MINUTES

KEIZER CITY COUNCIL
Monday, November 4, 1991
Robert L. Simon Council Chambers
Keizer City Hall

CALL TO ORDER

Mayor Orcutt called the regular session to order at 7:33 p.m. Roll was taken as follows:

Present

Andrew J. Orcutt, Mayor
Mike Hart, Councilor
Dennis Koho, Councilor
Bob Newton, Councilor
Jerry McGee, Councilor
Joe Van Meter, Councilor

Absent

Al Miller, Councilor

Staff

Donald H. Otterman, City Manager
John Morgan, Community Development Director
Shannon Johnson, City Attorney
Roxie McGrath, Acting Recording Secretary

PUBLIC TESTIMONY

There was no public testimony to come before the Council.

COMMITTEE REPORT - KEIZER TOMORROW COMMITTEE

Bob French, Chairman of the Keizer Tomorrow Committee, discussed presentations that have been made in the community by the Committee. He stated that seventeen meetings have been held with approximately 600 people in attendance. Three additional meetings are scheduled. He recommended that the City Council attend the last public meeting on November 20. He stated that the Salem-Keizer School Board and administration had been invited to attend that meeting and that invitations had been sent to a number of other groups. He stated that the Keizer Tomorrow Committee will draft recommendations to the City Council beginning in December.

PUBLIC HEARING - FERNWOOD PARK VACATION

Mayor Orcutt reopened the public hearing on the vacation of Fernwood Park.

FMAGIC

Mr. Morgan stated that the City reviewed the signatures of the letters submitted by the neighbors who opposed the vacation of Fernwood Park. After reviewing what constitutes a legal signature, only 10 signatures were considered legal signatures, which was only 24 percent of the required signatures. The neighbors were contacted about this development. Mr. Morgan pointed out that there have been several meetings with representatives of Keizer Heritage Foundation, the neighbors of Fernwood Park, and the City. Today, a meeting was held with various individuals to see if an agreement could be reached. No conclusion was reached at the meeting. Mr. Morgan recommended that a two week extension be granted for the issues to be resolved at the neighborhood level, which was suggested at this meeting.

Ray Clark, 306 Kestrel St. N., questioned if a spouse has passed away, if the remaining spouse's signature constitutes a legal signature. Mr. Johnson stated that if the couple owns the house as tenants in common, as husband and wife, then if one of them has passed away the surviving spouse's signature is valid. Mr. Clark discussed the letter which was sent to the neighbors which stated "name or names on the deed." He showed the deed to his property which his name appeared on. Mr. Clark questioned if the City had used the tax rolls, rather than the deed. Mr. Morgan stated that the City had received a list of owners from the assessor's office. Mr. Clark submitted additional letters, with a copy of each residents tax statement attached.

Richard Sawyer, 4885 Bailey Rd., stated that he strongly believed the City of Keizer should take control of Fernwood Park. He attended the old Keizer School and has many fond memories of the school. Mr. Sawyer stated that he is anxious to see Keizer Heritage Foundation restore that old school to near original condition and establish a museum. He discussed what might happened if the City were to take control of the park. Mr. Sawyer stated that all the people of Keizer should have a part in the decision and not just the neighbors of Fernwood Park.

Tom Bauer, 1125 Swingwood Dr., pointed out that the agreement with the Keizer Heritage Foundation concerning the school expires on November 15th and requested that the Council review extending the agreement. He stated that the Foundation has received funding and noted that it was in the Foundation's best interest to have the park developed. He stated that it was a financial issue. Mr. Bauer indicated that the Foundation will be working with the neighbors for the betterment of the park.

Responding to a question from Councilor Newton, Mr. Johnson discussed the deed to Fernwood Park and what are allowed uses in the Park. Mr. Morgan stated that the City is subject to the obnoxious weed ordinance, which requires that the grass not grow above 18 inches. Therefore, the City is only responsible for mowing the grass before it reaches 18 inches. Responding to a question from Mr. Newton, Mr. Johnson stated that Keizer Heritage Foundation could be allowed to maintain the park if there was a contract against any liabilities which might occur.

Councilor Koho stated that as a result of the new signatures received, the vacation has failed. Therefore, the vacation issue needs to be set aside. Councilor McGee agreed with

Mr. Koho and stated that he saw the process as "democracy in action", stating that it would be an error on the Council's part to try to nudge the neighbors away from their bonafide right to stop the vacation process. He believes the vacation process should and ought to stop and noted that the process could begin again if the land owners initiated it.

There being no further testimony, Mayor Orcutt closed the public hearing.

DELIBERATION - FERNWOOD PARK

Councilor Koho moved that the City Council resolve that the vacation of Fernwood Park is ended due to sufficient remonstrances. The motion was seconded by Councilor Newton.

Councilor Van Meter stated that he found this result disheartening since the park will not be developed because of wounded egos from several years ago when the school was moved. He does not believe the result is in the best interest of the neighborhood, nor the community. Councilor McGee pointed out that over 51 percent of the landowners opposed the vacation process, reiterating that the vacation process was over.

The motion was put to a vote and passed by the following vote:

AYES: Orcutt, Hart, Koho, McGee, Newton (5)
NAYS: Van Meter (1)
ABSENT: Miller (1)

CUSSION - RENEWAL OF LIQUOR LICENSE

Barbara Pelett, representing the Oregon Liquor Control Commission, discussed the process of renewal of liquor licenses. She stated that all negative recommendations made by the City are reviewed by the Commission, but the City's recommendation is considered only advisory. Ms. Pelett pointed out that the Commission can only reject renewals if there is a violation of liquor law or there is a disruption in the community from patrons who cause problems after imbibing at an establishment. She stated that restrictions can be placed on the license.

Ms. Pelett recommended that police reports involving alcohol should be sent immediately to OLCC, then OLCC uses the reports as advisory. For example, if an establishment's name appears on several drunken driving reports it may be investigated. She stated that the police reports could not be the only reason used to remove a license. Approximately twenty-four renewal applications have been denied out of 14,000. She discussed two instances where liquor license's have been denied. She indicated that the application is renewed if an applicant shows willingness and ability to resolve the problem. Ms. Pelett suggested that during the renewal process the City should negotiate with the applicant on license restrictions. The Council thanked Ms. Pelett for discussing the issue.

ORDINANCE - AMENDING COMPREHENSIVE PLAN

Mr. Morgan discussed various refinements to the proposed ordinance to amend the comprehensive plan (Amending Ordinance No. 87-077) as follows:

Page 2, line 14, change to read: "... density averaging from 6 to 10 dwelling units per acre."

Page 3, line 14, eliminate the sentence starting with "Commercial..." and replace with: "Commercial development may occur within the same building or complex as residential development.

Page 3, line 22, after the word "housing" delete the rest of the sentence. Line 22 would read: "Allow detached, duplex and multiple family housing."

Mr. Johnson stated that the following paragraph should have been included in the findings for all ordinances (inserted before Justification for Ordinance on Page 2): "Findings with regard to this Ordinance are based on all written and oral testimony received at the numerous Planning Commission and City Council hearings on this matter. Such testimony includes, but is not limited to, staff reports, letters, and other written documents submitted in connection with this Ordinance. This evidence is incorporated by this reference as if fully set forth herein."

Councilor Koho moved a bill for an ordinance Amending Activity Center Goals and Policies of the Keizer Comprehensive Plan (Chapter III(D) (2) (h); Adopting "Medium Density Residential" and "Mixed Use" Designations Amending Keizer Comprehensive Plan Map (Amending Ordinance No. 87-077.) The motion was seconded by Councilor McGee.

Councilor Van Meter indicated to the Council and the press that he has had conversation with Sandy Staats and Ernie Fish with regards to these issues. He stated that he does not believe the conversations have compromised him in any way, therefore he will be participating in the voting on all of these matters.

Councilor Koho noted that the motion included the additional findings suggested by council and those amendments in the staff report by John Morgan.

The motion carried unanimously by the following vote:

AYES: Orcutt, Hart, Koho, McGee, Newton, Van Meter (6)
NAYS: None (0)
ABSENT: Miller

ORDINANCE - ADOPTING THE MCNARY ACTIVITY CENTER DESIGN PLAN

Mr. Morgan discussed various changes to the proposed ordinance for adopting the McNary Activity Center Design Plan (Amending Ordinance No. 87-077) as follows:

Change Exhibit A of the ordinance by eliminating the last sentence of Goal 5. The following sentence would be eliminated: "However, policies will be in place encouraging cooperation with the Oregon Department of Fish and Wildlife to ensure maximum retention of geese and other wildlife."

Change Exhibit A of Goal 8 by adding the word "visual" before the word "access" in the first sentence. The sentence would read: "Recreational opportunities will be enhanced by allowing for some visual access to Staats Lake."

Change Page 22 of the Appendix of the draft McNary Activity Center Plan, which is attachment A of the second ordinance as follows: "It is the policy of the Plan that a promenade be developed as part of the development of any retail store or shops abutting Staats Lake. This promenade will overlook the lake and provide an attractive, inviting area for walking, standing and sitting while enjoying the view and proximity to the lake."

Change Page 13 of draft McNary Activity Center Plan, under Policy, to add the words "mixed density residential" to the first sentence, as follows: "The mixed density residential portions of the Staats Lake property ..."

Mr. Johnson stated that the following paragraph should have been included in the findings for the ordinance (inserted before Justification for Ordinance on Page 4): "Findings with regard to this Ordinance are based on all written and oral testimony received at the numerous Planning Commission and City Council hearings on this matter. Such testimony includes, but is not limited to, staff reports, letters, and other written documents submitted in connection with this Ordinance. This evidence is incorporated by this reference as if fully set forth herein."

Responding to a question from Councilor Koho, Mr. Morgan stated that the deleting of the sentence concerning the geese was as a result of deleting the policy concerning the geese. He stated that the sentence could remain gratuitously.

Councilor Koho pointed out that there has been a significant change in that there was going to be access to the lake, rather than just having a visual of the lake. Mr. Morgan responded that through the review process, it was found to be inappropriate to require access to the lake for a variety of reasons such as the bank is steep and there are fluctuations in the water level. It should only be a visual amenity.

Councilor Koho moved a bill for an ordinance Adopting the McNary Activity Center Design Plan (Amending Ordinance No. 87-077). This would include the findings by Council and the amendments in the memo. The motion was seconded by Councilor McGee.

Councilor Koho stated that he would like to retain the last sentence of Goal 5 because the policy concerning geese had been deleted, something needed to remain to address the issue.

Councilor Koho moved to amend the main motion to retain the last sentence of Goal 5. Councilor Newton seconded the amendment.

Councilor Hart stated that this area was in an urban renewal area and should be developed as urban. Councilor Koho stated that he understood Councilor Hart's position, but believes that if the Council could do a little to suggest that it is a good idea, without placing a burden on the developer, then they ought to do it. Councilor Van Meter stated that he would join Mr. Hart in his opposition for various reasons.

The amendment was put to a vote and failed by the following vote:

AYES: Hart, Van Meter (2)
NAYS: Orcutt, Koho, McGee, Newton (4)
ABSENT: Miller

The main motion was put to a vote and carried unanimously by the following vote:

AYES: Orcutt, Hart, Koho, McGee, Newton, Van Meter (6)
NAYS: None (0)
ABSENT: Miller

ORDINANCE - ADOPTING A MIXED USE ZONE

Mr. Morgan discussed various changes to the proposed ordinance for adopting a Mixed Use Zone (Amending Ordinance No. 87-078) as follows:

In the draft Mixed Use Zone, which is an attachment to the ordinance which adopts the zone, change Section 30.00 by eliminating the following (sixth) sentence: "Commercial development will consist primarily of businesses on the ground floor with housing on upper stories." Replace this sentence with "Commercial development may occur within the same building or complex as residential development."

In the draft Mixed Use Zone, change the word "lane" to "line" in Section 30.13(1), Page 3.

In Section 30.13(2) on Page 4 of the Mixed Use Zone, change the second sentence to read as follows: "Setbacks for the dwellings shall vary at least four feet in depth between adjacent lots."

Councilor Koho moved a bill for an ordinance Adopting a Mixed Use Zone; Amending Keizer Zoning Ordinance Chapters 4 and 19 to accompany the Mixed Use Zone (Amending Ordinance No. 87-078). This would include the findings by Council and the amendments in the memo. The motion was seconded by Councilor McGee.

The motion was put to a vote and carried unanimously by the following vote:

AYES: Orcutt, Hart, Koho, McGee, Newton, Van Meter (6)
NAYS: None (0)
ABSENT: Miller

ORDINANCE - AMENDING KEIZER ZONING ORDINANCE (CHAPTER 46)

Mr. Morgan discussed various changes to the proposed ordinance for amending Keizer Zoning Ordinance Chapter 46 (Amending Ordinance No. 87-078) as follows:

Change Section 46.03 by adding: "(c) In lieu of using a conditional use process, a developer may elect or may be required to use the Planned Development process. In these cases, the provisions of (a) and (b) shall also apply."

Councilor Koho moved a bill for an ordinance Amending Keizer Zoning Ordinance - Chapter 46; Providing for a Zone Change in the McNary Activity Center; and Amending Ordinance No. 87-078. This would include the findings by Council and the amendments in the memo. The motion was seconded by Councilor Hart.

The motion was put to a vote and carried unanimously by the following vote:

AYES: Orcutt, Hart, Koho, McGee, Newton, Van Meter (6)
NAYS: None (0)
ABSENT: Miller

CUSSION - VEHICLE ALLOWANCES VERSUS TRAVEL EXPENSES

Councilor McGee stated that there are three principles underlying most agencies travel reimbursement policies including staff who use their own car on work business should be fairly compensated for their costs, that reimbursement rate per mile should be universal for all staff, and that the travel policy should be in keeping with the philosophical and cultural norms of the community. Councilor McGee stated that Keizer's plan fails on two counts, that is it is not universal for all and it is not within the community norms. He stated that most people in Keizer would buy their own car to get to work and believes that people in Keizer object to the City making Mr. Otterman's car payments after 28 months, with no end in sight. Councilor McGee stated that raising Mr. Otterman's salary by $3,600 a year would not be within the community norm. He recommended discontinuing all car allowance and replace it with a travel reimbursement policy which is based on a per mile rate.

Councilor Newton objected to Mr. McGee statement that most of the people in the community were opposed to the City making Mr. Otterman's car payments, because the City Council voted unanimously on the issue and as representatives of the people this vote shows that most people support the action of the Council. He stated that at the time the action was taken, the allowance was an incentive for the person to accept the position, as well as not having to have a city vehicle dedicated to the person. Additionally, the city manager and the chief of police would have instant and available transportation.

Councilor McGee questioned whether the intent of the Council, at that time, was to continue the car payments forever or to stop the payments after the car was paid for. Councilor Newton responded that any decision can be revisited at any time and suggested that the city manager's salary could be increased by the amount of the car allowance, thereby discontinuing the car allowance.

Councilor McGee moved to have staff report to investigate and study the issue of a car allowance versus a reimbursement travel policy, including all alternatives. The motion was seconded by Councilor Newton.

Councilor Koho stated that from his reading of the minutes at the time Mr. Otterman was hired, he believes that the car allowance was for compensatory purposes. He stated that if the car allowance allocation was converted to salary compensation, then it would have to be converted and probably increased so Mr. Otterman would not receive a pay decrease. He stated that it would be unfair to reimburse for travel mileage only.

Councilor Hart requested that the word investigate be removed from the motion. He noted that when the motion was made for the car allowance it was not a temporary measure, it was compensation for accepting the job. He stated that this "perk" is provided in most cities for high ranking officials, either by providing a car or a car allowance. Councilor McGee responded that the word "investigate" is inappropriate. He reiterated that he believe the compensation should be fair compensation for miles traveled.

Councilor Van Meter pointed out that state employees are provided with transportation. He stated that during the interview for the position the car allowance was negotiating and noted that the car allowance Mr. Otterman receives now is substantially less than what he received in his previous position. He stated that the car allowance is part of Mr. Otterman's salary compensation.

Councilor Newton reiterated that at any time the Council can revisit an issue. Mayor Orcutt disagreed with the chronology that the car allowance was provided because Mr. Otterman did not have adequate transportation, rather this item was negotiated. He stated that he would not support the motion because it would be reneging on the agreement made with Mr. Otterman. He believes it would be wasting more money reviewing the subject, as well as the time consuming task of keeping track of mileage than it is to pay the car allowance. Mayor Orcutt stated that the issue could be reviewed when future applicants are hired for the position.

Councilor McGee stated that he would feel more comfortable believing this was a fringe benefit if it had been budget as such. He stated that there is an inequity and inconsistency in the policy, which would be reviewed if the subject was studied. He stated that he gets the feeling from the group that there is strong feeling not even to study the matter, which he finds to be very curious.

The motion died by the following vote:

AYES: Koho, McGee, Newton (3)
NAYS: Orcutt, Hart, Van Meter (3)
ABSENT: Miller

CONSENT CALENDAR

The Consent Calendar consisted of the following items:

-October 21, 1991 Regular Session Minutes
-Resolution - Willow Lake Estates Phase II and III Street Lighting District
-Federal Property Program
-Resolution - Designating portions of Chemawa Road North between Chehalis Drive North and Joan Drive North as "No Parking Zones"
-Resolution - Initiating The Meadows Phase II Street Lighting District

Councilor Newton asked that the resolution regarding the "No Parking Zones" be removed from the Consent Calendar.

Councilor Koho moved for approval of the remainder of the Consent Calendar. Councilor Newton seconded the motion.

Councilor Koho requested that on Page 9, under "Scout Troop 121", the name "Schafter" be replaced with "Shaffer."

The motion passed unanimously by the following vote:

AYES: Orcutt, Hart, Koho, McGee, Newton, Van Meter (6)
NAYS: None (0)
ABSENT: Miller

Councilor Newton questioned whether the residents where the no parking zones are located were prepared for the coming action. Mr. Otterman stated that three properties were affected by the change, two of which have adequate on-site parking. At the third location, there is not adequate parking because of inoperable vehicles. He stated that there is parking for the tenants, but noted that the parking may be inadequate because of the number of individuals residing in the units. Where the cars are parked causes a vision obstruction/hazard from cars exiting Joan Drive.

Councilor Newton moved that the Council pass the resolution to designate portions of Chemawa Road North as "No Parking Zones." The motion was seconded by Councilor Van Meter.

Responding to a question from Councilor Van Meter, Mr. Otterman stated that there is no ordinance against causing a vision obstruction by parking, and that the only way to resolve a vision obstruction is to create a no parking zone. Mr. Morgan discussed the issue of Treml Apartments, noting that creating the zone would provide Mr. Treml additional leverage so that the inoperable vehicles would be removed from the area. Mr. Morgan noted that the cars are also parked in the pedestrian path, causing pedestrians to walk in the travel lane.

The motion passed unanimously by the following vote:

AYES: Orcutt, Hart, Koho, McGee, Newton, Van Meter (6)
NAYS: None (0)
ABSENT: Miller

OTHER BUSINESS
Extension of Keizer Heritage Foundation Agreement

Councilor Koho pointed out that action needs to be taken on the extension for the Keizer Heritage Foundation's agreement. Mr. Morgan stated that there needs to be a new agreement because there are many loopholes in the existing agreement and suggested that the agreement last for one year, until November 15, 1992.

Councilor Koho moved that the agreement between the City of Keizer and Keizer Heritage Foundation be extended to January 15, 1992 in anticipation of a new agreement being presented to the City Council at that time. The motion was seconded by Councilor Van Meter.

Responding to a question from Councilor Van Meter, Mr. Morgan stated that the Springer's will not be involved, because they were not able to develop a day care center. He noted that the Springer's were very willing, prior to tonight's action, in developing the park and stated that they have already levelled the land at Fernwood Park. Councilor Koho suggested that the property could be condemned and the City may want to review this option.

The motion passed unanimously by the following vote:

AYES: Orcutt, Hart, Koho, McGee, Newton, Van Meter (6)
NAYS: None (0)
ABSENT: Miller

Councilor Newton pointed out that the process with regard to Fernwood Park has been completed. Mayor Orcutt stated that he regrets the park could not be developed, however everyone played by the rules. Councilor McGee agreed with Mayor Orcutt, stating that in the future the property owners would have to initiate the vacation process, not the City. He feels that there just needs to be a little more time. Councilor Koho agreed that the issue needs to rest for a time, but noted that the vacation process was the path of least resistance and other options should be looked at in the future.

Councilor Van Meter noted that the City has only half the amount of parks it should have for its size. He stated that it was his impression that the businesses in School House

Square came to the location because they believed there would be a day care center. He would not like to see that location vacant because there was not enough customers for the location. Councilor Newton reiterated that the issue should be laid to rest until the neighbors of Fernwood Park are ready.

Councilor Van Meter moved that the City Council be provided with information related to condemning the property. The motion was seconded by Councilor Koho. The motion failed by the following vote:

AYES: Koho, Van Meter (2)
NAYS: Orcutt, Hart, McGee, Newton (4)
ABSENT: Miller

There was a discussion concerning the bike path on Wheatland Road. Mr. Otterman stated that Marion County accidentally added 400 feet to the length of the bike path, so rather than removing the preparation work the additional length was completed. The City is negotiating with Marion County on the error.

Councilor Newton stated that he has discussed the issue of the students which are creating a nuisance on Newburg Road with the school. He will be meeting initially with the school to see if another entrance to the high school has been reviewed. Councilor Newton noted that he would like to revisit the decision on the use of funds from seized property on drug cases as it relates to how the monies are included in the budget process.

Mayor Orcutt requested that a volunteer who would like to serve on the Planning Board which determines where the funds for the Salem Keizer Outreach Program are allocated please contact him. He noted that the meetings are held on the second and fourth Thursday of the month at 3:00 p.m. There was a consensus from the City Council that the Friday morning breakfast meetings continue. Mayor Orcutt stated that he would schedule additional meetings.

AGENDA INPUT

Mr. Otterman requested that the November 18, 1991 Council Meeting begin at 6:30 p.m. because of the Urban Renewal Agency meeting. Also, Mr. Otterman requested the addition of the review of the City Council's goals to the agenda. Councilor Koho requested that the Council review whether an urban renewal board of directors should be created, separate from the City Council, but with City Council representation.

ADJOURNMENT

Mayor Orcutt adjourned the meeting at 9:50 p.m.

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Roxie McGrath, Recording Secretary

APPROVED:

MAYOR

(COUNCILOR MILLER ABSENT)