MINUTES
KEIZER URBAN RENEWAL AGENCY
Wednesday, November 3, 2003
Keizer City Hall
Robert L. Simon Council Chambers
Keizer, Oregon

CALL TO ORDER

Chair Christopher called the meeting to order at 6:15 p.m. Roll Call was taken as follows:

Present:
Lore Christopher, Chair
Charles E. Lee
Jim Taylor
Jacque Moir
Judy Smith
Richard Walsh
Michel Gaynor

Staff:
Nate Brown, Community Development Director
Shannon Johnson, City Attorney
Rob Kissler, Public Works
Marc Adams, Chief of Police
Chris Eppley, City Manager
Tracy Davis, City Recorder

PUBLIC TESTIMONY

None

ADMINISTRATIVE ACTION
a. Approving Property Improvement Grant for 120 Chemawa Road N, Keizer

Community Development Director Nate Brown, addressed the Agency regarding the Frontage Improvement Grant submitted by Rob Titus of Keizer Outdoor Power and Equipment, located at 120 Chemawa Road North. He reported that after evaluation, staff recommended the approval of a grant for landscaping design and sidewalk installation costs to the Keizer Urban Renewal Board. It was unanimously approved by said board and is now being presented to the Agency for approval.

<u>Jacque Moir moved to approve the Property Improvement Grant for 120 Chemawa Road North in the amount of $7,097 with the Conditions Outlined in Staff Report. Jim Taylor seconded.</u>

FMAGIC

The motion passed unanimously as follows:

AYES: Christopher, Moir, Smith, Taylor, Walsh, Gaynor and Lee (7)
NAYS: None (0)
ABSTENTIONS: None (0)
ABSENT: None (0)

b. RESOLUTION – Authorizing Mayor to Enter Development Disposition Agreement with Northwest National LLC

City Manager Chris Eppley reported that nine issues regarding the DDA had been addressed in Executive Session and all but one had been resolved. He invited representatives of Northwest National LLC to come forward to discuss the issue of "Exclusive Remedy" and the ability to declare default if the timeline is not met within the DDA. The Agency has agreed to accept this as long as the determining standard is the professionalism and good faith attempt to complete the project in a timely manner and not items beyond control. Mr. Eppley distributed a document prepared by Alan Roodhouse for reference.

As a review, City Attorney Shannon Johnson pointed out that if any three of the seven elements are not completed on time, it becomes a non-exclusive remedy and the City has the option of any of the remedies including termination. The developer's concern is that there might be something totally out of their control that causes a delay, and that should not bring about termination of the agreement. Mr. Eppley noted that the developer seems to find the 3 out of 7 acceptable as long as the breaches are because of the developer's performance and not due to issues beyond their control.

Alan Roodhouse stated that this issue could make the project impossible to finance. He continued that a lender looking at this document would focus on the fact that a set of circumstances over which there is no control could cause dispossession of rights for the developer, and in response, the lender would withhold funds. Mr. Roodhouse continued that the "3 our of 7" issue was not necessary. He noted that if just one of the deadlines is missed, then a default can be declared.

Mr. Eppley noted that he knew this was an important issue to the Agency and he had tried to craft with Mr. Roodhouse a compromise position that still gives the Agency the ability to use exclusive remedy, but guarantees the developer that it will only be used if the developer is at fault.

Chuck Lee noted that he felt the compromise language is powerful and exactly what was needed, and the tone of the agreement lives up to the spirit of what was trying to be achieved. He urged that the Agency move on.

Richard Walsh noted that the language of obligation of due diligence and good faith is implied by law and automatic in any contract. He continued that the wording specifies that the lack of good faith must be an established fact before the Agency can elect to declare whether or not it is a breach.

Mr. Roodhouse stated that the standard is not due diligence in good faith. The standard is "due diligence in good faith efforts at all times employing efforts and meeting professional shopping center development standards as routinely practiced by major developers belonging to the ICSC." This language holds developers to a high standard under the industry. The key is the standard of professionalism that is being brought to the table.

Mr. Eppley suggested that if this compromise language is acceptable, the Agency should move to agree with this concept and go forth putting it into the document and have it ready on Wednesday at 1:30 for final approval and signings.

Jacque Moir moved that the Agency accept the language presented by Alan Roodhouse to section 602 of the DDA and move forward with that process. Jim Taylor seconded the Motion.

The motion passed unanimously as follows:

AYES: Christopher, Moir, Smith, Taylor, Walsh, Gaynor and Lee (7)
NAYS: None (0)
ABSTENTIONS: None (0)
ABSENT: None (0)

Chair Christopher read an e-mail from Jill Bruce regarding condemnation and the repurchasing of property. Specifically the wording "If the developer fails to develop a piece or portion of a property that we have condemned, then the developer will be precluded thereafter from developing any such property that is repurchased by the original property owner."

Mr. Roodhouse assured the Agency that he was not uncomfortable with this issue, noting that the plan is to have the project complete in 10 years.

ADJOURNMENT

The meeting was adjourned at 7:02 p.m.

APPROVED:

Lore Christopher, Chair

Tracy L. Davis, CMC – City Recorder

AGENCY MEMBERS

Michel Gaynor

Charles E. Lee

Jim Taylor

Jacque Moir

Judy Smith

Richard Walsh

Minutes approved:

January 20, 2004