annexation area.**

City Attorney McHill read the following Ordinance by title

A BILL FOR AN ORDINANCE ANNEXING AND ZONING PROPERTY FOLLOWING HEARING AND UPON THE WRITTEN CONSENT FILED WITH THE CITY COUNCIL BY LANDOWNERS IN SAID AREA PURSUANT TO ORS 222.120 AND ORS 222.170.

Mayor Smith asked if there any amendments to the Ordinance. There were none.

A motion was made by Councilor Toombs, seconded by Councilor Richard and passed unanimously by roll call

To adopt the Ordinance as presented.

EXECUTIVE SESSION

The regular session of the Lebanon City Council was recessed by Mayor Smith at 9:10 P.M. in order to convene for an Executive Session as per ORS 192.660(1)(e) *To conduct deliberations with persons designated by the governing body to negotiate real property transactions.*
- Real Property Transaction

Mayor Smith called for return to regular session at 9:30 P.M.

LEGISLATIVE ACTION

4. RIGHT-OF-WAY ACQUISITION

Director of Public Works, Jim Reuf, recommended the approval of the resolution giving the Mayor and Recorder the authority to approve the right-of-way or easement documents on behalf of City Council for the Hansard Area Infrastructure Improvement Project and the West Side Interceptor Project.
City Attorney McHill read the following resolution by title:

A RESOLUTION ACCEPTING THE ACQUISITION OF PROPERTY AND AUTHORIZING THE SIGNING OF RIGHT-OF-WAY DEDICATIONS AND EASEMENTS FOR PUBLIC UTILITIES IN CONNECTION WITH THE HANSARD AREA IMPROVEMENTS.

The resolution was adopted unanimously.

MONTHLY BOARD MINUTES

5. SENIOR AND DISABLED SERVICES ADVISORY BOARD MEETING MINUTES

Senior and Disabled Services Advisory Board Meeting Minutes of September 27, 1995.

OTHER MATTERS

6. CORRIDOR PLANNING MANAGEMENT TEAM APPOINTMENT

Public Works Director Jim Reuf explained that the Corridor Planning Management Team is for the purpose of overseeing the planning process and to address important policy and technical issues regarding the Highway 20/34 corridor study. The team will consist of two people, one key staff member and one elected representative from each community along the corridor.

Mayor Smith appointed Public Works Director, Jim Reuf and Councilor Ken Toombs to the Corridor Planning Management Team who are both representatives of the Oregon Cascades West Council of Governments (COG).

CITIZENS COMMENTS

There were no citizens comments.

ADJOURNMENT

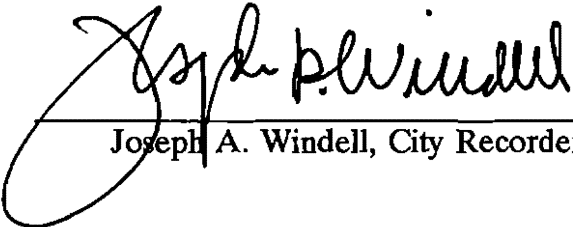
There being no further business to come before the Lebanon City Council, the meeting was adjourned at 9:40 P.M.

Recorded by: Dorothy Nicholson, Secretary



Robert G. Smith, Mayor

ATTEST:



Joseph A. Windell, City Recorder