

CITY OF KEIZER MISSION STATEMENT
**KEEP CITY GOVERNMENT COSTS AND SERVICES TO A MINIMUM BY PROVIDING CITY
SERVICES TO THE COMMUNITY IN A COORDINATED, EFFICIENT AND LEAST COST FASHION**

A G E N D A

KEIZER CITY COUNCIL

Monday, November 3, 1997

7:00 p.m.

**Robert L. Simon Council Chambers
Keizer City Hall, Keizer, Oregon 97303**

1. CALL TO ORDER

2. ROLL CALL

3. PUBLIC TESTIMONY

This time is provided for citizens to address the Council on matters not scheduled for public hearing or listed on the agenda.

4. COMMITTEE REPORTS

- a. Claggett Creek Task Force Report - Gary Miller
- b. Planning Commission Appointment
- c. Budget Committee Appointments
- d. Council Liaison Reports
 - Traffic Safety Commission - Mayor Koho
 - Volunteer Coordinating Committee - Councilor McGee

5. OTHER BUSINESS

This time is provided to allow the Mayor, Council members or staff an opportunity to bring new or old matters before the Council which are not on tonight's agenda.

- a. New Business
- b. Old Business Report
 - Audit Report
 - Cherry Avenue Update

6. PUBLIC HEARINGS

- a. ORDINANCE - Conditional Use Appeal Case No. 97-04 - Derek L. Brown & Associates (continued for written testimony only from October 20, 1997)

7. **ADMINISTRATIVE ACTION**

- a. **ORDINANCE** - Amendment to Zoning Ordinance to Add Conditional Use for Child Foster Homes for up to Ten Children (continued from October 6, 1997)
- b. **RESOLUTION** - Ratifying a Hazard Mitigation Grant Contract for Construction of River Road Bridge
- c. City Manager Recruitment
- d. **RESOLUTION** - Recognition of the City's 15th Birthday

8. **CONSENT CALENDAR**

- a. **RESOLUTION** - Recognizing Keizer Neighborhood Association Group
- b. Approval of September 2, 1997 Regular Session Minutes
- c. Approval of September 15, 1997 Regular Session Minutes

9. **WRITTEN COMMUNICATIONS**

To inform the Council of significant written communications and petitions.

10. **AGENDA INPUT**

NOVEMBER 17, 1997

6:00 p.m. Urban Renewal Agency Meeting

- Approval of Name Change - Keizer Urban Renewal Board
- Banner Program
- River/Chemawa Road Study
- 1997/98 Goals

7:00 p.m. City Council Meeting

- Ordinance - Bonneville Street Vacation
- Salem Transportation System Plan
- Clear Lake Neighborhood Association Annual Report
- Water Curtailment Plan
- Water Reservoir - Keizer Little League Park

DECEMBER 1, 1997

7:00 p.m. City Council Meeting

- Hotel/Motel Tax Public Hearing

11. **ADJOURN**

Upon request, auxiliary aids and/or special services will be provided. To request services, please contact us at 388-3700 or through Oregon Relay 1-800-735-2900 at least two working days (48 hours) in advance.



November 3, 1997

AGENDA ITEM 4a

CLAGGETT CREEK TASK FORCE REPORT

CITY COUNCIL MEETING: November 3, 1997

AGENDA ITEM NUMBER: 4a

TO: MAYOR KOHO AND CITY COUNCIL MEMBERS

THROUGH: WALLY MULL
CITY MANAGER

FROM: TRACY L. DAVIS 
CITY RECORDER

SUBJECT: CLAGGETT CREEK TASK FORCE REPORT

ISSUE:

Gary Miller, member of the task force, requested time on the agenda to give a brief presentation on behalf of the Claggett Creek Task Force.



November 3, 1997

AGENDA ITEM 4b

PLANNING COMMISSION APPOINTMENT

CITY COUNCIL MEETING: November 3, 1997

AGENDA ITEM NUMBER: 4b

TO: MAYOR KOHO AND CITY COUNCIL MEMBERS

**THROUGH: WALLY MULL
CITY MANAGER**

**FROM: TRACY L. DAVIS 
CITY RECORDER**

SUBJECT: KEIZER PLANNING COMMISSION APPOINTMENT

ISSUE:

On September 30, 1997 the term of Elaine Smith expired on the Keizer Planning Commission. Ms. Smith is eligible and also indicated her desire to serve another term on the Commission. Presently, Ms. Smith is serving as Chair of the Commission. At the October 21, 1997 Volunteer Coordinating Committee meeting, a vote was taken and it was unanimously recommended to reappoint Ms. Smith to another three-year term on the Commission. Her term will expire on September 30, 2000.

RECOMMENDATION:

It is recommended the City Council accept the recommendation of the Volunteer Coordinating Committee and reappoint Elaine Smith to another three-year term on the Keizer Planning Commission.



November 3, 1997

AGENDA ITEM 4C

BUDGET COMMITTEE APPOINTMENTS

CITY COUNCIL MEETING: November 3, 1997

AGENDA ITEM NUMBER: 4c

TO: MAYOR KOHO AND CITY COUNCIL MEMBERS

THROUGH: WALLY MULL
CITY MANAGER

FROM: TRACY L. DAVIS
CITY RECORDER 

SUBJECT: KEIZER BUDGET COMMITTEE APPOINTMENTS

ISSUE:

On August 31, 1997 the terms of Ted Anagnos and Jim Nightengale expired on the Keizer Budget Committee. Both gentleman have indicated their desire to serve another term on the Committee. At the October 21, 1997 Volunteer Coordinating Committee meeting, a vote was taken and it was unanimously recommended to reappoint Mr. Anagnos and Mr. Nightengale to another three-year term on the Committee. These terms will expire on August 31, 2000.

RECOMMENDATION:

It is recommended the City Council accept the recommendation of the Volunteer Coordinating Committee and reappoint Ted Anagnos and Jim Nightengale to serve an additional three-year term on the Keizer Budget Committee.



November 3, 1997

AGENDA ITEM 5b

OLD BUSINESS REPORT

City Council Meeting: November 3, 1997

Agenda Item: 5b

TO: Mayor Koho and City Council Members

SUBJECT: Old Business Report

- **Audit Report**
- **Cherry Avenue Update**

**Audit Report
(Susan Gahlsdorf - Finance Director)**

The financial audit for fiscal year July 1, 1996 through June 30, 1997 is scheduled to begin early in November. Staff is currently working on lead schedules and reports in preparation of this audit. Additionally, the terms of the Audit Committee members have expired and appointments by the Mayor are necessary.

**Cherry Avenue Update
(John Morgan - Community Development Director)**

The Cherry Avenue Project is underway. Salem Electric broke ground on the undergrounding element of the project the week of October 20th. The ODOT Right-of-Way staff, under contract to the City, has begun acquisition of the necessary right-of-way for the construction. Attached to this report is a copy of the letter and flyer mailed to each property owner and hand delivered to each home and business establishment. Actual street construction is anticipated to begin in mid-summer 1998.

Note: If you have a matter that you would like to see under an old business report, please contact one of the members of the Council Management Committee to forward to the appropriate department.

October 23, 1997



930 Chemawa Rd. N.E.
P.O. Box 21000
Keizer, Oregon 97307-1000

Dear Cherry Avenue Property Owner or Resident:

The City of Keizer is ready to begin with the next major phase of the work of the North River Road Economic Development District. This work is the implementation of the Cherry Avenue Design Plan through the major redevelopment of the Cherry Avenue corridor. The project will involve improving Cherry with two travel lanes, and adding a center turn lane, bike lanes, planting strips, and sidewalks. The project will also include placing all overhead wiring underground.

We expect to move all overhead power lines to underground starting within the next few days. We will start at the south city limits and work north to Manbrin Drive. We have been working closely with Nick Redding of Salem Electric in planning and designing this project.

Moving overhead power to underground means that we will be installing an underground conduit system on the east side of Cherry Avenue, putting new power lines in the conduit, connecting all services to the new lines, and removing all the poles and overhead wiring.

We anticipate this project will not interfere nor inconvenience you or your business. John Morgan, Keizer Community Development Director (390-3700), Nick Redding (362-3601), or I (390-7402) will be available to answer any questions you may have about the undergrounding of overhead wires, or the entire Cherry Avenue project.

Thank you for your cooperation.

Sincerely,

R. D. Watilo
Project Manager

cc: John N. Morgan, Community Development Director
Nick Redding, Salem Electric

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Administration
Public Works
Community Development
Municipal Court
Phone 503.390.3700
Fax 503.393.9437
Police (business only)
Phone 503.390.3713
Fax 503.390.8295
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Property Owner Update – October 1997

The Cherry Avenue Corridor Improvement Project

Construction will soon begin on the first phase of the Cherry Avenue Corridor Improvement Project. This is the phase placing all overhead wiring along Cherry Avenue underground. Subsequent phases will make sewer and water line improvements; widen Cherry Avenue with two travel lanes, a turn lane, bike lanes, landscaping strips, and sidewalks; and add new street lights. This work will result in greater safety, reduced congestion, a greatly improved view along the corridor, and making the Cherry Avenue Corridor a more desirable place to live and do business. The project is planned to be completed by mid-1999.

The "Underground" project is all within the Salem Electric service area. It will include all wiring along Cherry from Manbrin to Plymouth. Construction will begin in mid-October and be completed within 18 months.

The construction has four parts. First, conduit will be placed in a trench dug on the east side of Cherry Avenue. This will be complete by next spring. Second, starting next summer, the new wiring will be pulled through the conduit. This will include the power lines, and phone and TV cable lines where appropriate. Third, buildings will be converted from overhead power drops to new underground service lines. Fourth, the overhead wiring and utility poles will be removed. The work will be done in conjunction with the street and sidewalk improvements.

Several property owners will be asked to provide small easements to the utility company to allow the placement of above ground cabinets for transformers and other equipment. The process of contacting these owners is underway now.

The intent of the Keizer Urban Renewal Agency is that there will be no expense to the property owner. The Agency will pay for all costs up to the electric meter. It will involve digging a small trench across each property to be converted for the underground conduit. This will be coordinated with the property owner.

Work on the trench will occupy a construction zone about 300 feet in length. This zone will move about 200 to 300 feet each day. Work will start at the south and move north. It is expected that some driveways will have to be closed for short periods of time. There will be no significant work blocking driveways as the wire is pulled and buildings hooked up to the new system.

Every merchant will be visited by the Construction Manager to inform them of the schedule and how it may impact their business. Every effort will be made to minimize any disruption.

Merchants are encouraged to contact the Agency with any questions, comments, problems, or ideas. Contact the Construction Manager, Bob Watilo of Peterson Engineering, with design or construction questions. Bob's number is 390-7402. Call John Morgan, Community Development Director, with general questions about the Cherry Avenue Corridor Improvement Program. John's phone number is 390-3700.





November 3, 1997

AGENDA ITEM 6a

ORDINANCE - CONDITIONAL USE APPEAL
DEREK BROWN AND ASSOCIATES

Council Meeting: November 3, 1997

Agenda Item: 6a

TO: MAYOR KOHO AND CITY COUNCIL

FROM: E. SHANNON JOHNSON, CITY ATTORNEY *ESJ*

THROUGH: WALLY MULL, CITY MANAGER

SUBJECT: Derek L. Brown Conditional Use Permit Case No. 97-04

OCTOBER 30, 1997

The City Council held the record open for seven days from the last meeting for the submission of written testimony. Any testimony received in that period is enclosed.

Because the 120 deadline for issuing land use decisions (plus the allowed extensions) will expire shortly, I have enclosed a draft order for your consideration at tonight's meeting. The draft Order included conditions of approval that staff feels are appropriate (please see staff report from City Engineer). At the time of this report, we have not confirmed that the conditions are acceptable to both the applicant and the appellant, though we have more information on that matter at the council meeting.

Please let me know if you have any questions in this regard. Thank you.



930 Chemawa Rd. N.E.
P.O. Box 21000
Keizer, Oregon 97307-1000

DATE: OCTOBER 30, 1997
TO: MAYOR AND CITY COUNCIL
FROM: DEPARTMENT OF PUBLIC WORKS
THROUGH: CITY MANAGER *[Signature]*
SUBJECT: APPEAL OF CONDITIONAL USE CASE NO. 97-04
Derek Brown - 7700 Block of Timothy Lane

The City Council has requested information from the Public Works Department to review in making the decision on the appeal of the above referenced conditional use. The four items of concern to the Public Works Department are: Storm Drainage, Access, Fencing, and Landscaping.

The Public Works Department met with representatives of the applicant and the appellant at the site on Friday, October 24, 1997. Mr. Carl Alleman was present and indicated that he was the spokesman for property owners along Timothy Lane.

1. Storm Drainage - Mr. Alleman indicated where the drainage concerns were and how the drainage functioned during the heavy rains in early October. Enclosed is a plan prepared by Multi-Tech Engineering that addresses the drainage issues. The plan provides for a drainage swale along the south property line of the subject property and along the west line of Mr. Alleman's property. In addition the plan provides for a storm drain line to extend to the East side of Timothy Lane to an existing low that collects water during the rainy periods. Future development to the south of Mr. Alleman's property will be required to stub a public storm drain line to provide for future development of Mr. Alleman's property.

The Public Works Department feels that the proposed plan is sufficient to provide for the present storm drainage requirements as well as provide for future development in the area. (A copy of the "North Keizer Area Master Drainage Plan" is enclosed.) Developments previously approved by the city have requirements that storm drain lines be stubbed towards the west that will ultimately provide additional storm drainage for the areas between Timothy Lane and O'Neil Road.

2. Access - The plan prepared by Multi-Tech Engineering shows a loop street within the proposed mobile home park. Vehicular access from the park to Timothy Lane will not be allowed. The plan requires a six foot chain link fence to be installed between the mobile home park street and Timothy Lane.

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Administration
Public Works
Community Development
Municipal Court
Phone 503.390.3700
Fax 503.393.9437
Police (business only)
Phone 503.390.3713
Fax 503.390.8295
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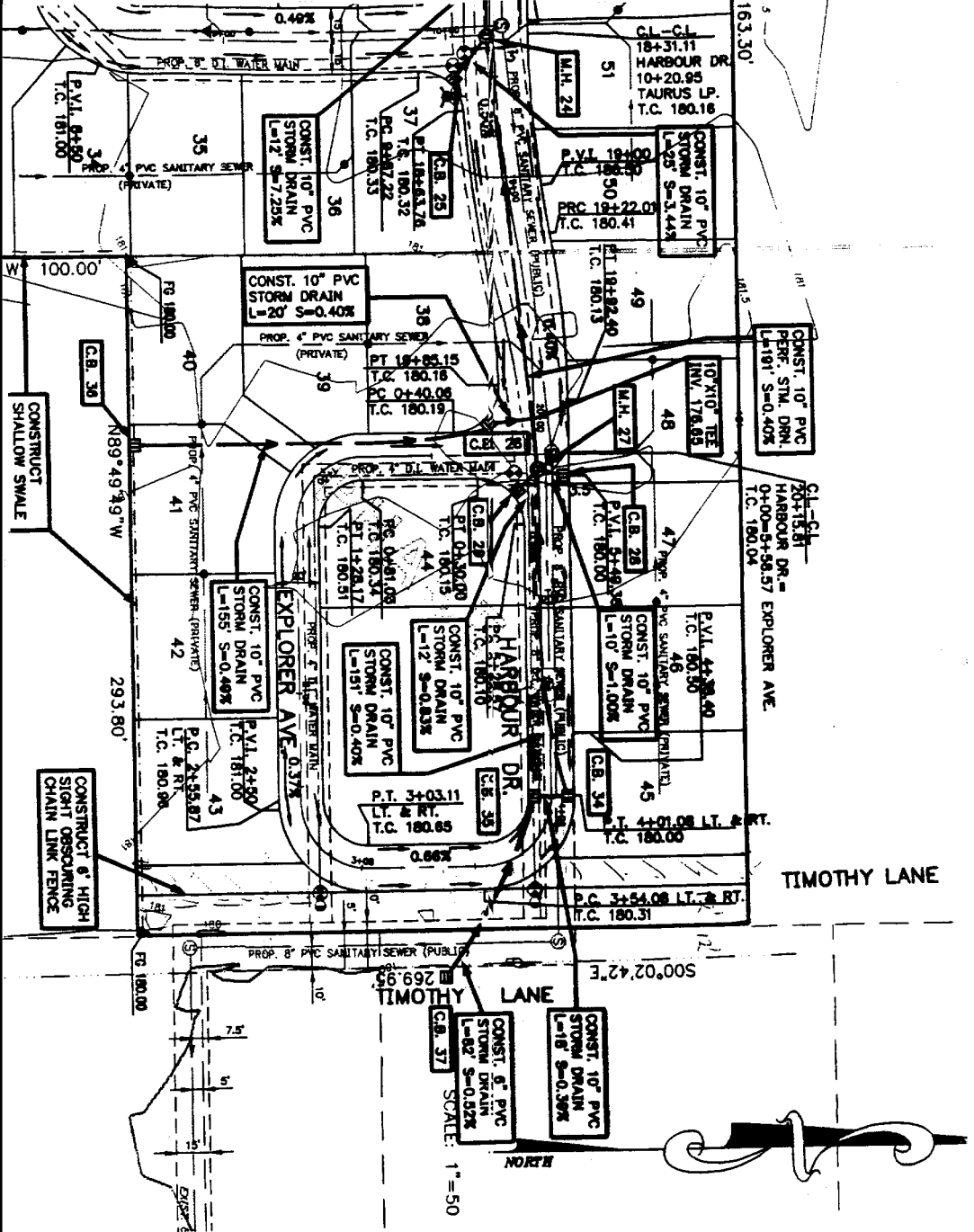
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3. Fencing - The plan indicates a fence to be installed along the entire easterly portion of the proposed mobile home park. The fence will be required to be a six foot high chain link fence with vinyl slats installed.

4. Landscaping - The plan does not indicate landscaping. Enclosed is a landscaping plan that provides for landscaping within the proposed new street right of way for Timothy Lane which also leaves room for the existing 12.5 foot roadway easement. Maintenance of landscaping within a public right of way is the responsibility of the fronting property owner. It is recommended that the conditional use findings require that the maintenance of the landscaping be the responsibility of the owner of the mobile home park.

RECOMMENDATION:

The Public Works Department recommends that the four items referred to above and indicated on the attached plan be included as requirements for approval of the Conditional Use.



1 CITY COUNCIL, CITY OF KEIZER, STATE OF OREGON

2 ORDER

3 IN THE MATTER OF THE APPLICATION OF DEREK BROWN
4 ASSOCIATES FOR CONDITIONAL USE PERMIT TO CREATE A
5 MANUFACTURED HOME PARK IN THE VICINITY OF THE 7700 BLOCK OF
6 TIMOTHY LANE NE (CONDITIONAL USE CASE NO. 97-04)

7 The City of Keizer orders as follows:

8 Section 1. THE APPLICATION. This matter comes before the Keizer City
9 Council on the appeals by both the applicant, Derek L. Brown and Associates, Inc./
10 Berkshire L.L.C., and neighboring property owner, Carl Alleman, from the Hearings
11 Officer's decision dated September 30, 1997. The Hearings Officer denied the
12 conditional use permit for a 13 space mobile home park located on a 1.63 acre parcel in
13 the 7700 block of Timothy Lane. (Township 6 South, Range 3 West, Section 23 DB, Tax
14 Lots 2000, 1200, 1100 and 1000).

15 Section 2. JURISDICTION. The land in question in this Order is within the city
16 limits of the City of Keizer. The City Council is the governing body for the City of
17 Keizer. As the governing body, the City Council has the authority to make final land use
18 decisions concerning land within the city limits of the City of Keizer.

19 Section 3. PUBLIC HEARING. In addition to the public hearings held before the
20 Hearings Officer, public hearings were held before the Keizer City Council on October
21 20, 1997. The following persons either appeared at the October 20, 1997 hearing or
22 provided written testimony on the application before the Council:

23 1) John Morgan, Community Development Director;

24 2) Mark Grenz, Applicant's Representative;

25 3) Ken Dawson, neighbor;

26 4) Norman Hill, Appellant's Attorney.

27 Section 4. EVIDENCE. Evidence before the City Council in this matter is
28 summarized in Exhibit "A" attached.

29 Section 5. OBJECTIONS. No objections have been raised to notice, alleged

1 conflicts of interest, bias, evidence presented or testimony taken at the hearing.

2 Section 6. CRITERIA AND STANDARDS. The criteria and standards relevant to
3 the decisions in this matter are set forth in Exhibit "B" attached.

4 Section 7. FACTS. The facts before the City Council in this matter are set forth
5 in Exhibit "C" attached.

6 Section 8. JUSTIFICATION. Justification for the City Council's decision in this
7 matter is explained in Exhibit "D" attached.

8 Section 9. ACTION. The decision of the City Council is set forth in Exhibit "E"
9 attached.

10 Section 10. FINAL DETERMINATION. This Order is the final determination in
11 this matter.

12 Section 11. EFFECTIVE DATE. This Order shall take effect immediately upon
13 its passage.

14 Section 12. APPEAL. A party aggrieved by the final determination in a
15 proceeding for a discretionary permit or a zone change may have it reviewed under ORS.
16 197.830 to ORS 197.834.

17 PASSED this ____ day of _____, 1997.

18 SIGNED this ____ day of _____, 1997.

19 _____
20 Mayor

21 _____
22 City Recorder

EXHIBIT "A"

Evidence

Official notice has been taken of the Planning Department files and reports in this matter, including the application and exhibits contained therein.

Mayor Koho opened the hearing on Conditional Use Case No. 97-04 on October 20, 1997.

Shannon Johnson, City Attorney announced the applicable criteria for this case is cited in the Keizer Zoning Ordinance sections 8.30, 8.20, 36.03 and 18.09(a). He inquired of any objections to the waiving the reading of these sections of the criteria. Being none, the reading of the applicable criteria was waived. Mr. Johnson reviewed the procedures that will be followed for this hearing. Furthermore there were not any defective notice or conflict of interest issues raised.

John Morgan, Community Development Director reported this is a complex land use case that involves the appeal of the Zoning Administrator's original approval of a conditional use application, the Hearings Officer sustaining the appeal thereby denying the application, and both the applicant and the opponents appealing the case to the City Council. He indicated this is a conditional use to create a 13 space manufactured home park within the UT (Urban Transitional) zone on property located between Wheatland and O'Neill Roads at the south end of Timothy Lane. Indicating this development on a map of the area, Mr. Morgan stated this park is an expansion of a 90-space park previously approved and now under construction.

Mr. Morgan reviewed the Hearings Officer's decision which found the applicants met the burden of proving the criteria was met in all cases, except one. The Hearings Officer rejected all appellant's arguments, but found that the applicant had not shown there was adequate fire flow to serve this development. This was the basis for the denial of the application, and thus the appeal by the applicant. In addition, an appeal was filed by the opponent based on the Hearings Officer erring in finding that the other points raised at the hearing were without merit.

Mr. Morgan advised the Council there have been three items submitted for the record this evening; a letter with photo exhibits by Mr. and Mrs. Alleman who are in opposition of

this matter, an analysis from Multi-Tech Engineering on behalf of the applicant reviewing the criteria and rebuttal and a letter from Joel Stein of the Keizer Fire District.

Mr. Morgan believed the criteria have been met for approval of this conditional use. He requested the hearing be opened, testimony received, and direction be provided to staff for preparation of an order to be considered on November 3, 1997. In addition, he requested the hearing remain open to allow additional written testimony to be entered into the record.

Addressing an issue raised in the memorandum submitted by Shannon Johnson, City Attorney, Mayor Koho requested a determination of whether this hearing should be held de novo. The Council determined the case would be heard de novo.

Mayor Koho reviewed the procedure for the hearing and announced all time limits will be enforced.

Presenting testimony to the Council were:

Mark Grenz, Multi-Tech Engineering, 1155 13th Street SE, Salem, Oregon 97302 indicated he is representing the applicant, Derek Brown and Associates who are developing the Berkshire Mobile Home Park. He pointed out this is the second phase of a manufactured home park located within the UT (Urban Transitional) zone. The first phase, which includes 90 spaces, is presently under construction. This application for a second phase that includes 13 spaces, in which one space contains an existing residence.

Mr. Grenz submitted a memorandum addressing the criteria as set forth in chapter 8, chapter 23 and chapter 36 of the Keizer Zoning Ordinance. This packet also contains a copy of the site plan, information regarding drainage, and a letter addressed to Mr. Joel Stein of the Keizer Fire District.

In summarizing this packet of information, Mr. Grenz pointed out the conditional use criteria for the UT (Urban Transitional) zone is addressed as follows:

- The use will not increase traffic beyond the capacity of the existing roads. The access to this development will be to Wheatland Road, a collector street not Timothy Lane. Therefore no impact will be generated from this development.
- The site plan shows there will not be any significant unused portion of the property. All the property which is presently owned will be developed by the applicant.

- The development will utilize existing or extended urban services in the area. Water services will be extended from Wheatland Road. This project is part of the Northwest Keizer Drainage Basin and development of a new storm drain facility from Clear Lake to this upper area is currently under construction.
- This use meets all the criteria spelled out in the RS zone, which is the most restrictive zone allowed under the Comp Plan designation.

Continuing with the information packet, Mr. Grenz addressed the conditional use criteria as listed in section 8.30 of the Keizer Zoning Ordinance:

- The use is listed as a conditional use in the UT (Urban Transitional) zone.
- The parcel is suitable for the proposed use as shown in the site plan attached to the information packet.
- The proposed use will not materially alter the character of the surrounding area because the development of this site as a manufactured home park has not prohibited the development of surrounding properties. Currently surrounding properties are being developed that include a 32 lot single family development on the north boundary of phase one, a 57 lot single family project on southern portion of phase one, and a proposed 52 lot development to the south. Each of these developers were aware of the plans for the manufactured home park and none are being negatively affected.
- There will not be any impacts on existing solar or wind energy systems.
- In regards to public facilities, streets will not be impacted with access only to Wheatland Road. An eight-inch sanitary sewer line has been constructed through this site and extended to the west, which is capable of servicing 40 acres. Water service will be received from the new system recently completed within the Bower Place subdivision, Pinehurst Estates, and Berkshire Phase One. This will provide adequate fire flows to the area. The drainage system presently being constructed and the construction of a detention basin on site, will adequately address any drainage issues.

In conclusion, Mr. Grenz indicated the information packet addresses the compliance with section 14.30 of the Keizer Zoning Ordinance relating to low density mobile home parks, the issue of a lot line adjustment, and a soil information report referring to the lack of wetland in the area.

In response to a question from Councilor Beach, Mr. Grenz explained Keizer Fire District and Marion County Fire District One require all residential developments to have a minimum of 1000 gallons per minute fire flow. When this amount is delivered, the residual pressure remaining on the hydrant should be no less than 20 pounds per square inch. Mr. Grenz pointed out the pressure in normal cases ranges from 40 to 50 pounds per square inch. Based upon calculations derived from the Keizer Fire District and future water line additions, Mr. Grenz believes there will be adequate fire flow for this area.

Norm Hill, Attorney at Law, 1114 12th Street SE, Salem, Oregon 97302, indicated he is the attorney representing the opponents and in this conditional use appeal, there are a few critical issues the residents of Timothy Lane would like to have addressed. Mr. Hill pointed out the existing neighborhood has accepted this area is changing and will be developed, however they are concerned their properties will suffer serious adverse consequences. The issues of concern are access, storm drainage, need of lot line adjustments, and the impact to the land.

Mr. Hill noted the residents believe Timothy Lane cannot provide for additional traffic and therefore were pleased to hear the access will be on Wheatland Road.

Mr. Hill pointed out that with all of the development in this area, the residents are worried about the decrease in the storm drainage capacity. They would like some assurances that new development will not cause them to become the retention area for the over flow of drainage. The hearings officer decision, even though it denied the conditional use, noted that chapter 14 of the Keizer Zoning Ordinance (manufactured home parks), does not apply to this conditional use application. Mr. Hill stated this section specifically points out storm drainage for manufactured home parks must be sufficient to handle the water that is generated up stream. The residents believe the drainage pattern moves westerly and lingers on this potential site. This problem is compounded if this area is raised and causes the water to move to their properties. Mr. Hill concluded this area will not become a manufactured home subdivision but a manufactured home park, which will not be rezoned as single family residential. Therefore all of the chapter 14 requirements will not apply. He requested the City should include a condition to require the developer to comply with all of the drainage issues as outlined in chapter 14.

Mr. Hill explained this development is occurring on three parcels, originally owned by Mr. Woods, which have remained separate and distinct parcels. He believed a formal land use process should be initiated to create one single parcel removing the lot lines.

Mr. Hill envisioned potential legal problems in relation to separate parcels and density requirements.

The final issue of concern is the impact on the land itself. Mr. Hill believed the criteria outlined as outlined in chapter 8, must find that the conditional use will not materially alter the neighborhood. He perceives this development will impact the neighborhood. Mr. Hill supported the suggested staff conditions in regards to creating a buffer between this development and the neighborhood should be strengthened to surround the entire perimeter. There is room to create this buffer using the City's right of way area.

Mr. Hill requested the record remain open for seven (7) days to respond to the testimony submitted by the applicant. In addition, he requested all evidence and arguments presented during the previous hearing before the hearings officer be entered into the record at this time.

In response to a question from Councilor Keller, Mr. Hill believes by allowing the parcels to remain separate and distinct, it could cause legal issues for the property owners as well as the residents of the manufactured home park. The lots should be combined through a land use process to make it one large single parcel.

Mr. Hill reiterated the storm drainage issues must be addressed to assure the residents there will not be future impacts. The plans submitted by Mr. Grenz only address this conditional use application and do not indicate what the other potential changes in the land will bring forth in regards to drainage. By bringing in fill to this development, the storm water may remain on the existing properties. Mr. Hill noted the house that will remain on the property has been known to have flooding problems over the years.

Ken Dawson, 7890 Timothy Lane, Keizer indicated he has lived in this area for ten years and he is very concerned with the access and drainage problems this development might deliver. He noted the water pools around Timothy Lane therefore disagreeing with the assumption the water drains away from Timothy Lane.

Mr. Dawson also expressed his concern that the trunk lines for sewer and water are bypassing Timothy Lane which may cause increased costs for connection in the future. He has no desire to develop his property at this time, however these costs are a future concern. Mr. Dawson also expressed his concern that a manufactured home park might decrease the value of his property and cause an effect on his lifestyle.

In rebuttal, Mark Grenz understood the public works staff would thoroughly review the adequacy of the storm drainage system irregardless of whether chapter 14 applied or not.

He acknowledges this is a significant issue and will develop a storm drainage system that works best for this development and surrounding area. Mr. Grenz has researched the elevation and topography of the area in order to create this storm drainage plan. Furthermore, Mr. Grenz stated the developer is planning on constructing a fence and providing landscaping which will create a visual buffer between the residents and the development.

In regards to the lot line adjustment, Mr. Grenz referred to section 17.01 of the Keizer Zoning Ordinance which requires the intended structure to be located on an individual lot, which a manufactured home park may be considered a single structure on a single parcel. In addition, the section goes on to note that a structure may be placed on two or more lots under single ownership, as is the situation in this case, and will be considered as a single lot under this ordinance. Based upon this, Mr. Grenz does not feel it is necessary to initiate a land use process to combine the three parcels as requested by Mr. Hill.

Responding to a scenario suggested by Mayor Koho, Mr. Grenz noted the developer is not opposed to proceeding with the lot line adjustment, it is just another step that he feels is not necessary. However, if the staff imposed this as a condition of approval, the developer would comply.

Mr. Grenz explained based upon his investigation and research on the elevations of the area, all information points to the drainage running away from the site. However, if the public works staff deems this is incorrect, the developer will revise the plan and bring the drain line to the end of Timothy Lane. Mr. Grenz believes this will not be necessary but will be willing to comply.

In response to a question from Councilor Beach, Mr. Grenz indicated the remaining residence will be incorporated into the park. It may be a caretaker home or used for other purposes, however it will remain on a space in the park and not be sold separately.

Referring to the storm drainage plan, Mr. Grenz indicated the Alleman property is a part of the drainage plan. The topography in the area indicates the elevations are lower and the water should flow away from Timothy Lane. Again, Mr. Grenz reiterated if public works feels this is not adequate, he will revise the plan to make sure he has not created a plan that will be detrimental to surrounding residents.

Responding to an inquiry by Councilor Whalen, Rob Kissler, Public Works Director indicated the plans submitted by Mr. Grenz will be thoroughly reviewed as is the case in all land use actions. As of this date, Mr. Kissler noted he has not seen the actual plans for this development, however he is comfortable with the Berkshire Estates phase I storm

drainage system. He believes this will be an extension of that plan and should be adequate, however they will be fully reviewed by staff.

Responding to the issues discussed, Norm Hill, voiced his concern that staff has not reviewed the drainage plans to date. He needs assurance this plan is adequate and will not cause problems for the surrounding property owners. Mr. Hill indicated this process is the only area where the citizens can intervene in the planning process to make sure this development does not impact their neighborhood. Therefore, it is essential the Council impose conditions of approval which protect the citizens.

In reference to the lot line adjustment, the issue is in regards to the density requirements not lot ownership. Under section 17.05 of the zoning ordinance it states only one dwelling unit per lot is allowed. By not rezoning or creating a single parcel, this development violates this section. In addition, Mr. Hill is concerned with potential legal issues which may arise if these three parcels are not combined. Now is the time to implement the land use process for this lot combination. Mr. Hill announced he is raising this concern on behalf of the citizens on Timothy Lane and other citizens in Keizer to make sure all conditions are met and this area is developed correctly. He does not believe the developer should be allowed to take a short cut in the process.

Shannon Johnson, City Attorney announced the 120-day limit expires tomorrow, however the applicant has agreed to extend this for 2 weeks. He requested the Council provide direction on preparation of the Order.

Councilor Meier requested Mr. Johnson review the lot line adjustment issue prior to next meeting.

Councilor Keller asked that the storm drainage plan be reviewed by the public works staff prior to the next meeting to assure it is adequate for this area.

In addition, Mayor Koho request the staff review the applicant's fencing and landscaping plans to assure they meet the needs of the opponents.

Mayor Koho announced the record will remain open for seven (7) days for submission of written testimony only.

Mayor Koho continued the hearing until Monday, November 3, 1997 at 7:00 p.m.

The minutes from such meeting are incorporated by this reference.

EXHIBIT “B”

Criteria and Standards

The criteria and standards relevant to this application are found in the Keizer Zoning Ordinance (KZO). The following criteria have been identified as applicable:

1. KZO Section 8.20 and 8.30 (General Conditional Use Authorization and Approval Criteria).
2. KZO Section 36.02 and 36.03 (Specific Conditional Use Approval Criteria for the Urban Transition Zone).
3. KZO Section 18.09(a) (Submission of Site Plans).

Appellants have argued that in addition to the above criteria, KZO Chapters 12 through 20 should be incorporated by reference as additional development criteria. Also, appellants have argued KZO Section 14.30 (Development Standards for Mobile Home Parks) is an appropriate criterion. The City Council rejects Appellants’s argument that such criteria are applicable and specifically adopts the Hearings Officer’s discussion on this topic as its own. Such discussion is incorporated herein as if fully set forth.

EXHIBIT "C"

Facts

FACTS - GENERAL:

1. The applicant is Derek Brown and Associates, Inc./Berkshire L.L.C., (for property owned by Robert and Clarice Woods).
2. The subject 1.63 acres is located on the east side of Wheatland Road and the west side of Timothy Lane NE. The County Assessor identifies the parcel as located within Township 6 South, Range 3 West, Section 23DB, Tax Lot No. 2000, 1200, 1100, and 1000.
3. The property is zoned urban transition (UT) and has access to Wheatland Road which is a public street. The property can be served by public sewer and water.
4. All adjacent property is zoned UT. The dominant land use is large acreage homesites. Subdivision applications were recently approved for the property to the north and south of the previously approved 90 space manufactured home park. When these subdivision plats are recorded, these properties will automatically be re-zoned to Single Family Residential (RS).
5. The applicant is requesting a conditional use permit to create an additional 13 spaces adjacent to a previously approved manufactured home park. The 90 space manufactured home park was approved in March 1997 (Conditional Use /Lot Line Adjustment Case No. 97-01).
6. The property is zoned Urban Transition (UT). This is a holding zone until sufficient services can be provided to serve permitted development. Pursuant to Section 36.02(a), of the Keizer Zoning Ordinance (KZO), a conditional use permit is required to establish any permitted use listed in the most restrictive zone in this zoning ordinance that can be applied in the applicable Comprehensive Plan designation. The approval is also subject to meeting the criteria in Section 36.03(a), (b), (c) and (d).
7. The subject property is designated Low Density Residential in the Comprehensive Plan. The most restrictive zone in this Plan designation is the Single Family Residential (RS) zone. Pursuant to Section 23.01(e)(12) of the RS zone, mobile home parks are permitted outright. Therefore, consistent with Section 36.02(a) this use may be conditionally permitted within the UT zone.

8. The City received the following comments from affected public and private agencies:

a) The City Public Works Department and City Engineer provided written comments regarding public facility improvements that can be summarized as follows:

In general, sewer and water services are available to serve the development. On-site storm drainage detention will be required. All improvements must comply with City Public Works Standards. Direct access to Wheatland Road is prohibited. The applicant is also required to dedicate twenty feet of frontage for future improvements to Timothy Lane.

b) The Clear Lake Neighborhood Association submitted comments. The Neighborhood Association state concerns regarding traffic safety and impacts to police, fire, and city infrastructure resources by the added growth.

c) The Keizer Fire District and the Marion County Rural Fire District # 1 reviewed the proposal and determined that emergency vehicle service can be provided from Wheatland Road and that Timothy Lane would not be needed as an emergency vehicle response route.

d) Portland General Electric noted the applicant must comply with current tariffs and service costs. A ten foot public utility easement was requested. Salem Transit reviewed the proposal and offered not comment. No other contacted agencies responded.

Findings: Conditional Use (KZO Chapter 36)

As noted, establishment of a manufactured home park within the UT zone requires conditional use approval. Within the UT zone, pursuant to KZO Section 36.02(a), this requires compliance with provisions in KZO Section 36.03(a), (b), (c) and (d), as well as the Conditional Use criteria in Chapter 8.. These items are reviewed in the following sections. The applicable criteria in KZO Section 36.03 and corresponding findings are set forth below:

9. The use will not increase traffic beyond the capacity of existing roads. KZO 36.03(a).

FINDINGS: Access to the property will be off Wheatland Road. Wheatland Road is a designated minor arterial and designed to accommodate the additional traffic generated by this development and other residential development along the roadway.

10. The use will be located in such a manner that any significant unused portion of the property has adequate development options and will not restrict development options on adjacent properties. KZO 36.03(b).

FINDINGS: The entire property will be developed with a manufactured home park. No portion of the property will remain unused.

11. The use can utilize rural services or existing urban services, and will not individually or together with nearby uses increase pressure for installation of new urban services. KZO 36.03 (c).

FINDINGS: Public sewer and water services are available to the property. The applicant will be responsible for extending services to the site and comply with Public Works Standards for public facilities. This action will not require additional community investment in public facilities.

12. The use meets the development standards of the most restrictive zone in the zoning ordinance consistent with the Comprehensive Plan designation. KZO 36.03(d).

FINDINGS: As noted, the most restrictive zone within the Low Density Residential designation is Single Family Residential (RS). This zone permits manufactured home parks. Base on the submitted site plan there is sufficient evidence that the development can either comply, or conditionally comply, with the development standards for a park.

Findings: Conditional Use (KZO Chapter 8)

In addition to the criteria in Chapter 36, the proposal must also comply with the conditional use requirements in Chapter 8. As directed by Section 8.20, specific decision criteria are found in Section 8.30. Those criteria and the related findings are set forth below:

13. The use is listed as a conditional use in the zone. KZO Section 8.30(a).

FINDINGS: The use is listed by reference in KZO Section 36.02(a) and KZO Section 23.01(e)(12).

14. The parcel is suitable for the proposed use considering such factors as size, shape, location, topography, soils, slope stability, drainage and natural features. KZO Section 8.30(b).

FINDINGS: The parcel is relatively level and does not contain any limitations such as topography or natural features which would restrict development. The Public Works Department is requiring storm water detention for the site and that an approved master storm drainage plan be in place prior to issuing any building permits. The submitted site plan indicates the parcel is capable of accommodating the proposed use. In addition, applicants have submitted a drainage plan that has been approved by the City Engineer. (See Conditions set forth in Exhibit "E")

15. The proposed use, as conditioned, will not materially alter the character of the surrounding area in a manner which substantially limits, impairs, or precludes the use of surrounding properties for the primary uses listed in the applicable zone. KZO Section 8.30(e).

FINDINGS: The subject property, and all adjacent properties, are designated Low Density Residential in the City's Comprehensive Plan. This plan designation and applicable RS zone are primarily designed to accommodate single family homes at densities of up to eight dwelling units per acre. Other compatible residential uses, such as manufactured homes, are also allowed.

The proposed park is entirely consistent with the Plan designation as it provides a residential use allowed in the applicable RS zone and at a density allowed by the Plan. While other parcels may be larger and are more rural in character, it is the full expectation of the Plan that these parcels will be developed at urban densities. Therefore, the manufactured home park is consistent with the existing and expected development within the surrounding area, and will not substantially limit, impair, or preclude the use of surrounding properties for residential development.

Although not required by the Zoning Ordinance, screening will be required along the perimeter of the development. Screening shall comply with the provisions in Section 20.13 of the Zoning Ordinance. Manufactured homes located along the park's perimeter must comply with the fourteen foot rear yard setback requirement of the RS zone.

16. The proposed use will not have a detrimental effect on existing solar or wind energy systems. KZO Section 8.30(d).

FINDINGS: The proposal is for a residential development and due to its location and low building height will not interfere with existing or future wind and solar energy systems.

17. Adequate public and utility facilities and service to serve the use exist or will be made available prior to establishment of the use. KZO Section 8.30(e).

FINDINGS: Based on comments received by the City Engineer, and evidence presented by the Applicant, adequate facilities are available to serve the property.

Findings: Site Plan

Section 18.09(a) (Landscaping requirements) of the Zoning Ordinance requires site plans for all applications for land use approvals. Pursuant to the Hearings Officer's Order (page 7), such criteria are applicable to this case.

FINDINGS: The applicant has submitted an acceptable site plan pursuant to KZO Section 18.09(a).

EXHIBIT "D"

Justification

The applicant has the burden of proving that the application meets the relevant standards and criteria to be applied in the particular case.

In this case, the applicant is requesting conditional use permit approval to establish a 13 space mobile home park on a 1.63 acre parcel. The 13 space development would operate as an addition to the previously approved 90 space mobile home park (Case No. CUP/LLA 97-01).

Appellant has argued that the subject property is poorly drained now and that development of such property may cause serious adverse drainage problems on adjacent properties. Appellant expresses concern that imposition of a condition requiring an approved drainage plan will not solve the problem and a plan in the future does not equal compliance with applicable criteria now.

Appellant's point is well taken. However, the condition regarding drainage goes farther than a general drainage condition. It incorporates a drainage plan that has been approved by the City Engineer and specifies how the property will be drained.

Other concerns dealt with the adequacy of buffering and screening of the subject property from adjacent properties. Though the general screening requirements are not applicable in this case (see Hearings Officer's Order at page 9), the conditional use criteria allow imposition of conditions necessary to reach compliance with the criteria. See KZO Section 8.30(c) Such criteria allow the imposition of adequate screening conditions and such conditions are set forth in Exhibit "E".

With the imposition of appropriate conditions, the proposal satisfies the applicable criteria and the conditional use permit will be granted.

EXHIBIT “E”

Action

The City of Keizer ORDERS as follows:

The application for conditional use permit to establish a 13 space mobile home park is hereby GRANTED subject to the following conditions:

A. The following conditions must be satisfied prior to the issuance of any permit for public improvements:

1. The applicant shall participate in a conference with the applicable public facility providers for the purpose of coordinating facility improvements. This conference shall occur prior to submitting engineering drawings. It is recommended the participants include the Keizer Department of Public Works, the City Engineer, Marion County Fire District, and private utilities.

2. The applicant shall submit an engineering plan for the entire development to the Keizer Department of Public Works for review and approval. The engineering plan shall include information concerning street lighting, fire hydrants, storm water detention, street improvements, easements, sewer, water and other information as necessary to indicate conformance with Keizer Public Works Standards and consistency with the development proposal. The plans shall comply with the recommendations and requirements provided by the City Public Works Department and City Engineer, attached as Exhibit E-1.

3. The applicant shall submit a detailed site plan to the City of Keizer for review and approval. The detailed plan shall include the following provisions:

- a) The plan for the manufactured home park shall substantially conform to the proposal regarding the layout and number of spaces.
- b) The plan shall identify the location of walkways adjacent to the private streets.
- c) All streets shall include turn-arounds consistent with the Keizer Zoning Ordinance, the Keizer Subdivision and Partitioning Ordinance and Fire District requirements.

d) The applicant shall demonstrate conformance with Ordinance No. 95-339 "*Tree and Landscape Preservation Ordinance*." The applicant shall work with the City on identifying locations for replacement trees.

e) Plans identified in the above items shall include sufficient detail to indicate compliance with the standards in the Keizer Zoning Ordinance and engineering requirements of the City.

B. The applicant shall complete the following prior to applying for a location permit for any one manufactured home or connection to the public water main:

1. The applicant shall extend or install sanitary sewer, water and storm drainage facilities to serve the entire development. The improvements shall comply with the approved engineering plans.

2. Frontage improvement, including curb, sidewalk, paving and drainage, shall be installed along the portions of Wheatland Road fronting the subject property. These improvements shall conform to the plans approved by the City of Keizer Department of Public Works. Adequate bonding or other financial security shall be obtained.

3. The applicant shall apply to the City of Keizer for the creation of a Local Improvement District (L.I.D.) For street lighting. Street lighting improvement shall comply with the City regulations and requirements.

4. The perimeter of the park shall be screened consistent with the requirements in Section 20.01 of the Keizer Zoning Ordinance. The location of the fence shall comply with Zoning Ordinance requirements and not obstruct vision areas.

C. The following conditions shall be completed prior to the issuance for any single location for any one manufactured home, and continuously thereafter:

1. Development of the individual manufactures home spaces shall comply with the applicable requirements of the Keizer Zoning Ordinance.

2. No ingress or egress to the Manufactured Home Park will be allowed from Timothy Lane. Emergency vehicles will use the Wheatland Road entrance for access. An adequate turn-around meeting Fire Code standards shall be installed on the subject property adjacent to Timothy Lane. The Manufactured Home Park will be required to provide access to Timothy Lane if and when Timothy Lane becomes

a public street, built to Public Works Standards, and accepted by the City of Keizer.

3. Applicant shall design, construct and maintain drainage facilities sufficient in size and location to drain surface water runoff away from the properties adjacent to the project and on the west side of Timothy Lane and into the drainage facilities on the subject property, to be discharged into the Clear Lake Drainage Basin. The drainage facilities shall be constructed pursuant to the plans attached as Exhibit E-2.

4. Applicant shall construct a cyclone-type fence with vinyl slats along the perimeter of the subject property. Plans for such fence shall be approved by Public Works Department. Said fence shall be six (6) feet in height, as measured from the finish grade of the manufactured home park. The fence shall be set back a maximum of five (5) feet from the west side of the access easement along Timothy Lane. The exact distance shall be established by the City of Keizer, Public Works Department.

5. Applicant shall plant and maintain sight obscuring vegetation along the east side of the fence referenced in Paragraph C(4) in accordance with the landscaping plan attached as Exhibit E-3.

6. The turn-around area adjacent to Timothy Lane shall be posted "No Parking - Fire Lane."

7. The applicant shall demonstrate that adequate fire flows can be provided to the development.

8. All improvements shall comply with the standards and requirements of the Keizer Public Works Department. Adequate bonding, or other financial instrument acceptable to the City, shall be obtained to complete all street and facility improvements.

9. Development of the property shall comply with the applicable requirements of the Keizer Zoning Ordinance.

10. The applicant shall be responsible for all costs associated with public facility improvements, including applicable system development charges for sewer, water, parks and other facilities.

11. Compliance with the Conditions of Approval shall be the sole responsibility of the applicant.

12. This approval does not remove or affect any covenants or restrictions imposed on the subject property by deed or other instrument. The proposed use may require permits from other local, State or Federal agencies. This decision does not take the place of, or relieve the responsibility for obtaining other permits or satisfying any restrictions or conditions thereon.

4722COK.002

DATE: JUNE 30, 1997

TO: CITY OF KEIZER
COMMUNITY DEVELOPMENT DEPARTMENT

SUBJECT: CONDITIONAL USE CASE NO. 97-04
Derek Brown
7700 Block of Timothy Lane



City of Keizer

930 Chamawad Rd. N.E.
P.O. Box 21000
Keizer, Oregon 97307-1000

PUBLIC WORKS DEPARTMENT COMMENTS

It is the understanding of the Public Works Department that the property is located within a zone that is appropriate for the intended use.

The following comments are being provided to assist in the overall evaluation of the proposal:

CONDITIONAL USE:

The plan for the conditional use for a 13 space addition to a permitted mobile home park on the subject property indicates access to the property will be from the proposed private streets within the approved mobile home park. The Public Works Department is concerned that adequate circulation for emergency vehicles be available to the overall park.

SANITARY SEWERS:

The subject property is subject to a current acreage charge of \$4,400.00 per acre for the development of sanitary sewer trunk lines required to serve the general area. The policy of the City of Keizer is that the acreage charge be paid at time of platting and that the charge is based on the charge currently in place at the time of platting. The manufactured home park will not result in a plat and the charge will therefore be determined at the time of connection to the sanitary sewer system.

- a.) City of Salem approval for local sewer permits will need to be issued prior to construction.
- b.) Connecting to existing sewers that serve the general area will be the responsibility of the developer of the property.
- c.) Appropriate easements will be required for any public sewer mains located within the subject property. Adequate separation between sewer and water lines shall be maintained in accordance with the Uniform Plumbing Code. The overall site plan indicating location of proposed structures or homes for the manufactured home park

Administration
Public Works
Community Development
Municipal Court
Phone 503.390.3700
Fax 503.393.9437
Police (business only)
Phone 503.390.3713
Fax 503.390.8295

Incorporated 1982
Pride, Spirit, Volunteerism

will be required prior to issuance of any permits for sanitary sewers for the development.

- d.) The Department of Public Works will require the applicant to demonstrate that capacity is available through the proposed sewer system being constructed along Timothy Lane to service adjacent property. The Master Sewer Plan indicates a sewer trunk line requirement along Timothy Lane along the frontage of the subject property. Capacity for adjacent property will be required as a condition of this proposed development.

WATER SYSTEM:

- a.) A master water system plan showing proposed routes of public water mains, fire hydrants and individual services shall be prepared prior to submission of construction plans for the development. Appropriate easements for all public water mains and fire hydrants will be required to be in place prior to any permits being issued for water main construction. Any system development charges for water system improvements will be those in place at the time of individual service connections.
- b.) Sizing any new water services and/or design of water mains will be to the requirements of the City of Keizer Water Department and the Uniform Plumbing Code.
- c.) Final development plans shall be reviewed by the Keizer Fire Department with regard to access and adequate location of fire hydrants prior to any issuance of building permits by the City of Keizer.
- d.) Any existing wells on the subject property are to be abandoned in accordance with the rules of the Oregon State Water Resources Department.
- e.) Location of all meters to be approved by Keizer Water Department.
- f.) No Polywrap will be required for public water mains for the subject property.
- g.) The east ends of the water mains shown in Harbour Drive and Explorer Ave. Shall be connected with an 8 inch water main in Timothy Lane. The water main shall be located in a public right of way consistent with city right of way requirements.

STREET AND DRAINAGE IMPROVEMENTS:

- a.) An overall master storm drainage plan that will provide service to this area of Keizer needs to be in place prior to issuance of any permits for construction of the proposed development.
- b.) Storm water detention will be required for this site. All storm water and roof drains to be connected to an approved system designed to provide adequate drainage for the proposed new driveways and other hard surfaces.
- c.) Right of Way dedication along the easterly 270 feet +/- shall be made to the City of Keizer to provide 24 feet of right of way from the east property line of the subject property. Roadway improvements to this portion of street shall not be required at this time unless construction is required by the appropriate fire district. A non-remonstrance agreement shall be required for the construction of fronting improvements if construction is deferred.

OTHER

- a.) A private street light system shall be provided for the private streets.
- b.) Construction permits are required by the Department of Public Works prior to any public facility construction.

Contact Scott Peterson at the City Engineer's office at 390-7402 for the necessary permit information that is required.
- c.) A Pre-design meeting will be required prior to the Developer's Engineer submitting plans to the city for review.
- d.) Street opening permits are required for any work within the City Right of Way that is not covered by a Construction Permit.
- e.) A Pre-construction conference shall be required prior to commencement of any construction under permits issued by the city.

EXHIBIT E-2

LARGE MAP WILL BE AVAILABE AT MEETING

9-20-75 6:15 PM

TREES
① 2 - CALOCARPUS DECURVATUS - 7'-8' TH.
WIDENS 4' CROWN

② 2 - 6 AUGUST 1952
WCCNS - CONR

② 4 - CHARGES CREDITED 11-2-66
WASHINGTON HANDBOOK

54465

3 6 BERBERS S G ALLON
BARBERY WILLIAM PENN

THE PYRAMIDAL NETWORK - 5 GIVE

5-6 CAMELLIA SHIMADA 5GAL
CLEOPATRA

6-5 ADMINISTRATIVE - 4-5 MAY 2040
- ENGRAVED GREEN

10

ARBOVIRUS
EMERALD GREEN

5000 571

Harold

45

ANDROVING
EMBOLO GRAB
2-5-44 1400

Tremolby Lawe Exhibent

$\leftarrow 25' \rightarrow$
 $12.5' \mid 12.5'$

BEFORE THE COMMON COUNCIL
OF THE CITY OF KEIZER

In the Matter of	)	
	)	CONDITIONAL USE
DEREK L. BROWN & ASSOCIATES,	)	CASE NO. 97-04
	)	
Applicant.	)	RESPONSE TO DOCUMENTS
	)	SUBMITTED BY MARK GRENZ
	)	ON OCTOBER 20, 1997

On October 20, 1997, the Applicant's representative, Mark Grenz, submitted additional documents into the record in this case. Appellants Carl Alleman and the residents of Timothy Lane hereby provide the following response:

All of the required criteria for approval of this conditional use case have not been established or supported by substantial evidence. Accordingly, the Council should decline to accept the zoning administrator's decision or the Hearings Officer's ruling on this conditional use application. At the very least, the Council should include several additional conditions of approval for the benefit of the neighborhood.

In order to approve this conditional use, the Council must determine that criteria found in KZO 8.30, 36.03, 14.30(15), and 17.05 have been met. In this case, the criteria are not sufficiently established. Thus, the Council should object to the conditional use application.

A. GENERAL CONDITIONAL USE REQUIREMENTS UNDER CHAPTER 8.

The subject property is contained within the Urban Transition (UT) zone. Manufactured home parks of the type proposed are allowed as conditional uses. The primary concern is

conditional use criteria for the City of Keizer found in Section 8.30 of the Keizer Zoning Code. In order to comply with these provisions, one must meet the following criteria:

1. The use is listed as a conditional use in the zone.

This criteria is met.

2. Parcels suitable for the proposed use considering such factors as size, shape, location, topography, soils, slope stability, drainage and natural features.

This criteria is not met. The parcel violates the density requirements and may well include wetlands. The Applicant has not sustained the burden of proof on this issue.

KZO 17.05 governs the density requirements for development in the City of Keizer. That provision clearly states that "the number of dwelling units allowed for the purpose of dividing land into lots, determining the number of dwellings in a planned development, or locating single dwellings on the same lot shall conform to the following density limitations. In the UT zone, only one dwelling unit per lot is allowed. See 17.05(e).¹

In this case, the subject property is actually three separate and legally distinct lots. Without additional land use approvals, those lots will remain discrete lots. See ORS 92.017.

However, the Applicant's proposal seeks to put more than one dwelling unit on each of the lots. Indeed, the

¹ As the Hearings Officer pointed out, the subject property does not contemplate a subdivision of the manufactured home park. The land underlying the homes will all be under common ownership. Accordingly, there is no need for rezoning pursuant to KZO 36.31. Accordingly, the density requirements for the UT zone prevail.

Applicant's proposed development ignores the pre-existing lot lines. Spaces 40, 41, 42 and 43 are all contained on the same lot. Similarly, space 45, 46, 47, 48 and 49 are also on a single lot. The placement of these lots clearly violates the density requirements of the Keizer Zoning Ordinance. Accordingly, this criteria has not been met.

The developer disagrees. He contends that Section 17.05 of the Zoning Code "deals with how the density of a parcel will be determined." The developer contends that Section 17.05 "does not specify use." See submission of Mark Grenz dated October 20, 1997 at page 7.

However, the developer is simply incorrect. The first sentence of Section 17.05 clearly states that "the number of dwelling units allowed for the purpose of . . . locating several dwellings on the same lot, shall conform to the following density and limitations." It then contains a list of zones and the number of dwellings allowed within that zone. Section (e) covering "other zones" plainly states that only one dwelling unit per lot is allowed if dwellings are allowed at all.

In addition to problems with density, the subject property has not been shown to be suitable for this type of development given the fact that there is a probability of wetlands on the property. Ironically, the developer's October 20, 1997 response contains additional factual evidence supporting the existence of wetlands on the property. In order to meet the

definition of a wetland, it must be shown that three conditions exist on the site. First, there must be wetland vegetation. Second, there must be positive evidence of wetland hydrology. And, third, there must be positive identification of wetland soils.

In this case, there is evidence on the record that two of the required criteria exist. Carl Alleman's earlier testimony established the existence of sedges and other wetland plants on the subject property. The October 20, 1997 letter from Timothy Acker to Mark Grenz included in the developer's recent packet of materials, confirms the compliance with the third criterion. The existence of concord silty loam, a wetlands soil, coupled with Mr. Alleman's anecdotal evidence supports the conclusion that this property may indeed have contained a wetlands.

Unfortunately, the Applicant appears to have limited further evaluation of the site by making changes to it. In addition, the development of the property calls Mr. Acker's general conclusion into question. First, Mr. Acker indicates that he chose his sample plot locations because they were situated in topographic low spots. However, Mr. Acker provides no evidence as to where the samples were on the site. Mr. Acker also fails to indicate which of the plots had wetlands soil. Mr. Acker does point that at least one of the lots had 10 inches of fill over it.

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It is quite probable that any "primary or secondary indicators of wetland hydrology" were destroyed and disturbed by recent grading activities on the property. Ironically, Mr. Acker concludes that his findings are typical with a profile that the ground may be seasonally saturated and contain temporary ponding. Such a conclusion appears to fulfill the final requirement of wetland hydrology.

3. The proposed uses condition will not materially alter the character of the surrounding area in a manner which substantially limits, impairs or precludes the use of the surrounding properties through the primary uses listed in the applicable zone.

At the very least, the developer should be required to inquire with the Division of State Lands for a determination that the property does not contain wetlands. Without additional evidence, this criterion is not met. See letter dated October 27, 1997 from Phil Scoles to Norman R. Hill attached as Exhibit B.

The residents of Timothy Lane contend that the proposed use, unless properly conditioned, will materially alter the character of their neighborhood, making it far less desirable for single-family homes.

Naturally, the developer disagrees. It points out that there are several other single-family home subdivisions being developed in the neighborhood. The developer therefore concludes that there will not be a material alteration in the character of the surrounding area. Unfortunately, the developer misses the point.

The neighbors are not contending that the proposed manufactured home park will necessarily alter the neighborhood in a manner that cannot be mitigated. Instead, they are simply insisting that additional specific steps be taken to limit its impact. Specifically, the neighbors are seeking a five-foot setback from the edge of the Timothy Lane easement. They insist on a fence inside the setback and rising to a total of eight feet above the finish grade of the project. The neighbors would like the area contained within the setback to be planted with the vegetation and types included on the attached diagram. See Exhibit B.

With the inclusion of this condition, the neighbors will agree that this criterion is met.

4. **The proposed use will not have a detrimental affect on existing solar and wind energy systems.**

The Appellants make no challenge to this criterion.

5. **Adequate public and utility facilities and services to serve the use exist or will be made available prior to the establishment of the use.**

The primary difficulty with this project is its treatment of storm drainage. The developer touts the additional storm drainage that will be contained on the site, as well as the new storm drain line being constructed from Clear Lake up to Phase I of the development is sufficient to demonstrate that this criterion has been met. The developer again misses the point.

The neighbors' primary concern is the fact that together with the other developments in the area, Mr. Brown's development creates the distinct likelihood that the area

immediately surrounding Timothy Lane will become a basin. As the developments noted in the Applicant's presentation to Council on October 20, 1997 begin to develop, they will install drainage systems that drain only the developed properties. Indeed, the Applicant in this case has presented drainage structures that drain only its property. As fill material is brought and site elevations are raised to create positive drainage, the residents of Timothy Lane will become squeezed. Their property will become the new low spot. Water falling on the Lane will have no natural outlet.

Thus, the determination of adequate public facilities cannot be viewed without analyzing the affect the development may have on the residents of Timothy Lane. For some reason, the developer has steadfastly refused to do this.² In any event, the neighbors would be willing to, as a compromise, agree that this criterion is met if the City would include a specific condition requiring the developer to determine, construct, and maintain public facilities that address the flooding possibilities on Timothy Lane and tie the Lane into the drainage system being installed on the Appellants' property. The parties are currently in negotiations and believe a condition can be drafted satisfying all parties that this condition can be met.

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² As is discussed at p. 11, *infra*, the Appellants contend that this inquiry must be made prior to land use approval.

B. CONDITIONAL USE CRITERIA IN AN URBAN TRANSITION ZONE.

Chapter 36 of the Keizer Zoning Ordinance governs development in Urban Transition zones. In particular, Section 36.03 contains additional criteria for conditional use permits. These criteria must also be met in order to approve the use.

1. **The use will not increase traffic beyond the capacity of existing roads.**

So long as Timothy Lane is not used as an access point, the Appellants have no objection to this criteria. However, they are concerned by the impact 118 average daily trips created by the additional spaces will have on congestion on Wheatland Road. To date, there is no evidence on the record demonstrating the capacity of Wheatland Road. Thus, it is impossible to ascertain if this criteria has actually been met.

2. **It will be located in such a manner that any significant unused portion of the property has adequate development options and will not restrict development options on adjacent properties.**

The neighbors are primarily concerned with the existence of a single-family dwelling within the park property. Development of the subject property as proposed seems at odds with the traditional notion that Urban Transition zoning is designed to encourage efficient and orderly development of property. In this case, the developer appears to be proceeding in a piece-meal fashion. In any event, the neighbors would have no objection to this criteria so long as an additional condition of approval is included preventing the developer from simply

seeking to partition the house and obtain access for the house through Timothy Lane.

3. The use can utilize rural services or existing urban services in a lot individually or together with nearby uses increase pressure for installation of new urban services.?????

The Appellants have no challenge to this criteria, other than the public works and drainage issues raised previously.

4. The use meets the development standards of the most restrictive zone in the Zoning Ordinance consistent with the Comprehensive Plan designation.

As is discussed below, this property as proposed has not been show to meet all of the development standards within Chapter 14 of the Keizer Zoning Ordinance regulating manufactured home parks.

C. CHAPTER 14 CRITERIA FOR MANUFACTURED HOME PARKS.

In addition to all of the above land use requirements, the Applicant must also demonstrate that the property complies with Chapter 14 of the Zoning Ordinance. This chapter governs placement and construction of mobile home parks. The only issue in dispute is the compliance with Section 14.30(15). That section requires a determination that all of the spaces will have adequate storm drainage. In particular, it provides:

"Storm Drainage: All spaces shall be provided with adequate storm drainage and connected to the storm drainage system if such system is available. Such facility shall be sufficient to safely transport through the park all volumes of water generated upstream and on the site. Where a connection will be made to a public storm drainage facility, it shall be approved by the city. An on-site storm water detention system may be required."

In this case, the Applicant has made no attempt to design or deal with water generated upstream from the subject property. As was discussed at the hearing, the Applicant has altered the overall natural drainage of the area. In particular, the project is designed to drain to the west instead of to the east as originally contemplated by planners of the Keizer Water System Master Plan. The neighbors are simply insisting that the area on the Lane that traditionally drained into the subject property be included within the newly created drainage basin. This will prevent the Lane from being isolated. It seems the most efficient use of resources to simply do so at this time. Moreover, KZO 14.30(15), 8.30(e) and 8.40(2)(d) appear to require it.

The Hearings Officer disagreed. The Hearings Officer concluded that Chapter 14 was in no way applicable to this application. The implication of the Hearings Officer's decision is that the developer would not be required to comply with the requirements of Chapter 14 at any stage. As has been discussed before in the original appeal submittal, that conclusion is unconscionable. In any event, the developer appears to disagree with the Hearings Officer's conclusion. See documents submitted by Mark Grenz on October 20, 1997 entitled "Conditional Use Application for Conditional Use Case No. 97-04" at page 7.

Up to now, the parties have primarily disputed over when the developer must demonstrate compliance with Chapter 14. The developer contends that Chapter 14 in its entirety deals with

design criteria and is therefore not an element of conditional use. The neighbors disagree. Under Keizer's current procedural system, they are given only one opportunity for public input into the process. During the land use approval, the applicants may challenge the zoning administrator or Hearings Officer's decision and thus appeal to LUBA if necessary. Once the decision is made and the appeal rights expire, the neighbors are legally eliminated from the decision.

The Land Use Board of Appeals has stated very plainly that in this type of a system all significant elements of the plan must be developed prior to land use approval. The most recent case in this area is Pekarek v. Wallowa County, LUBA No. 96-135 May 23, 1997. In that case, LUBA explained that:

"Our cases also provide that a local government cannot defer determinations of compliance with a mandatory approval criterion to a later stage in its approval process unless its regulations or decision require the full opportunity for public involvement provided in the proceeding from which the required determination was deferred. Holland v. Lane County, 16 Or LUBA 583, 596 (1988). The absolute prohibition against deferred determinations of compliance found in Holland applies where the local government has only one opportunity to make a land use decision regarding the proposed development and must find the proposed development meets the applicable criteria as part of the challenged decision. Id. at pages 10 and 11." (emphasis in original).

In this case, KZO 14.30(15) is a mandatory requirement. Moreover, it is clear from the record thus far that there has been no inquiry or requirement that this criterion be met.

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The neighbors contend they are entitled to review the storm drainage apparatus for Timothy Lane, or at least have the lack of such apparatus addressed at this stage in the development approval. There is no evidence on the record demonstrating that any such inquiry has been made. In fact, Public Works Director, Mr. Kisler, at the hearing on October 20, 1997 explained that he had not made such an inquiry. Under the circumstances, the Appellants are entitled to review and comment on the storm drainage issue. However, as a compromise, they are willing to agree that this criterion is met if the final decision includes a narrowly worded condition of approval specifying the developer's obligation to evaluate, construct and maintain sufficient storm drainage facilities to drain standing water from the vicinity of Timothy Lane into the drainage system being built for the subject property.

CONCLUSION

The neighbors are currently working with the developer to try and reach an accommodation of all parties' interests. They will continue to do so until an agreement is reached. However, the existence of an agreement does not remove the need for the City to act on this application. Any solution to this problem must involve the City's enforcement of strict conditions of approval.

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For the foregoing reasons, the Appellants urge that the City Council reject the Hearings Officer's decision in this case.

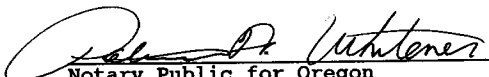
DATED this 27th day of October, 1997.

WEBB & MARTINIS

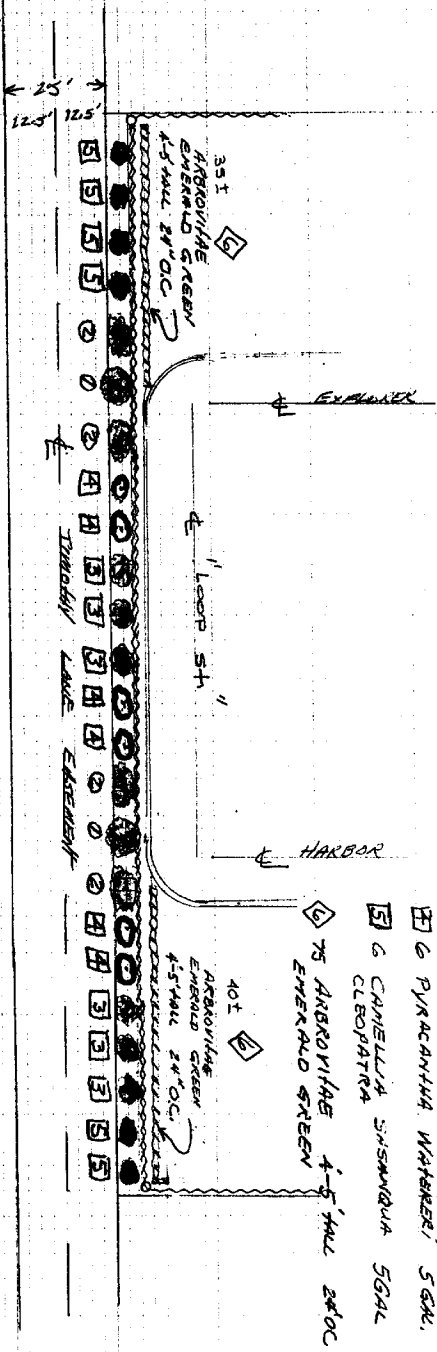
By: 
Norman R. Hill, OSB #94340
1114 - 12th Street SE
Salem, OR 97302
(503) 363-9264
Of Attorneys for Appellant

SUBSCRIBED AND SWORN TO before me this 27th day of October, 1997.




Notary Public for Oregon
My commission expires 2-25-2000

[ALLENHAM\RESPONSE.27]



- PLANT LIST
- TREES
- ① 2 - CALOCEDRUS DECURVENS 7'-8' TALL
 - ② INCENSE CEDAR
 - ③ 4 - CARYGUS COADUNTA 1 1/2"-2" CALIFERN
 - WASHINGTON HAWTHORN
- SHRUBS
- ④ 6 BERBERIS 5 GAL
 - ⑤ BARBERY WILLIAM PENN
 - ⑥ 6 PYRACANTHA WATKINSI 5 GAL.
 - ⑦ 6 CAMELLIA JAPANESE 5 GAL
 - ⑧ CLEOPATRA
 - ⑨ 75 AERONAUTICAL 4-5' TALL 24" OC
 - ⑩ EMERALD GREEN

RECEIVED
OCT 27 1997

October 27, 1997

Mr. Norm Hill
Webb & Martinis, Attorneys at Law
1114 12th Street S.E.
Salem, OR 97302-2897

Dear Mr. Hill,

At your request, I have reviewed the letter from Applied Technology (Timothy A. Acker) regarding a wetland assessment for the Berkshire Mobile Home Park in northwest Keizer, Marion County, Oregon. The following comments are based upon the findings of the letter and our conversation concerning the proposed project. I have not conducted a site visit, nor any research of aerial photographs.

Of primary concern, the letter describing the wetland evaluation conducted by Mr. Acker does not include the technical data to support its findings. It is common practice to attach the data sheets for determining the presence (or lack) of wetland. Data sheets provide the evidence of a field investigation, as well as the rationale for the investigator's conclusions. Also, the letter indicates October 20, 1997 as the date of the field investigation. The importance of the date shows the field work was conducted during the early fall when seasonal wetlands in western Oregon still lack sufficient wetness to qualify as a positive hydrology indicator. Despite above-average rainfall in September, seasonally perched water tables have not yet recharged and ponding is often absent. Under such circumstances, the hydrology parameter should not be assumed as lacking, but instead it should be left indefinite or subject to further investigation as a later and more appropriate time (such as the beginning of the growing season).

The wetland evaluation letter also does not describe the extent of prior disturbance to the project site or the sample points. It is my understanding that the field was mowed earlier this year, plus fill material imported. Examining mowed plant remains requires great expertise and often positive plant identification is impossible. Also, the plants identifiable after mowing tend to be adapted to growth in the dry season; whereas, many of the hydrophytic species have already produced seeds and possibly deteriorated. Under the wetland identification methodology, areas that have been disturbed sufficiently (where one or more parameters are no longer reliable), then the remaining parameters should be relied upon. Typically, other information like aerial photographs, personal interviews, and high resolution topographic maps, are used to substantiate field conditions prior to any disturbance. It would be prudent in this situation to examine aerial photographs to better understand the onsite conditions prior to mowing and importation of fill material.

The letter-style report indicated that one of the three sample locations had soil conditions resembling Concord silt loam. The presence of this soil type suggests a portion of the property contained seasonally saturated soil on a historic basis, and possibly until recent importation of fill material. Under normal, undrained conditions, this soil type is considered hydric by the Natural Resources Conservation Service (NRCS). The letter does not indicate if the soil was simply dry at the end of the summer season, or if there was any indication of ditching or tiling that drained the soil years ago. Again, it is important for wetland identification purposes to apply professional experience and consider alternative evidence (aerial photos, farming records, ditching maps, etc.)

HILL,N. 971027 ltr SA-971027

Post Office Box 3558
Portland, Ore. 97208
(503) 224-2811EXHIBIT 3
Page 1 of 6

Mr. Norm Hill -- October 27, 1997

Response to Berkshire Mobile Home Park wetland evaluation

Page 2



when the field work is conducted late in the dry season. Confirmation of a hydric soil type should be considered a significant "red flag" that cannot be easily dismissed.

The summary of the letter is a little awkward because it suggests that seasonally saturated soil or temporary ponding does not automatically indicate that a wetland is present. Although this statement is true, it is generally more the exception than the rule. Willamette Valley terrace soils tend to be silty to clayey; they often have a perched water table during the rainy season; and low topographic settings usually accumulate water at or near the surface until late April or May in most years. The absence of wet conditions under such circumstances can indicate diversions of runoff, presence of subsurface tilting, or other drainage alterations. The field investigation did not indicate or describe any hydrology alterations, so the ultimate conclusion may yet be determined (as the rainy season returns). For these reasons, wetland may be present, but difficult to identify given the recent mowing, soil disturbance, and late timing of the field investigation.

Mr. Hill, it is not my intention to discredit the field work or the conclusion of the wetland evaluation, but there are significant questions that remain unanswered. If the area described having Concord soils has been partially filled, then permits from the U.S. Army Corps of Engineers and Oregon Division of State Lands are required. If no permits were obtained, then those regulatory agencies would probably be interested in a closer look to determine if the wetland-related laws have been violated. At the very least, I suggest that the data sheets for the field work be made available for examination by the federal and state regulators -- their review would be an appropriate reassurance that all wetland matters have been properly attended to. As always, please feel welcome to call me (224-2811) to discuss this situation in greater detail. I appreciate the opportunity to assist you with this matter.

Cordially yours,

SCOLES ASSOCIATES, INC.

Phil Scoles, RPSS, PWS
Soil and Water Scientist





PHIL SCOLES

Soil and Water Scientist
Principal, Scoles Associates, Inc.

EDUCATION

B.S. Soil and Water Science, University of California, Davis

Certified Professional Soil Scientist (CPSS) no. 2628 by the American Registry of Certified Professionals in Agronomy, Crops, and Soils (ARCPACS)
Registered Professional Soil Scientist (RPSS) no. 47 by the National Society of Consulting Soil Scientists

PROFESSIONAL ASSOCIATIONS

National Society of Consulting Soil Scientists (NSCSS)
Oregon Society of Soil Scientists (OSSS)
Society of Wetland Scientists (SWS)

PROFESSIONAL EXPERIENCE

Phil Scoles is the firm's principal and, for the past 9 years, has managed more than 400 projects involving soil survey, soil and land use assessment, wetland soil and hydrology delineation, soil and water sampling, groundwater monitoring, contaminated soil definition, disturbed site restoration, UST decommissioning, proposed landfill impact on soils and surface water, real estate environmental assessment, wetland mitigation and computer modeling. He has evaluated and documented soil resources for seven EA and EIS projects as well as participated in research projects that focused on soil salinity and heavy metals distribution in arid lands. Additionally, he has utilized his technical and analytical laboratory experience in water quality to establish and instruct methods for baseline and EPA / RCRA soil and water sampling, QA/QC, and decontamination. He is licensed as a UST supervisor in Oregon (DEQ license no. 218) and as a soil matrix cleanup supervisor (DEQ license no. 1547). Mr. Scoles currently teaches a course on disturbed and problem area wetland delineations with the Wetland Training Institute. He presently serves on the Board of Directors for the National Society of Consulting Soil Scientists and as NSCSS Pacific Northwest Chapter President.

REPRESENTATIVE PROJECT EXPERIENCE

Wetland Determination and Inventory

Determined boundary of hydric (wetland) soils and/or planned mitigation measures for wetland delineation process and Section 404 permitting at 290 industrial and residential developments in Beaverton, Eugene, Lake Oswego, Medford, Milwaukie, Portland, Roseburg, Salem, Tigard, Wilsonville, Ore. plus Auburn, Marysville, Orchards, Polbo, Renton, Seattle, and Vancouver, Washington.

Evaluated hydric soil conditions, hydrology indicators, and vegetation composition for an exploratory drilling project in the Moricon/Lake Creek Valley, Lewis County, Washington.

Evaluated hydric soil conditions and hydrology indicators for wetland determinations for sites adjacent to the Lane Electric Cooperative Headquarters and 12th & Beldine Rd. in West Eugene, Ore.

Evaluated and mapped the extent of jurisdictional wetlands within a 760-acre Industrial Park in Jackson County, Oregon. Drainage patterns, soil conditions, vegetation composition and endangered plant species were also documented during the field study.

As part of a multi-disciplinary team, completed wetland inventories for the Cities of Rockaway Beach, Bay City, and Tillamook, Ore. These inventories included wetland identification, mapping, identification of potential mitigation sites, analysis of anticipated impacts, and preparation of land use recommendations.

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EXHIBIT **B**

Page 3 of 6

Evaluated and mapped the extent of jurisdictional wetlands within a 760-acre Industrial Park in Jackson County, Oregon. Drainage patterns, soil conditions, vegetation composition and endangered plant species were also documented during the field study.

As part of a multi-disciplinary team, completed a wetland inventory for the cities of Rockaway Beach, Gearhart, Bay City, and Tillamook, Ore. These inventories included wetland identification, mapping, identification of potential mitigation sites, analysis of anticipated impacts, and preparation of land use recommendations.

Compensatory Mitigation Design and Construction

Prepared wetland fill applications for more than 30 proposed developments in western Oregon and completed more than 20 mitigation plans to offset those wetland impacts. Each plan included discussions of existing conditions, siting rationale, mitigation goals, design features, grading and planting plans, monitoring and maintenance provisions, and related conditions.

As part of wetland fill violation, designed and implemented a major creek enhancement project to restore functioning and aesthetic values to a severely degraded creek system in Jackson County. Supervised extensive excavation and grading to re-create creek banks, expand flood plains, and lessen sides slopes. Also supervised installation of temporary irrigation system and native trees, shrubs, and emergent plants.

Designed and constructed 8.5-acre wetland prairie mitigation site in west Eugene, Oregon to offset wetland impacts on a commercial development site. Project tasks included herbicide spraying, field burning, plowing and harrowing, seed bed preparation, supplemental weed control, and monitoring. The seeding mixture was partially purchased and the remainder hand-collected from south Willamette Valley source sites.

Environmental Impact Assessment

Surveyed and mapped existing soil conditions for the environmental impact statement of the proposed expansion of Mt. Hood Meadows ski resort near Government Camp, Ore. Described and classified numerous soil types, interpreted physical limitations and hazards of the soils, identified potential impacts of proposed activities (i.e. expanded ski area, construction, housing, parking, etc.), and planned appropriate mitigation measures to minimize impacts.

Defined and described soil mapping units for a proposed heap leach mining in Elk City, Idaho in an environmental assessment baseline document. In addition to hydric soil identification, interpretations and impacts assessment, extensive measures to limit site erosion and sedimentation were drafted for the mitigation plan.

Surveyed, mapped and described soil conditions for the environmental assessment document to drill exploratory borings at the Quartz Mountain mining project near Lakeview, Ore. Identified and classified soil types and described impact to soil resources due to mining and drilling activities.

Evaluated and prepared environmental assessments for more than 9 sites in Oregon, Washington and Idaho. These surveys included historical research, hazardous waste investigations, soil characterizations and consultant recommendations.

Soil Survey and Analysis

Studied site features, analyzed precipitation data, and prepared a report of intermediate level site evaluation for a 145 acre proposed golf course in NW Multnomah County, Oregon.

Soil survey of a proposed mining site in Detroit, Oregon. Scope of work included preliminary research, onsite field investigation, soil type mapping, soil use interpretations, and report writing.

Characterized soil resources for Bowers Rocks State Park near Albany, Ore. Provided on-site evaluation and reviewed available data to compile a detailed inventory of site geomorphology, taxonomy, and land use restrictions.

Represented a citizens' action committee in the selection of new regional landfill site. Provided expert testimony at public hearing and submitted detailed report of the site soil characteristics and physical properties.

Evaluated local soil conditions at proposed landfill site to determine wetlands classification and to characterize soil morphology with respect to wildlife use, re-vegetation, drainage capability, and topographic influence.

Soil survey for a 60-acre leachate spray field located in Creswell, Oregon. Scope of work included preliminary research, onsite field investigation, soil type mapping, soil use interpretations, and report writing.

Provided on-site evaluation during drilling and sampling of hydraulic conductivity, texture, soil wetness conditions, classification, hydrocarbon contamination and geologic formation.

Soil Contamination and Remediation

Investigated hydrocarbon contamination in soil during underground tank removals at more than 40 locations in Oregon, Washington and California. Concluded analytical findings in technical report and managed petroleum-contaminated soil excavation as needed.

Managed the removal of fuel contaminated soils surrounding leaky transfer lines at a fueling facility in Philomath, Ore. Designed drainage and recovery system to concentrated residual free-floating gasoline trapped below a storage garage.

Evaluated and managed the removal of extensive petroleum contamination at several bulk distribution plants in Portland and Hillsboro, Ore., and Tulcelake, Calif. Underground storage tanks were usually excavated during or before investigations.

Soil sampled and documented over 600 locations in Fresno County, Cal. for heavy metal and salt migration introduced by irrigation practices.

Ground Water Investigation

Conducted investigation of cyanide, fluoride, PCBs, TCE, TCA, hydrocarbons and other organic compounds in ground water and soil. Generated reports for property transfer and legal purposes in Portland and Troutdale, Ore.

Investigated the presence of gasoline vapors in residential homes and irrigation wells in eastern Oregon and developed a network of wells to recover and monitor migrating gasoline from leaky underground storage tanks.

Contributed to plan for remedial investigation by assessing ground water and soil resources of a lumber mill and wood treating facility.

Characterized ground water contamination for sites in California, Oregon and Washington using a network of monitoring wells and priority pollutant sampling.

Conducted long-term monitoring and maintenance programs for ground water remediation projects in Portland, Astoria, Newberg, Hillsboro, Cornelius, Ore and Longview, WA.

Developed a data base to model ground water contamination plumes and water table surfaces for over 10 projects.

Hydrocarbon Recovery / Removal

Developed ground water abatement and restoration plans for 6 locations formerly contaminated with petroleum residues. Proposed ground water extraction systems, set-up air stripping water treatment, arranged discharge water disposal, and obtained necessary permits from local and state agencies in Oregon and California.

Responded to government directives by installing air stripping equipment at a gasoline spill site and established long-term ground water monitoring plans for case closure.

Managed gasoline recovery project in Yamhill County, Ore. which utilized a large diameter well, automated skimmers and air stripping to achieve a 55 percent recovery of spilled fuel.

Coordinated spill containment and subsequent clean up of a municipal storm sewer system and the Willamette River affected by accidental diesel fuel loss in Albany, Ore.

Sampled and managed the excavation of drainage ditches at the Portland International Airport (PDX) where diesel and jet fuels had contaminated soft sediments. Organized disposal and permitting with state Department of Environmental Quality.

PROFESSIONAL TRAINING

Instructor for 5-day wetland delineation courses in Seattle, Wash., Portland, Oreg., and Kalispell, Montana, and also guest lecturer on hydric soils for Portland Community College and numerous annual conferences.

New Unified Federal Method of Wetland Delineation Seminar: a 10-hour meeting on updated methodology and decision-making for wetland determination.

Problem Area Wetland Delineations: a 2-day workshop and field study of disturbed and problem wetlands as defined by the new unified method.

Hydric Soil Seminar: a 1-day workshop of hydric soil chemistry, soil morphology and classification as defined by the National Technical Committee on Hydric Soils and Soil Science Society of America.

Handling Hazardous Materials - Phase I: a 40-hour course on Property Transfer Involving Hazardous Substances

CONDITIONAL USE
Appeal CASE NO. 97-04

Additional testimony submitted
by 5:00 p.m., Oct. 27, 1997

CITY OF KEIZER
OREGON 97303

97 OCT 27 AM 4 34

RECEIVED



Derek Brown's MHP
Springbrook Road
Newberg, Oregon
note "no parking
in this block"

vehicles park wrong
direction & on both
sides of narrow
street.

KZO
14.30(1)
skirting
to match
exterior
of home





Exterior 5' block
wall required by
Newberg City
planners



Note
dying
Shrubbery

topsoil
Added
to Phase II
while
Appeal
is in
Effect

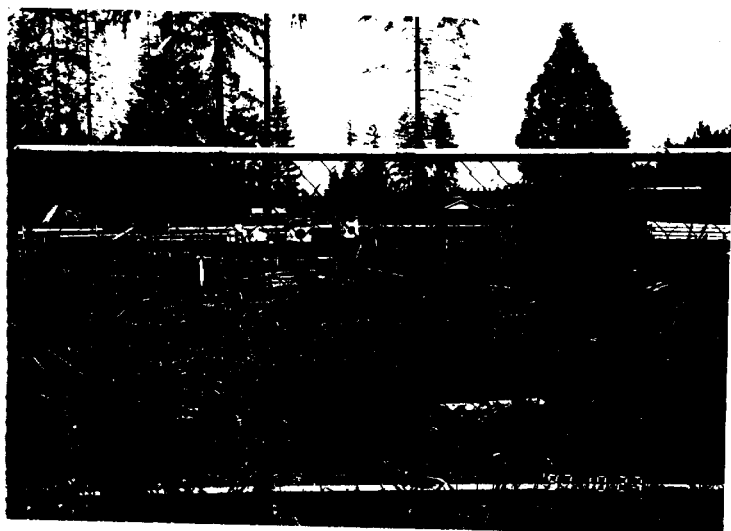


Looking
West -
Appears to
be finished
grade after
Addition of
3' of topsoil





material
brought in
on Phase II
during
Appeal
process





Note topsoil Grade
Facing West on
Phase I

topsoil
Grade.
At North
West
property
line of
Allerton
property
↑
North





AN EXAMPLE
of what
is happening
to timothy
Lane)

97 9 30



Wetland Plants
on Allman Property -
Douglas Hawthorn
and Sedges

Note Cottonwood
trees around P.
Eric Miller's new
Home





topsoil grade is
 2'-3' higher than
 Allenan property
 Berkshire Estates
 Phase I



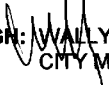


November 3, 1997

AGENDA ITEM 7a

**ORDINANCE - AMENDMENT TO ZONING ORDINANCE
CHILD FOSTER HOMES**

TO: MAYOR KOHO AND CITY COUNCIL MEMBERS

THROUGH:  WALLY MULL
CITY MANAGER

FROM: TRACY L. DAVIS 
CITY RECORDER

SUBJECT: ORDINANCE - AMENDING THE KEIZER ZONING ORDINANCE AT CHAPTER 23 AND CHAPTER 36 TO ALLOW CHILD FOSTER HOMES (SIX TO TEN CHILDREN) AS A CONDITIONALLY PERMITTED USE IN THE RS ZONE AND UT ZONE; AMENDING ORDINANCE 87-078

ISSUE:

On October 6, 1997, a public hearing was scheduled to consider an amendment to the zoning ordinance to allow child foster homes for six to ten children as a conditionally permitted use in the RS and UT zones. Testimony was received and Mayor Koho closed the public hearing. A motion was made and seconded with deliberation following. The Council agreed by consensus to hold this matter over until November 3, 1997 at 7:00 p.m. to allow for staff to report back on issues raised during public testimony and also for the neighborhood associations to voice their opinion.

A memo was sent to each of the neighborhood associations with a copy of the staff report and draft ordinance. Attached to this report are responses which have been received.

The Motion made on October 6, 1997 is:

Mayor Koho moved a bill for an Ordinance Amending the Keizer Zoning Ordinance at Chapter 23 and Chapter 36 to Allow Child Foster Homes (Six to Ten Children) as a Conditionally Permitted Use in the RS Zone and UT Zone; Amending Ordinance No. 87-078 and changing all references of ten children to eight children. Councilor Keller seconded the Motion.

RECOMMENDATION:

It is recommended the Council, after reviewing the attached information continue deliberation on this motion and vote.



GUBSER NEIGHBORHOOD ASSOCIATION

RECEIVED
97 OCT 20 PM 10 18
CITY OF KEIZER
OREGON 97303

October 21, 1997

TO: Mayor Koho & Keizer City Counselors

FROM: Wayne Trucke, President *WT*

RE: Youth Foster Care Home & Proposed Ordinance Change

As requested by the Council at the October 6, 1997 City Council Meeting, I have taken this issue back to the Gubser Neighborhood Association for its members to provide input to Council.

The Gubser Neighborhood Association met Thursday, October 16, 1997 and this was a agenda item. I went through Mr. Morgan's staff report and then had an open discussion of the members present at the Association meeting that night. Some of the concerns were:

- ☐ Impact on the schools?
- ☐ Concern over the "emergency" situations Mr. Seymour talked about
- ☐ Effect on the property in the area?
- ☐ How would its serving Keizer's youth be insured?
- ☐ If we all ready have zones that allow for this, why do we want to make changes?
- ☐ What is the true impact , when this only address the youth involved and not the support staff?
- ☐ That it does open the door for other less structured groups to come in.
- ☐ That we should not be quick to change something that was done for a reason and is working.
- ☐ Many felt it was an uncontrollable situation that would be set up.

There was a lot of discussion that followed these points that were brought up. Even though many recognize that there needs to be foster homes for youth and we probably could use a lot more homes than we have, changing the zoning ordinances is not in the best interest of the neighborhood. Therefore:

The Gubser Neighborhood Association voted unanimously "to OPPOSE any change in the current zoning ordinance regarding Single Family Residential to allow "child foster homes" (six to ten children) as a conditionally permitted use. The current system was set up for a reason and is working well so don't mess with something that isn't broke."

If there are any questions that I can answer for you, please do not hesitate to let me know.

October 13, 1997

Verena Wessel
West Keizer Neighborhood Assoc.
476 Evans Ave. N.
Keizer, OR 97303

John Morgan
Planning Dept.
Keizer City Hall

Dear Mr. Morgan:

I am responding to your request for opinions from the city neighborhood associations regarding the request to change the current zoning ordinance to accommodate the proposed youth group home.

The residents that I have spoken with, have all been supportive of providing safe and nurturing homes in accordance with the current zoning ordinance. The prevailing opinion was that five foster children in any home was adequate and that no changes to the current ordinance were necessary.

I received a call this afternoon from one of the coordinators of the group home project, and she too was concerned by the acquisition of property without regard to potential zoning problems.

The current ordinances regarding foster homes have worked thus far and I and the residents of the West Keizer Neighborhood Association see no reason to change them now, especially to accommodate one project, whose coordinators should have had more foresight in choosing a location that would comply with current zoning laws.

Thank you:


Verena Wessel

COUNCIL MEETING: November 3, 1997

Agenda Item No. _____

TO: MAYOR KOHO AND CITY COUNCILLORS

THROUGH: WALLY MULL, CITY MANAGER

FROM: E. SHANNON JOHNSON, CITY ATTORNEY 

**SUBJECT: QUESTIONS PRESENTED BY JERRY WATSON REGARDING
CHILD FOSTER HOME AMENDMENT**

The Council has been considering amending the zoning ordinance to allow child foster homes with six to ten children as a conditional use in the single family residential zone. At its October 6 meeting, the City Council referred Jerry Watson's questions to this office.

As a preface to answering those questions, I will note that the first portion of Mr. Watson's memo were comments that do not need a legal response with one exception. Mr. Watson suggested in paragraph number three that "once a conditional use is added to the zoning ordinance, neither staff, nor the City Council is free to refuse the conditional use so long as it can be appropriately conditioned."

This statement is generally true. If an applicant can show compliance with the criteria, or can show that the proposed use will comply with the imposition of appropriate conditions, the Council would have to grant such permit. The Council is aware that it cannot, without justification, deny a conditional use permit to an applicant who meets the criteria. However, the criteria for a conditional use permit are somewhat subjective.

With regard to Mr. Watson's specific questions, I have restated such questions and my responses below:

“(a) Under the definition of Child Foster Care Homes, could homes serving a different kind of clientele than contemplated by Catholic Community Services (and probably the Council) be allowed?...”

I presume Mr. Watson may be referring to some type of “care” or “group” home, in other words, a home providing “programmatic treatment” rather than the standard “parental” care given in a child foster home. The definition of a “Child Foster Home” in the zoning ordinance is as follows:

Child Foster Home means any home maintained by a person who has under the care of the person in such home any child under the age of eighteen years not related to the person by blood or marriage and unattended by its parent or guardian for the purpose of providing such child with care, food and lodging. This use must have a current certificate of approval issued by the Children’s Services Division.

In addition, the zoning ordinance has a separate definition for a “Child Care Facility”:

Child Care Facility means any facility providing day treatment for disturbed children, adoption placement services, residential care, including, but not limited to foster care or residential treatment for children, or similar services for children, but excluding child daycare services and child foster homes as defined in this ordinance. This use must have a current State license from the Children’s Services Division before it is allowed.

“Child Care Facilities” are not allowed in residential zones. If a use that is by definition a Child Care Facility is at issue, then the zoning ordinance would not allow such a facility in residential zones. Though one could always challenge that, there are zones which allow treatment facilities and it is a truly different type of use. For example, there is also a definition for “Residential Home Care” which allows the care of five or fewer persons (whether children or not). This use is allowed in the single family residential zone. It appears there is a clear delineation between those types of uses that exceed five persons from those that do not.

If Mr. Watson's point is that by allowing child foster homes of six to ten children, this somehow "opens the door" for allowing other types of uses, I would say that it is possible. I think that it would be true that such an allowance may allow for the argument to be made. The constitutional argument is one of "equal protection." An equal protection argument essentially is that the government, either directly or indirectly, treats different classes of people differently from some class of people without a valid reason to do so. The Federal and State Constitutional analysis is somewhat complex and goes beyond the scope of this memorandum. Without doing in depth research, I would say that this type of equal protection claim would fall under the rational basis test, which is the lower level of analysis. Even under this lower level, it may be found that the city cannot discriminate between foster children and other types of uses.

"(b) Can legal counsel give assurances that "similar" conditional uses, i.e., other kinds of group homes, might not have to be granted, on the basis that there is no reasonable distinction between them?..."

Again, no examples are given of "other kinds of group homes." The list of allowed uses in the zoning ordinance is fairly clear. If the use is one of treatment, rather than foster care, then it can likely be denied, subject to the concerns listed above.

"(c) Can legal counsel give assurances that the children to be served by any proposed child foster home would be children from the Keizer community (see item 3, at page 3 of Exhibit A to the staff report "The allowance of child foster homes of six to ten children allows more children to be raised in the same community in which they have previously lived)."

Mr. Watson is correct on this issue and the language in the exhibit is in error. The specific proposal by Catholic Community Services is that Keizer children will be served in the home they are hoping to operate in Keizer. However, regardless of a specific applicant's plan, the City cannot assert what is basically a residency requirement. The implication of such was in error and has been deleted from the findings in Exhibit A.

“(d) Would group homes of this size be allowed in single family residential areas of Salem under the Salem zoning ordinance, or in other Oregon communities?”

Salem does not allow child foster homes containing over five children in a single family residential zone. I have not been able to check other cities, but may be able to provide more information at tonight's meeting.

The general question presented by Mr. Watson is whether the adoption of the proposed amendments will make it more likely that other types of homes could be located in the single family residential zone. As I have stated above, there is a potential for equal protection claims to be made, though I have not done a full analysis to see if they are likely to be successful. In addition, there may be Americans With Disabilities Act requirements, Fair Housing Act amendments, or other statutory or case law that could force a broader range of uses in residential zones. This is of course a separate issue from the amendments that are being considered.

If the Council indicates they wish to go forward with the amendment and are concerned with the potential for being forced to allow other types of homes, I can do a more in-depth constitutional analysis.

If you have further questions in this regard, please feel free to contact me. Thank you.

1 BILL NO. ____

A BILL

ORDINANCE NO.
97- _____

2

3

FOR

4

AN ORDINANCE

5

6

7

8

9

AMENDING THE KEIZER ZONING ORDINANCE AT
CHAPTER 23 AND CHAPTER 36 TO ALLOW CHILD FOSTER
HOMES (SIX TO TEN CHILDREN) AS A CONDITIONALLY
PERMITTED USE IN THE RS ZONE AND UT ZONE;
AMENDING ORDINANCE NO. 87-078

10

WHEREAS, the Keizer Planning Commission has considered the request of
Catholic Community Services to provide for the opportunity for child foster homes in the
single family residential zone (RS) and urban transition zone (UT) with homes consisting
of six to ten children;

14

WHEREAS, currently the zoning ordinance would not allow such a use;

15

WHEREAS, it is appropriate to provide for the establishment of such foster
homes in the single family residential zone and urban transition zone after appropriate
notice and right to hearing;

18

WHEREAS, the Keizer Planning Commission has recommended to the Keizer
City Council an amendment to provide for such a use as a conditionally permitted use in
the RS and UT zone;

21

WHEREAS, the Keizer City Council has held a public hearing and considered
the matter in compliance with all state laws and city ordinances;

23 ///

24 ///

Lien & Johnson
Attorneys at Law
4855 River Road N.
Keizer, Oregon 97303
(503) 390-1635

1 WHEREAS, the Keizer City Council has determined that such amendment
2 meets the criteria set forth in state laws, Keizer Comprehensive Plan, and the Keizer
3 Zoning Ordinance;

4 NOW, THEREFORE,

5 The City of Keizer ordains as follows:

6 Section 1. FINDINGS. The City of Keizer adopts the findings set forth in
7 Exhibit "A" attached hereto and by this reference incorporated herein.

8 Section 2. AMENDMENT TO CHAPTER 23 OF THE KEIZER ZONING
9 ORDINANCE (ORDINANCE NO. 87-078). The Keizer Zoning Ordinance (Ordinance
10 No. 87-078) is hereby amended at Chapter 23 (Single Family Residential - RS Zone) by
11 the addition of a new subsection (i) at the end of Section 23.02 adding the following as
12 an additional conditionally permitted use:

13 (i) Child foster home for six up to ten children, provided such home is
14 properly accredited by the Council on Accreditation on Child and
15 Family Programs.

16 Section 3. AMENDMENT TO CHAPTER 36 OF THE KEIZER ZONING
17 ORDINANCE (ORDINANCE NO. 87-078). The Keizer Zoning Ordinance (Ordinance
18 No. 87-078) is hereby amended at Chapter 36 (Urban Transition - UT Zone) by the
19 addition of a new subsection (f) at the end of Section 36.02 adding the following as an
20 additional conditionally permitted use:

21 ///

1 (f) Child foster home for six up to ten children, provided such home is
2 properly accredited by the Council on Accreditation on Child and
3 Family Programs.

4 Section 4. EFFECTIVE DATE. This Ordinance shall take effect thirty (30)
5 days after its passage.

6

7 PASSED this _____ day of _____, 1997.

8 SIGNED this _____ day of _____, 1997.

9
10

Mayor

11
12

City Recorder

13 824ECOK.027

EXHIBIT "A"

**Findings Regarding the Adoption of
Amendments to Keizer Zoning Ordinance
Chapter 23 - Single Family Residence (Child Foster Home)
Chapter 36 - Urban Transition (Child Foster Home)
[See criteria set forth at Keizer Zoning Ordinance (KZO) 4.15]**

The City of Keizer finds that:

1. These amendments to the Keizer Zoning Ordinance comply with statewide land use goals and related administrative rules as follows [KZO 4.15(a)]:

GOAL 1: CITIZEN INVOLVEMENT

Public hearings were conducted on this matter with the review and adoption proceedings consistent with local land use regulations.

GOAL 2: LAND USE PLANNING

The ordinance amends the Keizer Zoning Ordinance. The adoption proceeding was conducted in a manner consistent with the requirements of the Keizer Comprehensive Plan, Keizer Zoning Ordinance, and applicable state law.

GOAL 3: AGRICULTURE LAND

These amendments do not affect agricultural operations.

GOAL 4: FOREST LANDS

These amendments do not affect forest lands.

GOAL 5: OPEN SPACES, SCENIC AND HISTORIC AREAS, AND NATURAL RESOURCES

These amendments do not affect open spaces, scenic and historic areas, and/or natural resources.

GOAL 6: AIR, WATER AND LAND RESOURCES QUALITY

These amendments will not affect air, water and land resources quality.

GOAL 7: AREAS SUBJECT TO NATURAL DISASTERS AND HAZARDS

These amendments will not affect any areas subject to natural disasters and hazards.

GOAL 8: RECREATIONAL NEEDS

These amendments will not impact recreational needs.

GOAL 9: ECONOMIC DEVELOPMENT

These amendments do not impact economic development.

GOAL 10: HOUSING

These amendments assist in providing additional housing opportunities.

GOAL 11: PUBLIC FACILITIES AND SERVICES

These amendments do not affect public facilities and services.

GOAL 12: TRANSPORTATION

These amendments will not affect any transportation facilities or services.

GOAL 13: ENERGY CONSERVATION

These amendments will not affect energy conservation.

GOAL 14: URBANIZATION

These amendments will not adversely affect urbanization efforts.

GOAL 15: WILLAMETTE GREENWAY

These amendments will not affect the Willamette Greenway.

GOALS 16, 17, 18 AND 19: ESTUARINE RESOURCES, COASTAL SHORELANDS, BEACHES AND DUNES, AND OCEAN RESOURCES

These goals do not apply as Keizer is not located in an ocean shoreland area.

2. These amendments conform with the Keizer Comprehensive Plan goals, policies and intent. The amendment provides for child foster homes of six to ten children in the RS and UT zone, contingent on approval by way of the conditional use process. The Keizer Comprehensive Plan provides as a general goal that the City shall provide housing opportunities for all types of housing needs (KCP, Page 34). Such amendments help meet this goal [KZO 4.15(b)].

3. Public need is best satisfied by these amendments because the allowance of child foster homes of six to ten children potentially allows more children to be raised with their siblings, as well as potentially providing a more stable environment for such children. [KZO 4.15(c)].

4. These amendments will not adversely affect the health, safety and welfare of the community [KZO 4.15(d)].

5. (The criteria in Keizer Zoning Ordinance 4.15(e) regarding adequate public facilities, services and transportation is not applicable to this Ordinance.)

Findings with regard to this Ordinance are based on all written and oral testimony received at the City Council hearing on this matter. This evidence is incorporated by this reference as if fully set forth herein.



AGENDA ITEM 7b

November 3, 1997

**RESOLUTION - RATIFYING A HAZARD MITIGATION GRANT
CONTRACT FOR CONSTRUCTION OF RIVER ROAD BRIDGE**

CITY COUNCIL MEETING: November 3, 1997

AGENDA ITEM NUMBER: 7b

TO: MAYOR KOHO AND CITY COUNCIL MEMBERS

FROM:  **WALLY MULL
CITY MANAGER**

**SUBJECT: HAZARD MITIGATION GRANT PROGRAM
RIVER RD BRIDGE**

BACKGROUND:

The City of Keizer applied for a grant from the Federal Emergency Management Agency to construct a bridge at River Rd over Labish Ditch as part of the Oregon Emergency Management Hazard Mitigation Grant Program. FEMA has set aside \$375,000 in federal funds for this project.

ISSUE:

The City Council directed staff to assure council that the installation of a bridge at River Rd. would not cause additional damage downstream during a 100 year flood. During several meetings, including a public hearing, council was still uncomfortable with information supplied by three different engineering firms. On October 21, 1997 Staff, Council, representatives of McNary Golf Course, other interested parties and the press met and walked portions of Labish Ditch and Claggett Creek from the future River Rd Bridge location area to the West end of McNary Heights Dr.

Surveying had been done to show the Council the differences in water elevation with a new bridge and without a new bridge during a 100 year flood event. With a new bridge in place during a 100 year flood the water elevation east of River Rd. would be between 1' and 4' lower depending on the elevation of the existing properties. Without the bridge, this could cause up to 3.5 million dollars in possible damage that would occur east of River Rd. during a 100 year flood.

Without the bridge, the water west of River Rd would run out of the Labish Ditch banks and across River Rd in a 100 year flood. With the bridge the water would generally be contained within the banks. The water elevation west of River Rd at McNary Golf Course (within 600 feet of River Rd) would increase approximately two-tenths of a foot, but would remain in the channel in a 100 year flood event.

At McNary Golf Course any permanent structure built above the flood plain would not be affected by the addition of the bridge. The streets and the golf course at McNary could store water as designed.

There is one residence located on the west end of McNary Heights Dr. that has a basement that has received water damage in the past. Because of the elevation of this residence the bridge would not help nor change the possibility of damage to this residence.

FISCAL IMPACT:

The estimated cost of the bridge is \$500,000 of which the city would be responsible for \$125,000. These funds were budgeted for in the last budget. FEMA has now indicated that the city could possibly be eligible for up to the full estimated construction costs of \$500,000.

RECOMMENDATION:

Council adopt the attached resolution ratifying the contract with FEMA and the OEM allowing the City of Keizer to access these funds for the construction of a bridge at River Rd. over Labish Ditch.

CITY COUNCIL, CITY OF KEIZER, STATE OF OREGON

Resolution R97-_____

**RATIFYING A HAZARD MITIGATION GRANT PROGRAM CONTRACT BETWEEN THE
OREGON STATE POLICE, OFFICE OF EMERGENCY MANAGEMENT AND THE CITY
OF KEIZER FOR CONSTRUCTION OF THE RIVER ROAD BRIDGE**

**WHEREAS, the City of Keizer applied for and received a hazard mitigation
grant from the Federal Emergency Management Agency (FEMA) for construction of a
bridge at River Road;**

**WHEREAS, the Oregon Emergency Management will administer the grant
funds and has prepared the necessary documents for the Mayor's signature. These
documents were signed by the Mayor on October 30, 1997. NOW THEREFORE;**

**BE IT RESOLVED by the City Council of the City of Keizer that the Mayor is
authorized and has signed the necessary documents as required by the Oregon
Emergency Management which are attached hereto marked exhibit "A" and by this
reference made a part hereof.**

PASSED this _____ day of _____, 1997.

SIGNED this _____ day of _____, 1997.

Mayor

City Recorder

August 25, 1997

Mr. Dennis Koho, Mayor
City of Keizer
c/o Mr. Wally Mull
P O Box 21000
Keizer, OR 97307-1000

DEPARTMENT OF
STATE POLICE

OREGON EMERGENCY
MANAGEMENT

RE: HAZARD MITIGATION GRANT PROGRAM, DR-1099
OEM Project #047-80006, FEMA Project #1099.0008
River Road Bridge
FIPS #047-38500

Dear Mr. Koho:

Oregon Emergency Management (OEM) is pleased to inform you that the Federal Emergency Management Agency (FEMA) has approved your request for a Hazard Mitigation Grant. FEMA has set aside \$375,000 in federal funds for this project.

OEM, as administrator of those funds, has prepared the documents necessary for your jurisdiction to access those funds. OEM is enclosing for your review and execution by your authorized agent the:

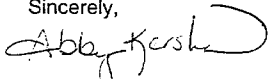
- Hazard Mitigation Grant Program Contract
- Federal form SF 424 - *Application for Federal Assistance*
- FEMA Forms 20-16(a-c) and LLL - *Assurances and Certifications*

Also enclosed is a "Notification to Subgrantees". This document provides a brief outline of the procedures and processes of the program for the subgrantee and the forms necessary to comply with those procedures. Those forms are:

- Request for Reimbursement of Funds
- Quarterly Report
- Subgrantee's Documentation Checklist (necessary to close project)

The financial administration of this project will be coordinated by the OEM Recovery Services office. Your Project Coordinator will be Fran Lushenko and she can be reached at (503) 986-0258 if you have any questions.

Sincerely,



Abby Kershaw
Governor's Authorized Representative (Alternate)

Enclosures

John A. Kitzhaber
Governor



H:\MITIGATE\DR1099\COUNTIES\MARION\4780006.AWD

E: 08/14/97
E: 11:58AM

Herres
REPORT # 05
PAGE: 1

FEDERAL EMERGENCY MANAGEMENT AGENCY
HAZARD MITIGATION GRANT PROGRAM
OBLIGATION REPORT, SUPPLEMENT NUMBER 17
DISASTER NO.: 1099

IGATION DATE: 08/14/97

PS CODE APPLICANT NAME	AMOUNT ELIGIBLE 100 %	AMOUNT OBLIGATED (FED. SHARE)	SUBGR ADMIN COST
7-38500 KEIZER	500,000	375,000	11,000

DISASTER NO.: 1099
FIPS CODE: 000-00005
SUPPLEMENT NUMBER: 17
HMG PROJ OBLIGATED: 375,000
ST MGMT OBLIGATED:
GRANTEE ADMIN: 3,860
SUBGRANTEE ADMIN: 11,000
TOTAL AMOUNT OBLIGATED: 389,860

PROVED BY:

Charles E. ...
MITIGATION DIRECTOR

NOTE:

POSTED TO IFMIS
DATE 8-15-97
BY Ang

Document and line item(s) verified.

(C) DSC, Inc.



FMIS Obl - Modify

Disaster No: 1032 Type: P

Applicant ID: 00000005

Ligation ID: 1099DRORP00000005

Doc Type: MARTLINK

Status: OPEN

Vendor: SORS00

OREGON STATE POLICE

Amendment ID: 0017 Effective

Date: 08/14/97 Date: 06/27/96

	New	Previous	Available Balance
ount:	389,860.00	3,709,057.00	4,098,917.00
		.00	.00
tal :	389,860.00	3,709,057.00	4,098,917.00

mmment: SUP #17

ansaction Date: 08/15/97 Accounting Period: 11

F2 DOWN F3 FEK F4 REVHCU F5 ADUR F6 SAVE F7 ADUS F8 RCRU F9 EXIT

DATE: 08/14/97
TIME: 11:58AM

REPORT # 05
PAGE: 2

FEDERAL EMERGENCY MANAGEMENT AGENCY
HAZARD MITIGATION GRANT PROGRAM
OBLIGATION REPORT, SUPPLEMENT NUMBER 17
DISASTER NO.: 1099

PROJECT TOTALS AS OF: 08/14/97

	AMOUNT APPROVED 100 % =====	AMOUNT OBLIGATED (FED. SHARE) =====
HAZARD MITIGATION PROJECTS:	500,000	375,000
STATE MANAGEMENT:		
GRANTEE ADMIN:	3,860	3,860
SUBGRANTEE ADMIN:	11,000	11,000
TOTALS:	514,860	389,860

GAR'S NAME: OREGON STATE POLICE
ADDRESS 595 COTTAGE STREET NE
SALEM
OR 97310

PHONE

STATE OF OREGON
OREGON STATE POLICE
OFFICE OF EMERGENCY MANAGEMENT

HAZARD MITIGATION GRANT PROGRAM CONTRACT 1099-DR-OR

1.0 PARTIES TO THIS AGREEMENT

This Agreement is made and entered into by and between the Oregon State Police, Office of Emergency Management, hereinafter referred to as "Grantee" and the **City of Keizer**, hereinafter referred to as the "Subgrantee".

WHEREAS, the Grantee is authorized by the 1996 FEMA-State Agreement for the February 1996 Flood Event (DR-1099-OR) to execute on behalf of the State of Oregon all necessary documents for the Hazard Mitigation Grant Program, including approval of sub-grants and certification of claims;

THEREFORE, both parties mutually agree to the following:

2.0 PURPOSE

Federal funding is provided by the Federal Emergency Management Agency (FEMA) and is administered by the Grantee. Under the authority of Presidential Major Disaster Declaration FEMA 1099-DR-OR, the Grantee is reimbursing the Subgrantee for those eligible costs and activities necessary for the implementation of the Hazard Mitigation Project entitled **River Road Bridge** dated **November 1, 1996** and described in the application materials submitted to Grantee as the work to be performed, hereinafter referred to as the "project".

3.0 TIME OF PERFORMANCE

Activities payable under this Agreement and to be performed by the Subgrantee under this Agreement shall be those activities which occurred starting November 1, 1996 and shall terminate upon completion of the project approved by federal and state officials, including completion of close out and audit. This period shall be referred to as the "Agreement Period."

In the event of extenuating circumstances, the Grantee may, at its sole discretion, grant a time extension to the approved project. Such requests shall be submitted by the Subgrantee in writing with an explanation of the extenuating circumstances.

4.0 CLOSE-OUT

It shall be the responsibility of the Grantee to issue close-out instructions to the Subgrantee upon completion of the project.

5.0 FUNDING

The total estimated cost of the project for the purpose of this Grant Agreement is **\$556,350**.

This estimated cost may be amended by up to ten percent (10%) upon completion of project engineering and prior to start of work to reflect actual costs. That amended cost shall then be the total project cost for the purposes of this contract. The Subgrantee shall notify Grantee if they elect to calculate costs according to this paragraph, in which event, the Grantee reserves the right to approve the costs and/or terminate this agreement after revised costs are submitted. Engineering costs under this paragraph shall not exceed ten percent (10%) of the initial estimated cost.

The Grantee will administer the Hazard Mitigation Grant Program and reimburse any eligible costs for the project to the Subgrantee which are identified in the documentation provided by the Subgrantee and approved by the Grantee and FEMA.

The parties understand that the Federal Emergency Management Agency will contribute seventy-five percent (75%) of the eligible costs for any eligible project and also will contribute an administrative allowance, as provided for in subparagraph 4 of Section 6.0 of this Agreement, and that no state funds are obligated for contribution under this Agreement.

The Subgrantee will commit the required twenty-five percent (25%) match to any eligible project.

Subgrantee understands that the Grantee has established a financial limitation for the obligation of federal funds per project for the Hazard Mitigation Grant Program DR-1099. The limit established for maximum project obligation of federal funds is **\$375,000**.

6.0 PAYMENTS

The Grantee, using funds granted for the purposes of the Hazard Mitigation Grant Program from FEMA, shall issue payments to the Subgrantee as follows:

1. Small project (less than \$44,800) payments: Payments are made for all small projects to the Subgrantee upon submission and approval of a State of Oregon Hazard Mitigation Program Payment Request to the Grantee.

2. Large Projects (greater than \$44,800) partial payments: Partial payment of funds for costs already incurred on large projects may be made to the Subgrantee upon submission and approval of a State of Oregon Hazard Mitigation Program Payment Request, with appropriate supporting documentation, from the Subgrantee to the Grantee.

3. Final Payment: Final payment will be made upon submission by the Subgrantee of a Hazard Mitigation Plan as required in the Oregon Hazard Mitigation Program Administrative Plan for DR-1099, completion of project, completion of all final inspections by the Grantee, and final approval by FEMA. Final payment will also be conditioned upon a financial review by the Grantee or FEMA. Adjustments to the final payment may be made following any audits conducted by the Oregon Secretary of State's Audits Division, or the United States Inspector General's Office.

4. The Subgrantee is eligible to receive federal administrative monies, upon completion and closure of the project, for the costs of requesting, obtaining, and administering the Hazard Mitigation Program grant(s) based upon the following percentages of total net eligible costs.

For the first \$100,000 of eligible costs, three percent of such costs;

For the next \$900,000, two percent of such costs;

For the next \$4,000,000, one percent of such costs.

5. All payment requests shall be made on a State of Oregon Hazard Mitigation Program Payment Request Form to the Grantee, which references the appropriate Hazard Mitigation Project Number, FEMA Project # and FIPS #, and appropriate documentation as required.

6. Funding shall not exceed the total federal contributions available for the approved hazard mitigation project costs under the Hazard Mitigation Grant Program FEMA-1099-DR-OR.

7. Grantee reserves the right to make any inspection prior to release of any payment or at any time during the duration of this agreement.

7.0 COST OVERRUNS

Cost overruns are the responsibility of the Subgrantee and will be borne by the Subgrantee.

8.0 RECORDS MAINTENANCE

The Subgrantee shall maintain books, records, documents, and other evidence including accounting procedures and practices which sufficiently and properly reflect all direct costs of any nature expended in the performance of this Agreement. These records shall be subject at all reasonable times to inspection, review, or audit by Grantee personnel, other personnel duly authorized by the Grantee, the Secretary of State's Audits Division or the United States Inspector General. The Subgrantee will retain all books, records, documents, and other material relevant to this Agreement for three years after date of final payment, or an extended period as established by FEMA in 44 CFR § 13.42.

Subgrantee will photo document pre-construction, construction and completed conditions of the project and make such documents a part of its records.

9.0 AUDITS

Audits shall be in accordance with the Single Audit Act of 1984 and as amended. The Subgrantee is to procure audit services based on the following guideline:

Subgrantee receiving \$300,000 or more in a fiscal year in total federal funds shall have a Single Audit made in accordance with OMB Circular A-128.

As applicable, the Subgrantee must ensure the audit is performed in accordance with Generally Accepted Accounting Principles; Government Auditing Standards developed by the Comptroller General, dated July 1988; the OMB Compliance Supplement for Single Audits of State and Local Governments; and all state and federal laws and regulations governing the program.

The Subgrantee must prepare a Schedule of Financial Assistance for federal funds that includes: Grantor name, program name, federal catalog number CFDA-83-516, grantor agreement number, total award amount, beginning balance, current year revenues, current year expenditures and ending balance.

The Subgrantee shall maintain records and accounts in such a way as to facilitate the Grantee's audit requirements, and ensure that contractors also maintain records which are auditable. The Subgrantee is responsible for any audit exceptions incurred by its own organization or that of its contractors. The Grantee reserves the right to recover from the Subgrantee disallowed costs resulting from the final audit.

The Subgrantee is responsible for sending the audit report to the Grantee's Project Administrator when requested. Responses to previous management findings and disallowed or questioned costs shall be included with the audit report. The Subgrantee will respond to the Grantee's requests for information or corrective action concerning audit issues within 30 days of the request.

The Subgrantee shall include these requirements in any subcontracts.

10.0 RECOVERY OF FUNDS

In the event that the Subgrantee fails to complete the project(s), fails to expend or is over paid federal funds in accordance with federal or state Hazard Mitigation Program laws or programs, or is found by audit or investigation to be owing to the Grantee, the Grantee reserves the right to recapture funds in accordance with federal or state laws and requirements. Repayment by the Subgrantee of agreement funds under this recovery provision shall occur within 30 days of demand. In the event that the Grantee is required to institute legal proceedings to enforce this recovery provision, the Grantee shall be entitled to its costs thereof, including reasonable attorney fees.

11.0 CONFLICT OF INTEREST

The Subgrantee will prohibit any employee, governing body, contractor, subcontractor or organization from participating if the employee or entity has an actual or potential conflict of interest that a public official would have under ORS Chapter 244.

12.0 POLITICAL ACTIVITY

No portion of the funds provided herein shall be used for any partisan political activity or to further the election or defeat of any candidate for public office or influence the approval or defeat of any ballot measure.

13.0 ASSIGNMENT

This Agreement, and any claim arising under this Agreement, may not be assigned or delegated by the Subgrantee either in whole or in part.

14.0 SUBCONTRACTS FOR ENGINEERING SERVICES

In the event that the Subgrantee subcontracts for engineering services, the Subgrantee shall require that the engineering firm be covered by errors and omissions insurance in an amount not less than the amount of the firm's contract. If the firm is unable to obtain errors and omissions insurance, the firm shall post a bond with the Subgrantee for the benefit of the Subgrantee of not less than the amount of its subcontract. Such insurance or bond shall remain in effect for the entire term of the subcontract. The subcontract shall provide that cancellation or lapse of the bond or insurance during the term of the subcontract shall constitute a material breach of the subcontract and cause for subcontract termination. The Subgrantee shall cause the subcontractor to provide it with a thirty (30) day notice of cancellation issued by the insurance company.

15.0 TERMS AND CONDITIONS

This Agreement contains these terms and conditions agreed to by the Grantee and the Subgrantee. Any additional terms and conditions imposed by the Federal Emergency Management Agency or the Grantee will be incorporated into an amendment. Such amendments shall not be binding unless they are in writing and signed by persons authorized to bind the parties. Failure to agree to FEMA imposed requirements shall be cause for termination. No other understandings, oral or otherwise, regarding the subject matter of this agreement shall be deemed to exist or to bind any of the parties hereto.

16.0 APPEALS

Consistent with the Code of Federal Regulations, 44 CFR Chapter 1, § 206.440, the Subgrantee may appeal any determination previously made related to the federal assistance for the Subgrantee.

17.0 GOVERNING LAW AND VENUE

This Agreement shall be construed and enforced in accordance with, and the validity and performance hereof shall be governed by, the laws of the State of Oregon. Venue of any suit between the parties arising out of this Agreement shall be in the Circuit Court of Oregon for Marion County.

18.0 TERMINATION

If inspections and review of Subgrantee support documentation reveal noncompliance in performance of the work and/or documentation of the work, the Subgrantee will be required to correct deficiencies or variances before program closure.

If corrective actions required do not resolve variances from the approved project, the Grantee will notify the Subgrantee of such. The Grantee may then make the determination that the Subgrantee variances constitutes noncompliance or nonconformance to the Hazard Mitigation Grant Program and/or conditions. In the event of such determination, the Grantee will notify the Subgrantee of such action and recover obligated funds from the Subgrantee or take other actions as specified under 44 CFR §13.43 Enforcement or §13.44 Termination for Convenience.

Subgrantee may terminate this contract with thirty (30) days notice and the return of all federal funds paid to Subgrantee for the project.

The Grantee may unilaterally terminate all or part of this Agreement or may reduce its scope of work if there is:

1. A reduction in federal funds which are the basis for this Agreement, and/or
2. A material misrepresentation, error or inaccuracy in Subgrantee's application.

19.0 SAVINGS

Subgrantee shall apply any savings, rebates and reductions in cost to reduce the overall cost of the project

20.0 WAIVERS

No conditions or provisions of this Agreement can be waived unless approved by the Grantee in writing. The Grantee's failure to insist upon strict performance of any provision of the Agreement, or to exercise any right based upon a breach thereof, or the acceptance of any performance during such breach, shall not constitute a waiver of any right under this Agreement.

21.0 INDEMNIFICATION

To the extent permitted by each party's constitutional and statutory limitations, including, but not limited to, provisions relating to debt limits, tort claims limits and workers' compensation, the Subgrantee shall indemnify, defend, save and hold harmless the United States and its agencies, officers, employees, agents and members, and the State of Oregon and its agencies, officers, employees, agents and members, from and against all claims, damages, losses, expenses, suits or actions of any nature arising out of or resulting from the activities of Subgrantee, its agencies, officers, employees, agents, members, contractors or subcontractors under this Agreement.

22.0 SUBGRANTEE ASSURANCES

Subgrantee assures Grantee that the project will adhere to all applicable federal and state laws, executive orders, regulations and policy.

23.0 OWNERSHIP OF PROJECT/CAPITAL FACILITIES

The Grantee makes no claim to any capital facilities or real property improved or constructed with funds under this Agreement, and by this grant of funds does not and will not acquire any ownership interest or title to such property of the Subgrantee.

24.0 ACKNOWLEDGMENTS

The Subgrantee shall include language which acknowledges the funding contribution of the Federal Emergency Management Agency (FEMA) to this project in any information release or other publication developed or modified for, or referring to the project.

25.0 INSURANCE

The Subgrantee will comply with the insurance requirements of Public Law 93-288, as amended, and obtain and maintain any other insurance as may be reasonable, adequate, and necessary to protect against further loss to any property which was replaced, restored, repaired or constructed with this assistance.

26.0 SEVERABILITY

In the event any term or condition of this Agreement or application thereof to any person or circumstance is held invalid, such invalidity shall not affect other terms, conditions, or applications of this Agreement which can be given effect without the invalid term, condition, or application. To this end, the terms and conditions of this Agreement are declared severable.

27.0 ORDER OF PRECEDENCE

In the event of an inconsistency in this Agreement, unless otherwise provided herein, the inconsistency shall be resolved by giving precedence in the following order:

28.0 AGREEMENT ADMINISTRATION

Subgrantee's Authorized Agent shall be **Dennis Koho, Mayor**.

The Grantee's representative shall be the Governor's Authorized Representative or alternate.

29.0 ACQUISITION ADDENDUM

In the event that the subgrantee's Hazard Mitigation project involves the acquisition of real property, subgrantee acknowledges receipt of an acquisition addendum and agreement to the conditions and requirements contained therein.

30.0

ENTIRE AGREEMENT

This Agreement sets forth the entire Agreement between the parties with respect to the subject matter hereof. Commitments, warranties, representations and understandings or agreements not contained, or referred to, in this Agreement or written amendment hereto shall not be binding on either party. Except as may be expressly provided herein, no alteration of any of the terms or conditions of this Agreement will be effective without the written consent of both parties.

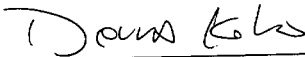
IN WITNESS WHEREOF, the Grantee and the Subgrantee have executed this Agreement as of the date and year written below.

Governor's Authorized Representative
Oregon State Police
Office of Emergency Management

DATE: _____

Oregon Emergency Management
595 Cottage St NE
Salem, OR 97310

CFDA:83-516



Authorized Agent Signature - Subgrantee
Printed Name: **Dennis Koho**
Title: **Mayor**

DATE: October 30, 1997

Subgrantee - PLEASE PRINT THE
FOLLOWING TO EXPEDITE
PROCESSING:

Federal Tax ID No. (TIN): 93-0836902

Organization: City of Keizer

Address: P.O. Box 21000, Keizer, OR 97307

Phone: (503) 390-3700

APPLICATION FOR
FEDERAL ASSISTANCE

1. TYPE OF SUBMISSION:

Application

☐ Construction
☐ Non-Construction

Preapplication

☐ Construction
☐ Non-Construction

2. DATE SUBMITTED

Applicant Identifier

3. DATE RECEIVED BY STATE

State Application Identifier

1 1 0 1 9 8

047-30006

4. DATE RECEIVED BY FEDERAL AGENCY

Federal Identifier

1099-0008

5. APPLICANT INFORMATION

Legal Name:

Address (give city, county, state, and zip code):

Organizational Unit:

Name and telephone number of person to be contacted on matters involving this application (give area code)

6. EMPLOYER IDENTIFICATION NUMBER (EIN):

 -

7. TYPE OF APPLICANT:

☐ New

☐ Continuation

☐ Revision

If Revision, enter appropriate letter(s) in box(es)

A. Increase Award

B. Decrease Award

C. Increase Duration

D. Decrease Duration

Other (specify):

7. TYPE OF APPLICANT: (enter appropriate letter in box)

A. State

B. County

C. Municipal

D. Township

E. Interstate

F. Intermunicipal

G. Special District

H. Independent School Dist.

I. State Controlled Institution of Higher Learning

J. Private University

K. Indian Tribe

L. Individual

M. Profit Organization

N. Other (Specify)

8. NAME OF FEDERAL AGENCY:

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER:

8 3 - 5 1 1 8

TITLE: Hazard Mitigation Grant Program

12. AREAS AFFECTED BY PROJECT (Cities, Counties, States, etc.):

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

13. PROPOSED PROJECT:

Start Date

Ending Date

14. CONGRESSIONAL DISTRICTS OF:

a. Applicant

b. Project

15. ESTIMATED FUNDING:

a. Federal

\$

.00

b. Applicant

\$

.00

c. State

\$

.00

d. Local

\$

.00

e. Other

\$

.00

f. Program Income

\$

.00

g. TOTAL

\$

.00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE

ORDER 12372 PROCESS?

a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON:

DATE:

b. NO. ☐ PROGRAM IS NOT COVERED BY E.O. 12372 OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?

☐ Yes

If "Yes," attach an explanation

☐ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED.

a. Type Name of Authorized Representative

Dennis Koho

b. Title

Mayor

c. Telephone Number

(503) 390-3700

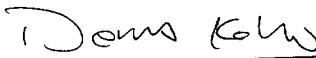
d. Signature of Authorized Representative

Dennis Koho

e. Date Signed

10-30-97

11. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provides for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal and federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
12. Will comply with the provisions of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
13. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a-7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. § 874), the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333) regarding labor standards for federally assisted construction subagreements.
14. Will comply with the flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
15. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.); (f) conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. § 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).
16. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
17. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and preservation of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1 et seq.).
18. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.
19. Will comply with all applicable requirements of all other Federal laws, Executive Orders, regulations and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL 		TITLE Mayor - City of Keizer	
APPLICANT ORGANIZATION City of Keizer		DATE SUBMITTED October 30, 1997	

FEDERAL EMERGENCY MANAGEMENT AGENCY
SUMMARY SHEET FOR ASSURANCES AND CERTIFICATIONS

O.M.B. No. 3067-0206
Expires June 30, 1998

FOR

CA FOR (Name of State)

BY 199

This summary sheet includes Assurances and Certifications that must be read, signed, and submitted as a part of the Application for Federal Assistance.

An applicant must check each item that they are certifying to:

Part I ☐ FEMA Form 20-16A Assurances-Nonconstruction Programs

Part II ☐ FEMA Form 20-16B Assurances-Construction Programs

Part III ☐ FEMA Form 20-16C Certification Regarding Lobbying; Debarment, Suspension, and Other Responsibility Matters; and Drug-Free Workplace Requirements

Part IV ☐ SF LLL Disclosure of Lobbying Activities (If applicable)

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the identified attached assurances and certifications.

Dennis Kohn

Typed Name of Authorized Representative

Mayor - City of Keizer

Title

Signature of Authorized Representative

October 30, 1997

Date Signed

NOTE: By signing the certification regarding debarment, suspension, and other responsibility matters for primary covered transaction, the applicant agrees that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by FEMA entering into this transaction.

The applicant further agrees by submitting this application that it will include the clause titled "Certification regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," provided by the FEMA Regional Office entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions. (Refer to 44 CFR Part 17.)

Paperwork Burden Disclosure Notice

Public reporting burden for this form is estimated to average 1.7 hours per response. The burden estimate includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing, reviewing, and maintaining the data needed, and completing and submitting the form. Send comments regarding the accuracy of the burden estimate and any suggestions for reducing the burden to: Information Collections Management, Federal Emergency Management Agency, 500 C Street, SW, Washington DC 20472."

FEDERAL EMERGENCY MANAGEMENT AGENCY
ASSURANCES-NON-CONSTRUCTION PROGRAMS

Note: Certain of these assurances may not be applicable to your project or program. If you have any questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant, I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.
2. Will give the awarding agency, the comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal gain.
4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. Section 4727-4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration) 5 C.F.R. 900, Subpart F).
6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color, or national origin; (b) Title IV of the Education Amendments of 1972, as amended (20 U.S.C. Sections 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. Section 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. Sections 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) Sections 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290-dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Acts of 1968 (42 U.S.C. Section 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provision in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.
7. Will comply, or has already complied, with the requirements of Title II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or Federally assisted programs. These requirements apply to all interest in real property acquired for project purposes regardless of Federal participation in purchase.
8. Will comply with provisions of the Hatch Act (5 U.S.C. Sections 1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. Sections 276a to 276a-7), the Copeland Act (40 U.S.C. Section 276c and 18 U.S.C. Sections 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. Sections 327-333), regarding labor standards for federally assisted construction subagreements.
10. Will comply, if applicable with flood insurance purchase requirements of Section 102a of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. Sections 1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176 (c) of the Clear Air Act of 1955, as amended (42 U.S.C. Section et seq.); (g) protection underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. Sections 1271 et seq.) related to protecting components of the national wild and scenic rivers systems.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a et seq.).

14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. Sections 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

19. It will comply with the minimum wage and maximum hours provisions of the Federal Fair Labor Standards Act (29 U.S.C. 201), as they apply to employees of institutions of higher education, hospitals, and other non-profit organizations.

FEDERAL EMERGENCY MANAGEMENT AGENCY
ASSURANCES-CONSTRUCTION PROGRAMS

NOTE: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the Awarding Agency. Further, certain federal assistance awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant, I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project cost) to ensure proper planning, management, and completion of the project described in this application.
2. Will give the awarding agency, the comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the assistance; and will establish a paper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will not dispose of, modify the use of, or change the terms of the real property title, or other interest in the site and facilities without permission and instructions from the awarding agency. Will record the Federal interest in the title of real property in accordance with awarding agency directives and will include a covenant in the title of real property acquired in whole or in part with Federal assistance funds to assure nondiscrimination during the useful life of the project.
4. Will comply with the requirements of the assistance awarding agency with regard to the drafting, review and approval of construction plans and specifications.
5. Will provide and maintain competent and adequate engineering supervision at the construction site to ensure that the complete work conforms with the approved plans and specifications and will furnish progress reports and such other information as may be required by the assistance awarding agency or state.
6. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
7. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
8. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. Sections 4728-4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's standards for a Merit System of Personnel Administration (5 C.F.R. 900-subpart F).
9. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. Sections 4801-et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.
10. Will comply with all Federal statutes relating to non-discrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the bases of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. Sections 1681-1683, and 1685-1686) which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. Section 794) which prohibits discrimination on the basis of; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. Sections 6101-61-7) which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 93-255), as amended, relating to non-discrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) Sections 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. Section et seq.), as amended, relating to non-discrimination in the sale, rental or financing of housing; (i) any other non-discrimination provisions in the specific statutes(s) under which application for Federal assistance is being made, and (j) the requirements on any other non-discrimination Statute(s) which may apply to the application.
11. Will comply, or has already complied, with the requirements of Title II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provides for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal and Federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
12. Will comply with the provisions of the Hatch Act (5 U.S.C. Sections 1501-1508 and 7324-7328) which limit the political activities of employment activities are funded in whole or in part with Federal funds.

13. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. Sections 276a to 276a-7), the Copeland Act (40 U.S.C. Section 276c and 18 U.S.C. Section 874), the Contract Work Hours and Safety Standards Act (40 U.S.C. Sections 327-333) regarding labor standards for Federally assisted construction subagreements.

14. Will comply with the flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance in the total cost of insurable construction and acquisition is \$ 10,000 or more.

15. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1973 (16 U.S.C. Sections 1451 et seq.); (f) conformity of Federal actions to State (Clean Air) Implementations Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. Section 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).

16. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. Sections 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

17. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and preservation of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 46a-1 et seq.).

18. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.

19. Will comply with all applicable requirements of all other Federal laws, Executive Orders, regulations and policies governing this program.

20. It will comply with the minimum wage and maximum hours provisions of the Federal Fair Labor Standards Act (29 U.S.C. 201), as they apply to employees of institutions of higher education, hospitals, and other non-profit organizations.

21. It will obtain approval by the appropriate Federal agency of the final working drawings and specifications before the project is advertised or placed on the market for bidding; that it will consult the project, or cause it to be constructed, to final completion in accordance with the application and approved plans and specifications; that it will submit to the appropriate Federal agency for prior approval changes that alter the cost of the project, use of space, or functional layout, that it will not enter into a construction contract(s) for the project or undertake other activities until the conditions of the construction grant program(s) have been met.

22. It will operate and maintain the facility in accordance with the minimum standards as may be required or prescribed by the applicable Federal, State, and local agencies for the maintenance and operation of such facilities.

23. It will require the facility to be designed to comply with the "American Standard Specifications for Making Buildings and Facilities Accessible to, and Useable by, the Physically Handicapped," Number A117. -1961, as modified (41 CFR 101-17.703). The applicant will be responsible for conducting inspections to ensure compliance with these specifications by the contractor.

24. If any real property or structure thereon is provided or improved with the aid of Federal financial assistance extended to the applicant, this assurance shall obligate the applicant, or in the case of any transfer or such property, any transfer, for the period during which the real property or structure is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits.

25. In making subgrants with nonprofit institutions under this Comprehensive Cooperative Agreement, it agrees that such grants will be subject to OMB Circular A-122, "Cost Principles for non-profit Organization" including in vol. 49, Federal Register, pages 18260 through 18277 (April 27, 1984).

**FEDERAL EMERGENCY MANAGEMENT AGENCY
CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND
OTHER RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE REQUIREMENTS**

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 44 CFR Part 18, "New Restrictions on Lobbying" and 28 CFR Part 17, "Government-wide Debarment and Suspension (*Nonprocurement*) and Government-wide Requirements for Drug-Free Workplace (*Grants*). The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Federal Emergency Management Agency (FEMA) determines to award the covered transaction, grant, or cooperative agreement.

1. LOBBYING

As required by section 1352, Title 31 of the U.S. Code, and implemented at 44 CFR Part 18, for persons entering into a grant or cooperative agreement over \$100,000, as defined at 44 CFR Part 18, the applicant certifies that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;

(b) If any other funds than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or an employee of Congress, or employee of a member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions;

(c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.

☐ Standard Form-LLL "Disclosure of Lobbying Activities" attached.
(This form must be attached to certification if nonappropriated funds are to be used to influence activities.)

2. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS (DIRECT RECIPIENT)

As required by Executive Order 12549, Debarment and Suspension, and implemented at 44 CFR Part 67, for prospective participants in primary covered transactions, as defined at 44 CFR Part 17, Section 17.510-A. The applicant certifies that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, sentenced to a denial of Federal benefits by a State or Federal court, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this application been convicted of or had a civilian judgment rendered against them for commission of fraud or a criminal offense in connection with

obtaining, attempting to obtain, or perform a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application had one or more public transactions (Federal, State, or local) terminated for cause or default; and

8. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

3. DRUG-FREE WORKPLACE (GRANTEES OTHER THAN INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 44 CFR Part 17, Subpart F, for grantees, as defined at 44 CFR Part 17 Sections 17.615 and 17.620-

A. The applicant certifies that it will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an on-going drug free awareness program to inform employees about-

- (1) The dangers of drug abuse in the workplace;
- (2) The grantee's policy of maintaining a drug-free workplace;
- (3) Any available drug counseling, rehabilitation, and employee assistance programs; and
- (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant to be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will-

(1) Abide by the terms of the statement; and

(2) Notify the employee in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to the applicable FEMA awarding office, i.e., regional office or FEMA office.

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted-

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug free workplace through implementation of paragraphs (a),(b), (c),(d),(e), and(f).

8. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, City, County, State, Zip code)

Check ☐ if there are workplaces on file that are not identified here.

Section 17.630 of the regulations provide that a grantee that is a State may elect to make one certification in each Federal fiscal year. A copy of which should be included with each application for FEMA funding. States and State agencies may elect to use a state wide certification

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OAS
0344-3044

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

1. Type of Federal Action: ☐ a. contract ☐ b. grant ☐ c. cooperative agreement ☐ d. loan ☐ e. loan guarantee ☐ f. loan insurance		2. Status of Federal Action: ☐ a. bid/offer/application ☐ b. initial award ☐ c. post-award		3. Report Type: ☐ a. initial filing ☐ b. material change For Material Change Only: year _____ quarter _____ date of last report _____	
4. Name and Address of Reporting Entity: ☐ Prime ☐ Subawardee Tier _____, if known: Congressional District, if known: _____			5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime: Congressional District, if known: _____		
6. Federal Department/Agency:			7. Federal Program Name/Description: CFDA Number, if applicable: _____		
8. Federal Action Number, if known:			9. Award Amount, if known: \$ _____		
10. a. Name and Address of Lobbying Entity (if individual, last name, first name, MI):			b. Individuals Performing Services (including address if different from No. 10a) (last name, first name, MI):		
(Attach Continuation Sheet(s) SF-411-A, if necessary)					
11. Amount of Payment (check all that apply): \$ _____ ☐ actual ☐ planned			12. Type of Payment (check all that apply): ☐ a. retainer ☐ b. one-time fee ☐ c. commission ☐ d. contingent fee ☐ e. deferred ☐ f. other, specify: _____		
12. Form of Payment (check all that apply): ☐ a. cash ☐ b. in-kind; specify: nature _____ value _____					
13. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment Indicated in Item 11: 					
(Attach Continuation Sheet(s) SF-411-A, if necessary)					
14. Continuation Sheet(s) SF-411-A attached: ☐ Yes ☐ No					
15. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance may be placed by the other parties to this transaction and shall be made in good faith. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.			Signature: <u>Dennis Koho</u> Print Name: <u>Dennis Koho</u> Title: <u>Mayor - City of Keizer</u> Telephone No.: <u>390-3700</u> Date: <u>10-30-97</u>		
Federal Use Only			Authorized for Local Reproduction Standard Form - 111		

DISCLOSURE OF LOBBYING ACTIVITIES
CONTINUATION SHEET

Approved by OAG
0146-0046

Reporting Entity: _____ Page _____ of _____

NOTIFICATION TO SUBGRANTEES

HAZARD MITIGATION GRANT PROGRAM

FEMA-1099-DR-OR

Section	Description
1	Time Extensions
2	Inspections
3	Audits
4	Reporting Procedures
5	Appeals Process
6	Cost Over-runs

Terminology:

Grantor:	Level:	Federal
	Agency:	Federal Emergency Management Agency
	Individuals:	Regional Director Federal Hazard Mitigation Officer
Grantee:	Level:	State
	Agency:	Governor's Office of Emergency Services
	Individuals:	Governor's Authorized Representative State Hazard Mitigation Officer
Subgrantee:	Level:	Local Jurisdiction, State Agency or Private
		Non-Profit Organization

1. Time Extensions

Time extensions up to twelve months for project completion may be granted by the Grantee, upon written request. Requests must detail the circumstances requiring an extension and indicate a projected completion date.

Requests for time extensions beyond the authority of the Grantee will be submitted to the Regional Director (FEMA, Region X) for approval and must include:

- * the dates and provisions of all previous extensions on the project; and
- * a detailed explanation for the delay and a projected completion date.

Following the Regional Director's review and determination, the Grantee will be notified in writing of the time extension request. The Grantee, in turn, shall notify the subgrantee of FEMA's determination.

If the extension is denied, the subgrantee can submit a second request to be considered by the FEMA National Office. If the second time extension request is denied, upon completion of the project, the subgrantee will be authorized expenditures for eligible project costs incurred prior to the latest approved completion date only. No federal funding will be provided for any project which is not completed.

2. Inspections

The Grantee reserves the right to inspect all projects for compliance. If inspections and review of subgrantee support documentation reveal problems in performance of work and/or the documentation of such work, the Grantee shall require the subgrantee to correct the deficiencies before project closeout.

3. Audits

Audits of subgrantees receiving federal grants will be conducted in conformance with the requirements of the Single Audit Act of 1984 (PL 98-502) and OMB Circulars A-110 and A-128, as well as related FEMA regulations and instructions.

In each case where the subgrantee is provided \$300,000 or more funds in the fiscal year, the Grantee will:

- * determine whether the subgrantee spent HMGP funds in accordance with the Act, 44 CFR, part 14, and 44 CFR 206.207. This may be

accomplished by reviewing the audit performed under the Single Audit Act or through other means (e.g. program reviews) if the subgrantee has not yet had such an audit;

- * ensure that appropriate corrective action is taken within six (6) months after receipt of the single audit report in instances of non-compliance; and,
- * provide copies of the audit performed under the Single Audit Act to the FEMA Inspector General.

4. Report Procedures

Progress Reports

Subgrantees are required to submit progress reports to the Grantee on a quarterly basis until project closeout. Quarterly reports will not be required of projects with a duration of less than three months. A single report for such short-term projects will satisfy reporting requirements.

The first quarterly report is due to the Grantee three months following the project initiation. Quarterly reports will thereafter be numbered consecutively (e.g. 24 month project is required to submit 8 quarterly reports).

Reports shall include, at a minimum:

- a. the status and completion dates for each project funded, including any problem or circumstances affecting the completion dates, scope of work, or project costs which are expected to result in noncompliance with the approved grant conditions;
- b. a description of milestones completed in accordance with schedule provided in the grant application. The milestones declared in the subgrantee's application will be applied as a standard of the project's progress.

The Grantee will review and approve subgrantee reports prior to submittal to FEMA, identifying projects requiring special attention or inspection. The Governor's Authorized Representative will review and forward the reports with comments to the FEMA Regional Director.

Final Report

The subgrantee shall submit a final program report package to the Grantee when all subgrants have been closed. The package will include the following:

- * Certification that all funds have been expended in accordance with all signed assurances; and
- * A listing of all projects and final expenditures.

5. Appeals Process

Appeals will be processed in accordance with 44 CFR §206.440.

A subgrantee/applicant may appeal any determination relative to grant assistance by submitting justification in writing to the Grantee within sixty (60) days of the action being appealed. Local appeals are submitted through the Governor's Authorized Representative (GAR). Applicants must provide sufficient information to allow the GAR to determine the facts and validity of the request. All appeals will be handled through the Grantee.

The Grantee will review the appeal materials submitted, make any additional investigations necessary and forward the appeal with a written recommendation to the FEMA Regional Director (RD) within sixty (60) days.

The Regional Director shall notify the Grantee as to the disposition of the subgrantee's appeal or need for additional information within ninety (90) days following receipt of all related information and shall notify the GAR, in writing, as to a decision within ninety (90) days of receipt of all information. If the decision is to grant the appeal, the RD will take appropriate implementing action.

If the Regional Director denies the appeal, the subgrantee may submit a second appeal in writing to the GAR. The second appeal is ultimately forwarded to the Associate Director (FEMA) through the Regional Director. Such appeals shall be made in writing and shall be submitted not later than sixty (60) days after receipt of notice of the RD's denial of the first appeal.

In appeals involving highly technical issues, the Associate Director may ask an independent scientific or technical group or individual with expertise in the subject matter to review the appeal to obtain the best possible evaluation. In such cases, the ninety (90) day limit will run from the submission of the technical report.

If the Associate Director denies the appeal, the subgrantee may submit an appeal to the Director of FEMA. Such appeals shall be in writing, through the grantee and Regional Director and submitted no later than sixty (60) days after the Associate Director's denial.

The director will render an decision within ninety (90) days following the receipt of the appeal or the receipt of such additional material to make a determination on the appeal.

If the decision is to grant the appeal, the Regional Director will take appropriate implementing action. Action by the Director is final.

In rendering such determinations in those cases involving appeals of a highly technical nature referring the appeal to an independent scientific or technical body for review, the GAR must first agree to such a process, including a waiver of the ninety (90) day time limitation for appeal resolution, as well as, sharing the cost of such reviews.

6. Cost Over-Runs

Cost overruns above the approved project contract costs are the obligation of the subgrantee. Cost over-runs must be reported to the Grantee as the subgrantee becomes aware of them.

7. Hazard Mitigation Plan

The subgrantee must provide an adopted local hazard mitigation plan in order to receive final payment.

**HAZARD MITIGATION GRANT PROGRAM
FEMA-1099-DR-OR
SUBGRANTEE QUARTERLY REPORT FORM**
Report No. _____

SubgranteeName: _____ FEMA HMGP# _____ OEM HMGP# _____ FIPS No.: _____

Project Name: _____

Project Location: _____

Project Type (Check All That Apply):

☐ Construction

☐ Retrofit

☐ Relocation

☐ Acquisition

☐ Public Info

☐ URM

☐ Structural

☐ Non-Structural

WORK SCHEDULE:

Project is Proceeding
on Schedule:

Yes ☐ No ☐

% of Project

Completed: _____

Start date: _____

Estimated

Completion: _____

COST STATUS:

Cost Unchanged ☐

Cost Over-Estimate ☐

\$ _____

Cost Under-Estimate ☐

\$ _____

Comments

(Describe problems or circumstances affecting completion dates milestone scope of work, & cost. Also describe achievements successes, progress & special issues)

SIGNED BY: _____ DATE: _____

PRINT SIGNATURE: _____

ADDRESS: _____

PHONE: _____

REQUEST FOR REIMBURSEMENT OF FUNDS HAZARD MITIGATION GRANT PROGRAM (HMGP) FEMA-1099-DR-OR

TO: State of Oregon Oregon Emergency Management Recovery Services Division 595 Cottage Street NE Salem, OR 97310	FROM: FIPS #: _____ HMGP PROJECT #: _____ APPLICANT: _____ ADDRESS: _____ _____ _____
--	--

It is requested that a reimbursement of funds in the amount of \$ _____ be approved in accordance with the following conditions:

Type of Payment Requested: ☐ Partial ☐ Final

1. Funds shall be credited to a special and separate account.
2. Funds shall be used solely for the work approved in the project application.
3. Funds advanced which are in excess of the approved actual expenditures, as accepted by final audit by the State, shall be refunded promptly to the State.
4. Accounting records will be kept which adequately identify the source and application of HMGP funds and be supported by such source documentation as canceled checks, paid bills, payrolls, time and attendance records, contract and subgrant awards, etc. Support documentation of all soft match dollars, such as force account labor and use of existing inventory, shall also be included.
5. Progress reports shall be submitted to the State on a quarterly basis until project closeout. Reports will indicate the status and completion dates for each project funded as per State requirements.

Total Amount Approved in Project Application ... \$ _____
 Amount Expended to Date on Eligible Work ... \$ _____

I certify that to the best of my knowledge and belief, the data presented above and on the attached worksheet are correct, that all outlays were made in accordance with the grant conditions and that payment is due and has not been previously requested. I further certify that I am the authorized applicant's agent, designated by the above referenced applicant to enter into this agreement for, and on behalf of, said applicant.

 Authorized Applicant's Agent Date at City

(For Internal Use Only)	
Maximum Allowable Reimbursement \$ _____ Total Amount of Prior Reimbursements \$ _____ AMOUNT APPROVED THIS REQUEST \$ _____	
Date _____ Reviewer _____ Title _____	
Date _____ Approval _____ Title _____	
AREV _____	

Subgrantee's Documentation Checklist

Subgrantee:	Disaster No:
Project:	HMGP #:
FIPS No:	Date:

Please prepare the documentation indicated with a "✓" mark. Your final accounting summary *Per HMGP Scope of Work* should reflect *actual* expenditures.

Force Account Work

- ☐ Payroll Summary Segregated by:
 - ☐ Regular labor
 - ☐ Overtime labor
 - ☐ Benefits
- ☐ Productive Hourly Rate - (PHR)
- ☐ Indirect Cost Rate Proposal - (ICRP)
- ☐ Equipment - (time and rates)
- ☐ Time sheets
- ☐ Materials - (invoices/proof of payment)

Contracted Work

- ☐ Procurement procedures - (i.e. advertisement, sole source, competitive, etc...)
- ☐ Bid documents, plans, and specifications
- ☐ Summary of bids
- ☐ Contract award
- ☐ Change orders
- ☐ Proof of payment

Insurance

- ☐ Either an insurance policy or an insurance waiver letter from the Department of Insurance.

Building Permits

- ☐ Permits
- ☐ Certifications

Other Funding if Applicable - (i.e. Insurance, Federal Highways, Dept of Education, etc...)

- ☐ Identify Source: _____

Time Extension

- ☐ Please send a letter requesting a time extension for HMGP : _____

Other



November 3, 1997

AGENDA ITEM 7C

CITY MANAGER RECRUITMENT

CITY COUNCIL MEETING: November 3, 1997

AGENDA ITEM NUMBER: 7c

TO: MAYOR KOHO AND CITY COUNCIL MEMBERS

FROM: WALLY MULL
CITY MANAGER

SUBJECT: CITY MANAGER RECRUITMENT PROCESS

ISSUE:

This time has been reserved for the Council to discuss the City Manager recruitment process,



AGENDA ITEM 7d

RESOLUTION - RECONITION OF THE CITY 15TH BIRTHDAY

November 3, 1997

COUNCIL MEETING: November 3, 1997

AGENDA ITEM NUMBER: 7a

TO: MAYOR KOHO AND CITY COUNCILORS

THROUGH:  WALLY G. MULL
CITY MANAGER

FROM: TRACY L. DAVIS 
CITY RECORDER

SUBJECT: RESOLUTION - RECOGNITION OF THE CITY'S 15TH BIRTHDAY

BACKGROUND:

On November 2, 1982 a measure was placed on the ballot at the general election to incorporate an area lying north of the Salem city limits; east of the Willamette River, the Salem Urban Growth Boundary and the Willow Lake Treatment Plant; west of the Salem Parkway and Interstate 5, along the Salem Urban Growth Boundary to the north as the City of Keizer. On this day 7,990 citizens of the area cast their votes and 4,440 favored incorporation and Keizer became the 12th largest city in the state of Oregon with an official population count of 19,650.

On January 18, 1983 a special election was held and the first city council members were elected; Richard Bauer, Phil Bay, Andrew Orcutt, Chet Patterson, and Robert Simon. At the first official Council meeting on January 26th, Robert Simon was elected as the first Mayor of the City. With the adoption of the city charter on March 29, 1983 two more council positions were created bringing Bob Newton and Mike Hart to the Council. Attached to this report is a list of all members of the City Council and their dates of service since incorporation. Later in 1983 a city flag and motto was formally adopted. The City continues to display the motto "Pride, Spirit, and Volunteerism on many items and the official city flag is on display in the council chambers.

The City has made many accomplishments and grown tremendously over the last 15 years. Some of these facts and figures will be displayed during the open house portion of the birthday celebration. In addition, the City has adopted 999 resolutions over the last 15 years and I believe it is appropriate that the 1000th resolution honor the birth of the City of Keizer.

RECOMMENDATION:

It is recommended the City Council adopt the attached resolution recognizing the 15th birthday of the City of Keizer.

Keizer City Council Members

Robert Simon	Mayor	January 1983 to January 1989
Richard Bauer	Councilor	January 1983 to June 1985
Andrew Orcutt	Councilor	January 1983 to January 1987
	Mayor	January 1989 to January 1993
Phil Bay	Councilor	January 1983 to January 1991
Chet Patterson	Councilor	January 1983 to January 1987
		January 1993 to July 1995
Bob Newton	Councilor	March 1983 to January 1993
		August 1995 to January 1997
Mike Hart	Councilor	March 1983 to January 1993
Bruce Nopp	Councilor	July 1985 to January 1989
Robert Pritchard	Councilor	August 1986 to January 1991
Yvonne Fischer	Councilor	January 1987 to January 1991
Joe VanMeter	Councilor	January 1989 to January 1993
Dennis Koho	Councilor	January 1991 to January 1993
	Mayor	January 1993 to present
Al Miller	Councilor	January 1991 to present
Jerry McGee	Councilor	January 1991 to present
Marlene Wellin	Councilor	January 1993 to January 1995
Jerry Watson	Councilor	January 1993 to January 1997
Jim Keller	Councilor	January 1993 to present
Carl Beach	Councilor	January 1995 to present
Garry Whalen	Councilor	January 1997 to present
Dawn Meier	Councilor	January 1997 to present

CITY COUNCIL, CITY OF KEIZER, STATE OF OREGON

Resolution R97-1000

IN RECOGNITION OF THE 15TH BIRTHDAY OF THE CITY OF KEIZER

WHEREAS, on November 2, 1982 a measure was placed on the ballot at the general election to incorporate an area lying north of the Salem city limits; east of the Willamette River, the Salem Urban Growth Boundary and the Willow Lake Treatment Plant; west of the Salem Parkway and Interstate 5, along the Salem Urban Growth Boundary to the north as the City of Keizer;

WHEREAS, the official canvass of the returns of this election found that 7,990 total ballots were cast by the area residents; 4,440 votes favored incorporation; and 3,341 votes opposed incorporation. The City of Keizer became the 12th largest city in the State of Oregon with a population of 19,650;

WHEREAS, on January 18, 1983 a special election was held and the first City Council members were sworn into office on January 25, 1983. The first city charter was approved by the voters at the March 29, 1983 election and in August 1983, a city flag and motto, "Pride, Spirit, and Volunteerism" were adopted. NOW, THEREFORE

IT IS HEREBY RESOLVED by the City Council of the City of Keizer that official recognition is granted in honor of the 15th birthday of the City of Keizer.

PASSED this ____ day of _____, 1997.

SIGNED this ____ day of _____, 1997.

Mayor

City Recorder



November 3, 1997

AGENDA ITEM 8a

**RESOLUTION - RECOGNIZING KEIZER NEIGHBORHOOD
ASSOCIATION GROUP (KNAG)**

CITY COUNCIL MEETING: November 3, 1997

AGENDA ITEM NUMBER: 8a

TO: MAYOR KOHO AND CITY COUNCIL MEMBERS

**FROM:  WALLY MULL
CITY MANAGER**

SUBJECT: KEIZER NEIGHBORHOOD ASSOCIATION GROUP

ISSUE:

At the October 20, 1997 City Council meeting, Cynthia Vannoy advised the Council of the difficulties Keizer Neighborhood Association Group (KNAG) was experiencing in obtaining their 501(c)(3) status. She requested the association be formally recognized by the City. Attached you will find a letter from KNAG addressed to the City Council, a copy of their mission and goals, and their by-laws. Staff has drafted a Resolution for your consideration.

RECOMMENDATION:

It is recommended the Council adopt the attached Resolution recognizing the Keizer Neighborhood Association Group.

CITY COUNCIL, CITY OF KEIZER, STATE OF OREGON

Resolution R97-_____

RECOGNIZING KEIZER NEIGHBORHOOD ASSOCIATION GROUP (KNAG)

WHEREAS, the Keizer Neighborhood Association Group (KNAG) is an organization formed by the neighborhood association in cooperation with each other and in partnership with the City of Keizer to encourage citizens' understanding of city government and to promote participation in improving the quality of life in Keizer;

WHEREAS, the Keizer Neighborhood Association Group (KNAG) was formed as an umbrella group to the recognized neighborhood associations of the City of Keizer;

WHEREAS, the membership of the Keizer Neighborhood Association Group (KNAG) will be made up of two representatives of each recognized neighborhood association. Officers shall be elected from among the membership according to the adopted bylaws;

WHEREAS, the Keizer Neighborhood Association Group (KNAG) has developed a mission statement, goals and by-laws which are attached to this document and marked exhibit "A" and by this reference made a part hereof; NOW, THEREFORE,

/////

BE IT IS HEREBY RESOLVED that the City Council of the City of Keizer formally recognizes the Keizer Neighborhood Association Group (KNAG) to function as an umbrella group for the recognized neighborhood associations within the City of Keizer.

IT IS FURTHER RESOLVED that Kelzer Neighborhood Association Group (KNAG) shall operate according to the guidelines as set forth in their adopted bylaws and follow all regulations as set forth by the Internal Revenue Service under the 501(c)(3) status.

PASSED this ____ day of _____, 1997.

SIGNED this ____ day of _____, 1997.

Mayor

City Recorder



Neighborhood Associations in cooperation with each other and in partnership with the City of Keizer, will encourage citizens' understanding of city government and will promote community participation in improving the quality of life in Keizer.

October 28, 1997

Mayor Koho and Keizer City Council
City of Keizer
930 Chemawa Road NE
Keizer, Oregon 97303

Dear Mayor and Councilors;

As many of you are aware, we have been working very hard on obtaining our 501(c)(3) status. We have found that there are several things which we were compelled to do in order to meet the requirements of the IRS:

1. To re-write our by-laws to contain certain language required by the IRS.
2. To obtain recognition from the city.
3. That KNAG require its members are Neighborhood Associations recognized by the city and that they are in compliance with Keizer city ordinance 93-257.

Attached with this letter is a copy of KNAG's mission statement, our goals and our newly revised by-laws with IRS requirements highlighted. This has been sent to you in an effort to improve communication between our assemblies. It is our wish to straighten the lines of communication between us, furthering understanding for all the people of Keizer.

We have been created by, and from, the recognized Neighborhood Associations within the city of Keizer and we were created to promote, develop, support and maintain Neighborhood Associations in this city. To that effort, we have worked this year to bring all current associations into compliance with the laws, ordinances and regulations of the city of Keizer, the State of Oregon, and the Federal Government. We have also been very successful in our goal of city wide representation through Neighborhood Associations. Currently, three more groups are being assisted in their effort to initiate new associations with the first of those having an organizational meeting November 13, 1997. This new association will encompass the Country Glen, Hidden Creek and Swingwood areas. We anticipate that all of these groups will be coming before the council later this year, or early next year, for recognition.

We ask of the council that you formally recognize our existence. We do not ask for any power or any authority from the city, the recognition which we need from you, is basically that you are aware of our mission, our goals, our by-laws and that KNAG be allowed to proceed in the manner described in these documents as well as in compliance with the regulations of the IRS, governing groups that hold a 501(c)(3) status. We are here to be of public benefit to Keizer's citizens and city government. As you can see, per the IRS rules governing 501(c)(3)'s we will not be backing any political candidates but may take a stand on issues as long as we follow our own by-laws (attached page # of Publication 557). Understand that our function is that of the "umbrella group" to Keizer's Neighborhood Associations, and that we will do nothing to jeopardize our 501(c)(3) status once we receive it.

Communication is a high priority for KNAG. That is the foundation by which we have been successful in our responsibilities to each other, and has also guaranteed a strong partnership with the city. We hope that we have taken a very complex filing process and made it easily understandable, and that by doing so the council will help us complete the process by giving KNAG recognition from the city of Keizer and that we may have this final component to complete our filing for 501(c)(3) status from the IRS.

Sincerely,

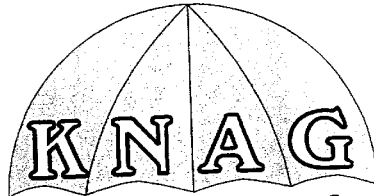


Jacques Moir
President



Cynthia Vannoy
Secretary/Treasurer

encl.



Keizer Neighborhood Association Group

Neighborhood Associations in cooperation with each other and in partnership with the City of Keizer, will encourage citizens' understanding of city government and will promote community participation in improving the quality of life in Keizer.

Mission Statement:

Neighborhood Associations in cooperation with each other, and in partnership with the City of Keizer, will encourage citizens' understanding of city government, promote citizen participation and commitment to improve the quality of life in Keizer.

Goals:

1. Enhance communication between:
 - A. Neighborhood Associations to the city
 - B. The City to the Associations
 - C. Associations to other Associations
 - D. Associations to the citizens
2. Encourage the growth of Neighborhood Associations:
 - A. Education of citizens
 - B. Advocacy to the City
 - C. Supporting each other
3. Enable funding of our association by:
 - A. Setting policy for dispersal of City Funds to Associations
 - B. Establishing a tax structure to enable tax exempt donations to the Associations

**Bylaws
of
Keizer Neighborhood Association Group**

Article I: Name and Purpose

1. The name of this organization shall be Keizer Neighborhood Association Group, also known as K.N.A.G.
2. This corporation is organized exclusively for charitable purposes within the meaning of section 501(c)(3) of the Internal Revenue Code.
3. Notwithstanding any other provision of these Articles, the corporation shall not carry on any other activities not permitted to be carried on
 - (a) by a corporation exempt from Federal income tax under section 501(c)(3) of the Internal Revenue code of 1986 (or the corresponding provision of any future United States Internal Revenue Law) or
 - (b) by a corporation contributions to which are deductible under section 170(c)(2) of the Internal Revenue Code of 1986 (or the corresponding provision of any future United States Internal Revenue Law).

Article II: Membership

1. Membership in this organization shall be open to any neighborhood association recognized by the city of Keizer under Keizer Ordinance Number 93-257.
2. Each recognized neighborhood association in the city of Keizer shall be entitled to have two of their members serve as representatives to the organization.
3. Each association shall be entitled to two votes.

Article III: Officers

1. The organization shall be managed by a president and secretary/treasurer elected by the membership at a regular meeting of the organization.
2. The term of office for officers of the organization shall be one year.
3. Vacancies in any office of the organization shall be filled for the duration of the term by the membership at a regular meeting of the organization.
4. Any officer absent from three (3) consecutive meetings may be removed from office by a vote from the membership at a regular meeting of the organization.

Article IV: Duties of Officers

1. The president shall have general supervisory and directional powers of the activities of the organization. The president shall preside at all meetings of the general membership.

2. The secretary/treasurer shall keep and maintain all records and accounts for the organization and is responsible for keeping minutes of each meeting.

Article V: Meetings of the Membership

1. Meetings of the membership of the organization shall be called by the president or by at least twenty (20) percent of the membership at such time and place as the board or membership determines necessary for the operation of the organization.
2. A quorum for the conduct of any business at a meeting of the membership shall be over fifty (50) percent of the members represented.
3. Meetings of the membership shall be held at least two (2) times each year. Following the initial meeting of the membership, the annual meetings of the organization shall be held in January of each year.

Article VI: Notice of Meetings

1. Notice of meetings of the membership shall be given at least five days in advance of the meeting.
2. Notice of the annual meeting of the membership shall be given in writing at least five working days in advance of the meeting.

Article VII: Powers

1. The officers of KNAG have the authority to notify in writing all board members of an association when that association is no longer in compliance either with these bylaws or with Keizer Ordinance Number 93-257.
- 2.⁷ Neighborhood associations upon receiving recognition by the City of Keizer, non-profit status from the State of Oregon and their employer identification number from the Internal Revenue Service may authorize this organization to place them under a Group Exemption Letter thereby receiving the benefits of a 501(c)(3) status.
 - (a) This authorization must be in writing and must comply with current Internal Revenue Code.
 - (b)⁷ This gives KNAG authorization to audit the association's books upon a two-thirds (2/3) majority vote by KNAG's membership, not including the votes of the association in question. Or upon request of the association itself.
 - (c) Each association to file an annual financial statement with KNAG.

Article VIII: Amendments

1. These bylaws may be repealed or new bylaws may be adopted by the membership at any meeting that listed bylaw amendments on the published or notified agenda as per Article VI.

Ratified by K.N.A.G. on October 27, 1997



Cynthia Vannoy, Secretary/Treasurer

in return for payment of a specified minimum contribution.

If the donor received some benefit in return for a contribution to your organization, the donor can only deduct the portion of the contribution, if any, that is more than the fair value of any benefit or merchandise to be given to contributors. You should determine in advance the fair value of any benefit or merchandise to be given to contributors and tell them when you publicize the fund-raising event or solicit their contributions how much is deductible and how much is for the benefit or merchandise.

This topic is discussed in more detail in Publication 1391, *Deductibility of Payments Made to Charities Conducting Fund-Raising Events*. You can ask IRS to send you a copy.

Application for Recognition of Exemption

This discussion describes certain information to be provided upon application for recognition of exemption by all organizations created for any of the purposes described earlier in this chapter. For example, the application must include a conformed copy of the organization's articles of incorporation, as discussed under *Articles of Organization* later in this chapter. See the organization headings that follow for specific information your organization may need to provide.

The application for recognition of exemption must be filed on Form 1023. See Chapter 1 and the instructions accompanying Form 1023 for the procedures to be followed in applying. Some organizations are not required to file Form 1023. These are discussed later in this section.

Form 1023 and accompanying statements must show that:

- 1) The organization is organized exclusively for, and will be operated exclusively for, one or more of the purposes (charitable, religious, etc.) specified at the beginning of this chapter;
- 2) No part of the organization's net earnings will inure to the benefit of private shareholders or individuals; and
- 3) The organization will not, as a substantial part of its activities, attempt to influence legislation (unless it elects to come under the provisions allowing certain lobbying expenditures) or participate to any extent in a political campaign for or against any candidate for public office. See *Political activity* below, and *Lobbying Expenditures*, near the end of this chapter.

You must establish also that your organization will not be organized or operated for the benefit of private interests, such as the creator or the creator's family, shareholders of the organization, other designated individuals, or

persons controlled directly or indirectly by such private interests.

Political activity. If any of the activities (whether or not substantial) of your organization consist of participating in, or intervening in, any political campaign on behalf of (or in opposition to) any candidate for public office, your organization will not qualify for tax-exempt status under section 501(c)(3). Such participation or intervention includes the publishing or distributing of statements.

Whether your organization is participating or intervening, directly or indirectly, in any political campaign on behalf of (or in opposition to) any candidate for public office depends upon all of the facts and circumstances of each case. Certain voter education activities or public forums conducted in a non-partisan manner may not constitute prohibited political activity under section 501(c)(3); while other so-called voter education activities may constitute prohibited activity. If your organization is uncertain as to the effect of its voter education activities, you should request a letter ruling from the Internal Revenue Service. Such requests should be sent to: Internal Revenue Service, Assistant Commissioner (Employee Plans and Exempt Organizations), Attention: CP:IEO, P.O. Box 120, Ben Franklin Station, Washington, DC 20044.

Effective date of exemption. Most organizations described in this chapter that were organized after October 9, 1969, will not be treated as tax exempt unless they apply for recognition of exemption by filing Form 1023 with their key District Director. Such organizations will not be treated as tax exempt for any period before they file Form 1023, unless they file the form within 15 months from the end of the month in which they were organized. If the application is filed within this 15-month period, the organization's exemption will be recognized retroactively to the date it was organized. Otherwise, exemption will be recognized only for the period after the application is received by the Internal Revenue Service. The date of receipt is the date of the U.S. postmark on the cover in which an exemption application is mailed or, if no postmark appears on the cover, the date the application is stamped as received by the Service.

If an organization is required to alter its activities or to make **substantive amendments** to its enabling instrument, the ruling or determination letter recognizing its exempt status will be effective as of the date the changes are made. If only a **nonsubstantive amendment** is made, exempt status will be effective as of the date it was organized, if the application was filed within the 15-month period, or the date the application was filed.

Extensions of time for filing. There are two ways organizations seeking exemption can receive an extension of time for filing Form 1023.

- 1) **Automatic 12-month extension.** Organizations will receive an automatic 12-month extension if they file an application for recognition of exemption with the IRS

within twelve months of the original deadline. To obtain this extension, an organization must add the following statement at the top of its application: "Filed Pursuant to Rev. Proc. 92-85."

- 2) **Discretionary extensions.** An organization that fails to file a Form 1023 within the extended 12-month period will be granted an extension to file if it submits evidence to establish that it **acted reasonably and in good faith**, and that granting a discretionary extension will **not prejudice the interests of the government**. An organization shows reasonable action and good faith by filing before the failure to file is discovered by the IRS. If the organization does not, it must have:

- a) Inadvertently failed to file
 - (i) Because of intervening events beyond its control, or
 - (ii) Because, despite exercising *reasonable diligence*, it was not aware of the filing requirement. Reasonable diligence includes consideration of the complexity of filing and the experience the organization has in dealing with such matters.
- b) Reasonably relied upon the written advice of the IRS, or
- c) Relied upon the advice of a qualified tax professional who failed to file or advise the organization to file Form 1023. An organization cannot rely on the advice of a tax professional if it knows or should know that he or she is not competent to render advice on filing exemption applications or is not aware of all the relevant facts.

Not acting reasonably and in good faith. An organization has not acted reasonably and in good faith if it chose not to file after being informed of the requirement to file and the consequences of failure to do so. Furthermore, an organization has not acted reasonably and in good faith if it used hindsight to request an extension of time to file. That is, if after the original deadline to file passes, filing an application becomes advantageous to an organization, the IRS will not ordinarily grant an extension. To qualify for an extension in this situation, the organization must prove that its decision to file did not involve hindsight.

Prejudicing the interest of the government. Prejudice to the interest of the government results if granting an extension of time to file to an organization results in a lower total tax liability for the years to which the filing applies than would have been the case if the organization had filed on time. Before granting an extension, the IRS may require the organization requesting it to submit a statement from an independent auditor certifying that no prejudice will result if the extension is granted.

Procedure for requesting extension. To request a discretionary extension, an organization must submit to the IRS key district office to which it should have initially applied (see the instructions for Form 1023) the following:



November 3, 1997

AGENDA ITEM 8b

**APPROVAL OF SEPTEMBER 2, 1997 REGULAR SESSION
MINUTES**

MINUTES
KEIZER CITY COUNCIL
Tuesday, September 2, 1997
Keizer City Hall
Robert L. Simon Council Chambers
Keizer, Oregon

CALL TO ORDER

Council President Keller called the regular meeting to order at 7:01 p.m. Roll call was taken as follows:

Present:

Dennis Koho, Mayor (arrived 7:11 p.m.)
Carl Beach, Councilor
Jim Keller, Councilor
Jerry McGee, Councilor
Dawn Meier, Councilor
Al Miller, Councilor
Garry Whalen, Councilor

Staff:

John Morgan, Community Development Director
Wally Mull, Public Works Director
Dianne Suek, Personnel Manager
Shannon Johnson, City Attorney
Pat Bowe, Lieutenant, Keizer Police Department
Tracy L. Davis, City Recorder

**PUBLIC
TESTIMONY**

There was no public testimony to come before the Council.

**COMMITTEE
REPORTS**

Council President Keller introduced a request for a proclamation to celebrate United Nations Day on October 24, 1997.

Councilor Meier moved the City Council proclaim October 24, 1997 as United Nations Day in Keizer. Council President Keller seconded the Motion.

The Motion passed:

AYES: Beach, Keller, McGee, Meier, Miller and Whalen (6)

NAYS: None (0)

ABSTENTIONS: None (0)

ABSENT: Koho (1)

A second request for proclaiming October 1997 as Disability Employment Awareness Month in Keizer was introduced by Council President Keller.

Councilor Meier moved October 1997 be proclaimed Disability Employment Awareness month. Councilor McGee seconded the Motion.

The Motion passed:

AYES: Beach, Keller, McGee, Meier, Miller and Whalen (6)

NAYS: None (0)

ABSTENTIONS: None (0)

ABSENT: Koho (1)

COUNCIL LIAISON REPORTS

Councilor Miller reported on the recent meeting of the **Parks Advisory Board**. He said staff reported on the newly planted trees at Pleasantview Park, along with the new benches and the table being installed at Sunset park. A new play structure has been installed at Willamette Manor park with improvements completed around the area.

Councilor Miller introduced the suggestion of a City contribution to the proposed Skateboard park to the Park Board. After discussion, the group recommended unanimously that no contribution be made at this time to the proposed facility, but the item be re-examined next year.

Although Councilor Beach was unable to attend the **River Road Redevelopment** meeting, he reported the response to a lunchtime meeting was positive. **John Morgan**, Community Development Director, gave an update on development projects throughout the City. The Unocal site is part of a larger area being assessed by a team of local developers and realtors who will report in the future.

In the Chemawa Activity Center, one large developer has pulled out due to being unable to work out financing for the infrastructure. Councilor Beach noted the City may have to take an active part in getting the work done. Plans for development near Iris Lane have been proceeding, including work to establish bus pullouts and a driveway. Councilor Beach summarized additional items discussed by the Board.

The Board did approve repair for financing the South gateway entrance to Keizer. Mayor Koho stated the traffic circle has now been repaired and the business donor will begin work on the area by the 15th of the month if the agreement is finalized. The donor would like to add grass, with seasonal flowers, along with some type of barrier to keep out traffic. Mr. Morgan said no agreement had been made with Salem as of last week. The Salem Traffic engineer is opposed to the addition of any barrier but he agreed to meet for resolution this week. Mayor Koho offered his assistance, if needed, in getting resolution.

The **Traffic Safety Commission** has two new members stated Mayor Koho. Their web page is also connected to the City of Keizer's page and appears professionally done.

Councilor Keller reported on the most recent **Council Management Committee** meeting. Discussion included Neighborhood Association updates, improving the exterior of the Keizer Heritage Foundation building, and Iris Lane. He said a Request for Proposal for recovering delinquent court fines will be returning to the City Council. Another issue discussed was storage for city property, including the need for fire safes.

Councilor Keller also mentioned Sandy Drive will be open for four days while work is completed at McNary Field. Councilor Meier clarified the plans for work being completed there and confirmed work is ahead of schedule.

OTHER BUSINESS NEW BUSINESS

There was no new business from the Council.

Lieutenant Bowe, Keizer Police Department reported a drug bust resulting in an ongoing investigation with the assistance of the Salem Narcotics Team. August 23 was the first annual Kid's Day which was a tremendous success with 325 to 400 children attending. Fourteen volunteers assisted, agencies had displays and the cost was only \$300.00. The Lieutenant related a new patrol car would be available for viewing during a Council break.

Wally Mull, Public Works Director, reported a response had been received from Mr. Stull's attorney, stating his termination appeal will be withdrawn in exchange for no exhaustion of remedies claim being raised by the City or defense for any future suits by the City.

Mr. Mull said Lockhaven construction was completed but he did not know how traffic worked on the first school day. Lieutenant Bowe responded that some congestion was present at McNary but since only sixth graders attended Whiteaker, the second day would be the test.

The Claggett Creek Task Force is planning a Creek clean up for Saturday, September 13 and publicity will be distributed. Mr. Mull met with members of the Traffic Safety Commission to put together an ordinance regarding vision hazards which will return to the Council for action.

Mr. Morgan reported on his meetings with the School Facility Planning Committee. He said the group has been working on a Master plan to identify projects that could be recommended to the Board for inclusion in a possible bond issue. He has been advocating for Keizer projects and they have been given priority. An additional Council briefing is tentatively planned for the October workshop.

OLD BUSINESS

Concerning the issue of Hotel and Motel tax, Councilor McGee questioned whether the wording requested the Fire District to analyze all the safety needs. He thought the Police Department should also analyze some needs. Mr. Morgan said the requests directly applied to the areas of expertise for the Departments. He clarified the intent behind the wording.

Councilor McGee also asked the public be informed of the decision made by the Council, in a workshop, regarding CCTV.

Councilor Whalen stated the CCTV contract was extended through the month of September, so the meetings will be televised for this month. The motion also required CCTV to provide a proposed contract, including full disclosure on all costs and the opportunities available for the community. Discussion will take place prior to the end of September. He said CCTV staff has indicated that will be possible.

Mayor Koho noted the proposal comes from the Cable Regulatory Commission and if the City is interested in the buy in, approval will also be needed from Marion County and the City of Salem.

Finally, Councilor McGee asked staff for a plan for matching fund provisions needed to accept the Federal grant for flood control projects. Mr. Mull said when the grant application was made, the staff knew the maximum award amount and budgeted the necessary matching funds in the Street improvement fund this fiscal year. He will also produce a report. Mr. Mull related the Council will accept the grant first and clarify technical questions.

On the same topic, Councilor Keller believed a study relating the impact to Claggett Creek must be clear. Mr. Mull said a need for an impact study regarding the effect of the downstream flow has been emphasized to the engineer.

Councilor Keller asked that staff begin to include expected dates for the return of issues to the Council.

Councilor Meier noted the baseball stadium revenue looks higher than budgeted. Mr. Morgan explained the methods used to budget and said the budget should be met. A newspaper estimate has placed the revenue even higher than anticipated.

Regarding Neighborhood Associations, Councilor Meier noted two are not in compliance with reports. She asked if a deadline was included. Mr. Morgan said one group has been told that their recognition may be dropped because of delinquency, but the other group is working to finish their responsibilities. He suggested action should be taken within 30 days.

Councilor Whalen requested a deadline for the Hotel/Motel tax issue be established so developers viewing Keizer can build the tax into

their projections. Regarding a new water reservoir, Councilor Whalen related a conversation with Fire Chief Frank who explained the small water margin excess available in Keizer. He believed the issue needs to be addressed so that Keizer citizens are not at risk.

Councilor McGee asked if the Heritage Foundation annual report had been received. Mr. Morgan said a letter had been received and distributed two weeks ago.

Councilor McGee asked that City expenditures be included, along with income for the Keizer Baseball Stadium report. Mr. Morgan said that could be done now that the season is completed.

PUBLIC HEARINGS

**CLEAR LAKE ROAD
SUBDIVISION APPEAL
- CASE NO. 97-07
(PICULELL-
CHIMENTO)**

Mayor Koho reopened the Public Hearing continued from August 4, 1997.

Shannon Johnson, City Attorney, read the applicable criteria as set forth in the zoning and subdivision ordinance. There were no questions or objections about the procedures. In the previous hearing, Councilor Meier reported minor contact with one of the applicants.

Mr. Morgan reminded the Council the appeal related to property just west of the intersection of Clearlake and O'Neil Roads. The application was to create 16 lots in a single family zone. Since the appellant only presented written material in the previous hearing, the hearing was continued to allow a verbal presentation.

Speaking were:

Robert Ohrn and Pamela Kingsbury, 7950 Timothy Lane NE, Keizer, appeared before the Council as the appellants. Mr. Ohrn apologized for not being able to attend the previous meeting due to a prior scheduled professional conference. As a general comment, he said they did realize the area was zoned Urban Transitional and will become a subdivision but their desire was to influence the outcome of that subdivision.

Ms. Kingsbury noted they listened to the tapes of the previous hearing and attempted to address the questions raised there. Their list of issues was distributed and reviewed.

In opposition to the decision by the Hearings officer, Mr. Ohrn believed the proposal conflicted with the Comprehensive Plan section requiring subdivisions to be compatible with new and existing uses. He noted Urban Transition zone does exist for the placement of subdivisions near rural properties with the idea of those properties becoming compatible future subdivisions.

He said in their case, special circumstances exist. Exclusive farm use zoning lies 100 feet north of Clearlake Road which he believed was a conflict in compatibility. He mentioned Marion County's

procedure for dealing with the same type of situation and suggested Keizer could deal with the conflict by reducing the density of housing.

Mr. Ohm stated a second incompatibility to present residences related to the master sewer plan. He pointed out proposed deviations from the Plan, stating it is not being followed correctly. The result is that Timothy Lane residents will not have access to inexpensive sewer development, making development of their properties less economically feasible. Mr. Ohm believed those properties would remain acre lots in the future, which would be incompatible with the proposed subdivision.

Mayor Koho asked if they were advocating Timothy Lane being developed more densely. Mr. Ohm said no, they were merely pointing out that development on Timothy would be economically difficult. Those properties would retain their rural character in the future.

Finally, Mr. Ohm asked for compliance with the tree ordinance by the developer. He also desired clarification of significant trees as defined by the tree ordinance.

Ms. Kingsbury highlighted the third item on the list, referring to drainage. She referred to the previous hearing confusion, explaining their appeal letter. An unexplained issue, relating to drainage, was still a question in her mind. From a review of all the documents on the issue of runoff alternatives, she was only able to find a condition that a master drainage plan would be developed. Ms. Kingsbury did not believe that was acceptable. She believed assurance should be provided that development for other properties would not be impacted by this subdivision. Her request, for the subdivision approval, was inclusion of a master drainage plan subject to review by the public.

Councilor Meier questioned why the issue of the conflict between Exclusive Farm Use zoning and the subdivision zoning was not addressed in the hearing. Ms. Kingsbury stated the packet included written testimony. Mr. Ohm said he also submitted oral testimony at the hearing, but the Hearings officer did not address that concern.

Adding to the drainage issue, Mr. Ohm said a flooding problem results from high winter water tables. The water builds up because the permeability of the soil. He said basement and septic problems are an issue. The final issue related to water availability for the subdivisions. He believed that water sources needed to be confirmed.

Mr. Ohm reviewed their requests. They desire reduced housing density, a tree site plan including replacement trees, and adequate findings for drainage and perhaps, also water.

Mark Grenz, Multi-Tech Engineering, 1155 13th Street SE, Salem representing the applicants, spoke to the issues raised. On the drainage question, he said they are not deviating from the Master Sewer Plan on how the area should be serviced. He said the project developer will participate with other developers in seeing the sewer reaches Clearlake. The developer will also provide funds to the City for the equivalent of an 8 inch trunk line. Mr. Grenz believed service could be made available for Timothy Lane. The development community has used a significant amount of funds to get services to their properties and he did think future development would probably also be expensive.

Regarding drainage, Mr. Grenz said they are complying with the provisions city staff determined necessary for the property to develop. He said the Master facilities plan designate how the area is to be broken into quadrants and drained. As a part of that, developers are required to design detailed drainage facilities for the subdivision after approval.

Mr. Grenz said the hearing included a clear statement from the City planning staff that no water would be allowed to run on other properties. The low portion, which drains water into the Timothy Lane area, is to the south of the property being considered. Provisions are made to be certain adequate drainage is in place.

In regard to the water issue, Mr. Grenz stated he had been assured adequate water was available or can be made available. He gave examples of water supplies being assisted by developers. The City staff is working on locating a reservoir site in the area and developers are willing to make sure lines are located in the proper place to facilitate use of the reservoir.

Responding to the final issue, loss of significant trees, Mr. Grenz said the existing trees on the property are orchard trees, which he believed were excluded from the significant tree definition. He said staff will be provided with a landscape and tree plan. The intention is to replace the orchard trees with residential compatible trees at a ratio of two to one. He gave examples of other properties where the same plan was being used.

Councilor Beach asked a clarifying question on the significant tree definition of 12 inches or 50 feet. Mr. Grenz explained his understanding was that a tree 8 inches in diameter but 50 feet tall would be considered significant. He thought either the diameter or the height could be considered. He did not previously believe orchard trees were included but had understood the Council's goal was to deal with oaks, evergreens and other trees which remain in residence environments.

Councilor Beach clarified the trees on that site are cherry trees. Mr. Grenz did say some of the trees are older and at least 12 inches in diameter.

Stating he wrote the tree ordinance, Councilor Miller confirmed significant trees may be 12 inches in diameter or 50 feet in height. There is no exclusion of orchard trees. Mr. Grenz said he understood that after rereading the ordinance.

Mayor Koho asked if the drainage plan, to be completed, would address the concerns of the appellants. Mr. Grenz explained the same process is being used in the northwest quadrant of the area. He said the master facility plan is refined to create a master drainage plan noting which other sites are also being serviced. An analysis is required to show the service capability is available and how service will be provided to the proposed development.

Once a boundary is established, the Council reviews an agreement stating which properties are part of the proposed drainage district. Costs are shared among developers as development occurs. He gave an example of cooperation used to provide adequate drainage.

Mayor Koho suggested the addition of language, to the order, which would state already planned actions to give reassurance to neighbors. Mr. Grenz noted the subdivision ordinance might not require the detail and findings which surrounding property owners would desire. Most issues have been a result of agreements established between City departments and developers.

Councilor Keller questioned who would be responsible once drainage is completed. He questioned whether normal weather conditions are considered. Mr. Grenz said the Public Works Department requires an analysis of drainage systems, beginning with an undeveloped state and considering future run offs from the site. This particular development requires storm water retention plans and he explained how that plan is created. Detention is included but overflow issues are considered.

Councilor Keller asked if any building permits are approved before plans for the tree replacement or drainage are received. Mr. Grenz answered that an improvement agreement is filled out, stating no building permits will be issued on any of the lots until all the required improvements are completed.

Councilor McGee about the testimony regarding a reduction in the ability for the area in Timothy Lane to development in the future. Mr. Grenz commented that might not necessarily be true. He said the Ohm property, which might not be readily available to the facilities, still could be developed although cost might be an issue. He noted City Engineer, Mr. Peterson, had offered sewer service from the development to the east with the only requirement being cooperation with that developer.

Mayor Koho wanted the Council to take a break, allowing time for the staff to put together an order which could be passed in the

present meeting. He did not want additional requirements but would like to have the tree and drainage issues addressed.

Councilor Meier asked why the housing density issue was not discussed in the hearing's officer findings. Mr. Morgan said the policy was a loose and ambiguous one which has not historically been used with single family developments. He said the policy is utilized when totally different land uses are next to each other. He did not know of any jurisdictions offering buffers for single family developments from single family developments, not even with transitional density on the urban areas. He noted the property is not adjacent to the urban growth boundary.

In answer to the issue of rural homes being incompatible with the upcoming development, Mr. Morgan believed there are merely rural homes in future transition to higher density. Following the incompatibility logic would result in a fence between each new subdivision. He did not see the policy relating to this issue.

Councilor Meier asked why no recommendation was included in the findings. Mr. Morgan believed the hearings officer chose not to raise the issue. He did not know the reason why, but thought the officer might have felt it did not need to be brought up.

Mr. Grenz clarified that Mr. Ohm made a presentation to the hearings officer regarding the size issue. It was discussed at the hearing and Mr. Grenz's layout was challenged. The officer did make it clear in the process that no ordinance provisions were required other than those meeting the minimum criteria.

Councilor Whalen asked about rewording the paperwork while all of the protective properties are protected. Mr. Johnson believed the addition of language regarding the trees would be appropriate and he had prepared wording for the Council. In regard to drainage, he pointed the Council to the findings section, Exhibit C, and the City Engineer's report, Exhibit E-1. He read from page 3 of the report, which included the typical requirement for infrastructure development.

Mayor Koho pointed out that although the requirement includes a drainage plan, no mention was made regarding the quality of the plan, which he believed should be specified to be adequate in this order. Mr. Mull pointed out the report does not allow drainage from or to any properties. This wording seemed to capture the meaning for Mayor Koho.

Ms. Kingsbury clarified that the issue of drainage location was important to them. She wanted to know what property would be impacted. Regarding the process, Ms. Kingsbury read a statement from LUBA in another case dealing with adequate water supply. The major issue for them was the lack of opportunity for input at a later time. She wanted a broader process.

Mayor Koho did not believe every engineering plan would need to be submitted with the subdivision plan before approval.

Mr. Johnson proposed the addition to Exhibit E, of a subsection D under number 6. This would read as follows: "The applicant shall comply with the provisions of Keizer Zoning Ordinance Section 18.09. The landscaping plan shall be submitted by the applicant and approved by the Community Development Director prior to issuance of the building permit."

Regarding the drainage question, Mr. Johnson proposed additional descriptive words to Exhibit E-1, Page 3. In subsection A, he suggested the addition of the word "adequate" prior to the word service. Also, in subsection C, he suggested the addition of "satisfactory" prior to the word evidence. The Public Works Department will review the drainage plan prior to the issuance of a building permit.

Mr. Grenz offered no objections to the additions on behalf of the applicants. The appellants said the additions made the situation better.

There was no further testimony to come before the Council.

Mayor Koho closed the public hearing.

Council President Keller moved an Order in the Matter of the Application of the Picullel Chimento Group for detail approval of a 16 lot Subdivision located at 1585 Clear Lake Road NE (Subdivision Case No. 97-7) as amended. The Motion was seconded by Mayor Koho.

The Motion passed unanimously:

AYES: Beach, Keller, Koho, McGee, Meier, Miller and Whalen (7)

NAYS: None (0)

ABSTENTIONS: None (0)

ABSENT: None (0)

ADMINISTRATIVE ACTION INITIATING BONNEVILLE STREET VACATION

Mr. Morgan gave the staff report. He said a development proposal is being considered in the area along the southern part of Claggett Creek. Staff have worked with the designers for the layout and the proposal will use Bonneville Street right-of-way. The staff did suggest consideration of the Alder Street extension in the future. Doing so would preclude using the Bonneville right-of-way. The issue before the Council would initiate the process and set the hearing.

Councilor Meier moved the Council initiate the vacation process by holding a public hearing on the vacation of the Bonneville Street NE right of way on October 6, 1997. The Motion was seconded by Council President Keller.

The Motion passed unanimously:

AYES: Beach, Keller, Koho, McGee, Meier, Miller and Whalen (7)

NAYS: None (0)

ABSTENTIONS: None (0)

ABSENT: None (0)

ORDINANCE - WIRELESS TELECOMMUNICATIN FACILITIES

Mr. Morgan directed the Council to the information given to them. The ordinance appeared tonight for adoption after public hearings in July and August.

Councilor Meier moved a Bill for an Ordinance in the Matter of Adoption of Wireless Telecommunication Facilities Regulations [Amending Ordinance No. 87-078 (Keizer Zoning Ordinance)]. Councilor McGee seconded the Motion.

The Motion passed unanimously:

AYES: Beach, Keller, Koho, McGee, Meier, Miller and Whalen (7)

NAYS: None (0)

ABSTENTIONS: None (0)

ABSENT: None (0)

CITY MANAGER RECRUITMENT

Mayor Koho stated the Council was continuing to consider candidates that have been interviewed. They will be meeting in Executive Session on September 3, at 5:00 p.m.

CONSENT CALENDAR

The consent calendar consisted of the following:

- a. Affirming Co-City Managers Decision to Hire Finance Director
- b. RESOLUTION - Amending the City's Deferred Compensation Plan
- c. RESOLUTION - Approving City Engineer Report for Leewood Meadows Street Lighting Local Improvement District
- d. RESOLUTION - Certification of Street Lighting Districts for 96-97
- e. Approval of June 2, 1997 City Council Regular Session Minutes

Council President Keller moved for approval of the consent calendar. Councilor Meier seconded the Motion.

The motion passed:

AYES: Beach, Keller, Koho, McGee, Meier, Miller and Whalen (7)

NAYS: None (0)

ABSTENTIONS: None (0)

ABSENT: None (0)

WRITTEN COMMUNICATION

There was no written communication to come before the Council.

AGENDA INPUT

Mayor Koho said he would not be present at the September 15th meeting.

Councilor Keller asked for confirmation of the Community Policing meeting. Mr. Mull said their meeting would be September 12th after the Work Session. Councilor Meier suggested moving Community Policing to October. Mr. Mull suggested replacement of the Work Session agenda be discussed at the Management meeting on September 3.

ADJOURNMENT

The meeting was adjourned at 8:57 p.m.

Tracy L. Davis
City Recorder

APPROVED:

Dennis Koho-Mayor

COUNCIL MEMBERS:

Councilor #1 - Garry Whalen

Councilor #4 - Carl Beach

Councilor #2 - Dawn Meier

Councilor #5 - Al Miller

Councilor #3 - Jim Keller

Councilor #6 - Jerry McGee

Minutes approved:



AGENDA ITEM 8C

November 3, 1997

**APPROVAL OF SEPTEMBER 15, 1997 REGULAR SESSION
MINUTES**

MINUTES
KEIZER CITY COUNCIL
Monday, September 15, 1997
Keizer City Hall
Robert L. Simon Council Chambers
Keizer, Oregon

CALL TO ORDER

Council President Keller called the regular meeting to order at 7:08 p.m. Roll call was taken as follows:

Present:

Carl Beach, Councilor
Jim Keller, Council President
Jerry McGee, Councilor
Dawn Meier, Councilor
Al Miller, Councilor
Garry Whalen, Councilor

Absent:

Dennis Koho, Mayor

Staff:

John Morgan, Community Development Director
Wally Mull, Public Works Director
Dianne Suek, Personnel Manager
Shannon Johnson, City Attorney
Pat Bowe, Lieutenant, Keizer Police Department
Tracy L. Davis, City Recorder

**PUBLIC
TESTIMONY**

Speaking was:

Tom Gabriel, 6413 Whisper Creek, Keizer, asked the Council about the status of the Keizer task force on flooding issues. Wally Mull, Public Works Director, explained the task force includes membership from many segments of the County. Meetings have taken place most of the year and the next meeting will be October 2. Councilors Keller and Meier will be added to the present task force. Mr. Mull clarified that another Keizer task force will not be formed by the Mayor since the present one is in place and has been discussing flooding issues.

Mr. Gabriel then questioned when pump installation will be take place in the storm drains in Hidden Creek and Country Glen subdivisions. Mr. Mull said the work was planned for early summer but the plans required revision and work should begin soon.

In regard to the damage done to the creek bank while work was done on the creek last year, Mr. Gabriel asked if repairs would be made soon. Mr. Mull was not aware of the damage but suggested he be contacted with details.

Mr. Gabriel asked when the bridge would be built. Mr. Mull said the bridge has been approved but the Council directed the contract not be signed until the issues of down stream flooding at McNary Estates had been addressed. As soon as those questions are answered, Mr. Mull said the process will begin. The answer should be received in the next few weeks.

Mr. Mull reminded the Council that the City is in litigation with Mr. Gabriel. Mr. Gabriel clarified that the City had been notified of potential litigation although the process had not begun yet.

Councilor Meier asked about the discussion regarding purchasing land in the Labish onion fields to be dammed. She asked if the task force will be considering this possibility. Mr. Mull said that property owner is on the committee and discussion will take place. Councilor Meier asked if that possibility was feasible. Mr. Mull replied that the field is being presently used as a free storage area. The berm being discussed for the City park property would serve the same purpose by directing the water back into the ditch. The issue then would be keeping it off the end of the street.

Councilor Meier also asked if would be possible to create a dam on the Willamette with a flap gate to hold the water back. Mr. Mull said that would not be possible since the flooding extends for approximately 10 miles.

Council President Keller asked for information on the two projects occurring now. Mr. Mull said readings were taken on a daily basis at the Parkersville Dam through the winter until March. The task force received a grant to purchase devices to measure water which would be installed in the Pudding River basin. Contact has been made with Mount Angel and Aurora regarding the readings they take on the river. Those numbers will give an idea when to request pumps be turned on for pumping to the Pudding River. The result would be keeping the Pudding River basin empty for big storms. Secondly, dredging has been discussed but fish protection has made this a big issue. Excavation has been done at the dam to check the flap gates.

Councilor Meier asked who was doing the work at the McNary Golf Course. Mr. Mull responded that the Golf Course was doing the excavation work themselves. John Morgan, Community Development Director, explained the process to the Council. Eroded areas were being replaced, etc. at four small sites. Mr. Mull said the Soil and Conservation people are doing the actual work.

Council Miller asked the status of receiving the additional documents from Parkersville Dam. Mr. Mull stated some additional records have been received and a letter resubmitted with requests. Mr. Gabriel added excavation work is being done at the Dam on the Keizer side. Mr. Mull explained sticks and garbage are periodically cleaned out of the intakes.

ADMINISTRATIVE ACTION

CITY MANAGER APPOINTMENT

Council President Keller moved Item 7a. City Manager Appointment to be considered out of order.

Councilor Whalen moved to adopt a Resolution Appointing Wally Mull City Manager and Authorizing the Mayor to Enter into an Employment Agreement. Councilor McGee seconded the Motion.

Council President Keller noted the agreement is currently scheduled for six months only.

The Motion passed as follows:

AYES: Beach, Keller, McGee, Meier, Miller and Whalen (6)

NAYS: None (0)

ABSTENTIONS: None (0)

ABSENT: Koho (1)

COMMITTEE REPORTS

COUNCIL LIAISON REPORTS

Councilor Miller reported on the recent meeting of the **Parks Advisory Board**. Discussion was held regarding a toddler play structure for the Meadows park. Research work has been done for the past two months including designs and costs. A recommendation will be brought to the Council when study is completed.

The **Community Policing Committees** met last week and the Main Committee meeting will be held on Tuesday. Councilor Meier reported Dale Penn, District Attorney, will be the speaker. If time permits, the resolution regarding changes in Community Policing will be discussed. The resolution should come before the Council in October.

Councilor McGee reported the **Council Management meeting** went well with many topics discussed.

OTHER BUSINESS

NEW BUSINESS

Councilor Beach expressed his sincere appreciation to the Co-Managers who worked so faithfully over the last five months. He noted the team worked together well and he wished Mr. Morgan the best. Councilor Meier seconded the accolades.

Councilor McGee said the unusual arrangement of Co-Managers was successful. He reminded the Co-Managers of a previous conversation regarding the success being based on the professionalism, dedication and loyalty of all the staff. He mentioned the additional load taken on by all staff, highlighting Dianne Suek, Tracy Davis, Rob Kissler, Pat Bowe, and the line staff. He reiterated again the successful experience, the good work of all the staff, and thanks for the job.

Councilor Whalen said he believed the tax payers owe a debt of gratitude for the work done by Mr. Morgan, Mr. Mull and all the staff.

Pat Bowe, Police Lieutenant, reported a rash of burglaries taking place in early August were cleared by a rookie Police patrol officer on August 26. Most of the property was recovered. Lieutenant Bowe also reported the Department has solid leads on the rash of car break-ins at McNary Estates and they should be cleared soon.

Mr. Mull reported lane changes are taking place on Lockhaven, west of River Road. An article will appear in the newspaper regarding the change which is designed to help the traffic from McNary High School.

Mr. Morgan said interviews are taking place next week for a Code Enforcement Officer. Two public hearings a month are being held for land use cases. On the previous Friday, five applications were filed, so Mr. Morgan said the pace remains high.

OLD BUSINESS

Dianne Suek, Personnel Manager, reported the new Finance Director, Susan Gahlsdorf will begin this week.

Councilor Meier asked if the update on the records regarding Charles Stull was to be included on the Old Business. Mr. Morgan said plans were made to draft something additional. The information should be in the mail boxes this week.

PUBLIC HEARINGS

RESOLUTION -
FORMING LEEWOOD
MEADOWS LIGHTING
DISTRICT

Council President Keller opened the Public Hearing.

Mr. Mull said the plan was for a formation of a standard street lighting district.

There was no public testimony in the hearing.

Council President Keller closed the Public Hearing.

ORDINANCE -
SPREADING
ASSESSMENTS TO
LEEWOOD MEADOWS
STREET LIGHTING
DISTRICT

Councilor Meier moved a Resolution forming the Leewood Meadows Street Lighting Local Improvement District. Councilor Whalen seconded the Motion.

The Motion passed as follows:

AYES: Beach, Keller, McGee, Meier, Miller and Whalen (6)

NAYS: None (0)

ABSTENTIONS: None (0)

ABSENT: Koho (1)

Council President Keller moved a bill for an Ordinance Spreading Assessments to Leewood Meadows Street Lighting Local Improvement District. Councilor Miller seconded the Motion.

The Motion passed as follows:

AYES: Beach, Keller, McGee, Meier, Miller and Whalen (6)

NAYS: None (0)

ABSTENTIONS: None (0)

ABSENT: Koho (1)

Mr. Mull noted the City presently has 150 Street Lighting Districts and an attempt will be made to put the newest eight subdivisions together into one district. A great deal of paper work is required for each district. Councilor McGee asked if the administrative costs might be reduced with this plan. Mr. Mull did not know if that would be the case, especially since this would be the first one and require some staff time to accomplish. In the end, billing time will be reduced. Staff will record the time spent and try to compare the costs.

**ADMINISTRATIVE
ACTION
CLASSIFICATION
REVIEW**

Mr. Morgan gave the staff report, reminding the Council of the Compensation Study adoption in the August 4th meeting. Four positions were not included until additional analysis could be done: Finance Director and three Administrative Assistant positions. The Finance Director and Personnel officer (Administrative Assistant) will be considered in this meeting.

**RESOLUTION -
AMENDING THE NEW
SALARY RANGE
STRUCTURE**

Mr. Morgan explained the Finance Director position was approved with a pay range on May 5, but a request was also included for the information to come before the Council a second time.

The Personnel Officer job description was considered by some Councilors as having evolved to include non-personnel related tasks. Mr. Morgan explained that in Keizer, one person performs personnel responsibilities, as well as other administrative tasks. The job description before the Council more accurately reflects the job presently being performed. Mr. Morgan noted the title change to Human Resource Officer, allowing a broader scope. Added to the job description was the task of providing research, analysis and special project for Department heads and managers. The appropriate pay range for the job was eight. Mr. Morgan recommended adoption.

Councilor Miller questioned the difference in the salary range for the Finance Director and the proposed starting salary for the new person. Mr. Morgan explained a 4% adjustment, passed in May, resulted in the change. In May, the beginning monthly salary was \$4202 and with the 4% adjustment, \$4370. He said the adjusted salary range was from \$4370 to \$5312. Councilor McGee noted the range was passed in May.

Councilor Meier moved a Resolution Amending the New Salary Range Structure Effective July 1, 1997. Councilor Whalen seconded the Motion.

Councilor McGee voiced his support for the motion. He mentioned his concerns regarding the previous Personnel job description, but felt the new one reflects the work being done.

The motion passed as follows:

AYES: Beach, Keller, McGee, Meier, Miller and Whalen (6)

NAYS: None (0)

ABSTENTIONS: None (0)

ABSENT: Koho (1)

CONSENT CALENDAR

The consent calendar consisted of the following:

- a. RESOLUTION - Authorizing City Manager Pro tem to Enter Employment Agreement with Susan K. Gahlsdorf - Finance Director
- b. Affirming City Manager Pro tem Decision to Hire Two Municipal Utility Workers
- c. Approval of June 16, 1997 City Council Regular Session Minutes

Council President Keller pulled item "a" from the consent calendar. Councilor McGee removed item "b".

Councilor Meier moved for approval of the remaining item on the consent calendar. Councilor Whalen seconded the Motion.

The motion passed as follows:

AYES: Beach, Keller, McGee, Meier, Miller and Whalen (6)

NAYS: None (0)

ABSTENTIONS: None (0)

ABSENT: Koho (1)

item "a"

Council President Keller noted the Resolution should reflect City Manager due to Mr. Mull's earlier appointment this evening.

Council President Keller moved to Authorize the City Manager to Sign Employment Agreement with Susan K. Gahlsdorf. Councilor Meier seconded the Motion.

The motion passed as follows:

AYES: Beach, Keller, McGee, Meier, Miller and Whalen (6)

NAYS: None (0)

ABSTENTIONS: None (0)

ABSENT: Koho (1)

item "b"

Councilor McGee moved to allow the City Manager to hire the two Municipal Utility Workers. Council President Keller seconded the Motion.

The motion passed as follows:

AYES: Beach, Keller, McGee, Meier, Miller and Whalen (6)

NAYS: None (0)

ABSTENTIONS: None (0)

ABSENT: Koho (1)

WRITTEN COMMUNICATION

Council President Keller noted the receipt of the written annual report of the West Keizer Neighborhood Association.

Councilor Meier moved to accept the annual report and extend recognition for another year to the West Keizer Neighborhood Association. Councilor Whalen seconded the Motion.

The motion passed:

AYES: Beach, Keller, McGee, Meier, Miller and Whalen (6)

NAYS: None (0)

ABSTENTIONS: None (0)

ABSENT: Koho (1)

AGENDA INPUT

Council President Keller asked about the topic for the October 13 work session. Councilor Meier noted the subject could be Community Policing if that resolution were considered in the second October Council meeting.

Councilor McGee suggested one of the work sessions should be reserved for discussion of City Manager recruiting. Council President Keller will discuss future recruiting plans with Mayor Koho.

ADJOURNMENT

The meeting was adjourned at 7:45 p.m.

Tracy L. Davis
City Recorder

APPROVED:

Dennis Koho-Mayor

COUNCIL MEMBERS:

Councilor #1 - Garry Whalen

Councilor #4 - Carl Beach

Councilor #2 - Dawn Meier

Councilor #5 - Al Miller

Councilor # 3 - Jim Keller

Councilor #6 - Jerry McGee

Minutes approved:

PUBLIC TESTIMONY

IF YOU ARE INTERESTED IN ADDRESSING THE COUNCIL ON AN ISSUE NOT LISTED ON THE AGENDA OR AN ITEM ON THE AGENDA NOT SCHEDULED FOR A PUBLIC HEARING, PLEASE FILL OUT THE INFORMATION BELOW AND GIVE TO THE CITY RECORDER OR STAFF GREETER PRIOR TO THE START OF THE MEETING. THE MAYOR WILL RECOGNIZE YOU AND ASK FOR YOUR TESTIMONY AT EITHER THE PUBLIC TESTIMONY SECTION OF THE MEETING OR THE APPROPRIATE AGENDA ITEM.

EACH PERSON'S COMMENTS WILL BE LIMITED TO FIVE MINUTES.

Name

WANDA TRUCKE

Address

6320 MIDWAY NE

KEIZER

Subject or Issue Item Number

STADIUM TRAFFIC

Your Comments

Personnel

Comment

General

X

Date

11/3/97



GUBSER NEIGHBORHOOD ASSOCIATION

DATE: November 3, 1997
TO: Keizer City Council
FROM: Gubser Neighborhood Association
RE: Stadium Traffic

At the August 4, 1997, City Council Meeting it was stated that the neighborhood would be involved in any city meetings/decisions associated with stadium traffic.

On October 24, 1997, there was a meeting on stadium traffic and the Gubser Neighborhood Association (GNA) was not notified. We only became aware of the meeting because my wife and I attended the Traffic Safety Committee meeting on October 23. While reading the minutes of the September 25 meeting I noticed that a meeting had been scheduled for October 10th. When I asked the outcome of that meeting I was told that the meeting was rescheduled for October 24th.

Thus, the GNA traffic committee feels it must now present the neighborhoods recommendations, which includes changes from our August 4th recommendations based on City input and the October 24th meeting.

These are the recommendations of the Gubser Neighborhood Association Traffic Committee:

1. **FOR BOTH VEHICLE AND PEDESTRIAN SAFETY, RADIANT DRIVE SHOULD BE TWO-WAY AT ALL TIMES. The two-way traffic also provides better access for residents of Radiant Drive and for emergency vehicles.**
2. **IDENTIFY (color code or name) AND ADVERTISE BOTH GATES. HAVE A LARGE SIGN AT THE SOUTH GATE POINTING TO THE EAST GATE.**
3. **THE OFFICER/GATE ATTENDANT AT THE SOUTH GATE ON RADIANT DRIVE DIRECT AT LEAST EVERY THIRD VEHICLE TO THE EAST GATE.**
4. **DEVELOP CORRECT COMPLETE MAPS OF THE AREA THAT INCLUDES COMPLETE DIRECTIONS TO/FROM THE STADIUM. ENSURE THAT THIS IS THE ONLY MAP USED BY ALL MEDIA AND THE STADIUM. HANG ENLARGED COPIES OF THE MAPS IN PROMINENT PLACES AT THE STADIUM, e.g. at entrances, concessions, etc.**
5. **ANNOUNCED ENTRANCE AND EXIT ROUTES AT THE GAMES AND ON THE RADIO.**
6. **INVESTIGATE AND IMPLEMENT, WHERE POSSIBLE, DIRECTIONAL SIGNS TO THE STADIUM ALONG ALTERNATE ROUTES, e.g. at Brooks, 99 and Quinby, etc.**

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7. **CONSISTENTLY PROVIDE FOUR TICKET TAKERS AT THE SOUTH GATE.**
8. **KEEP TEPPER LANE USE RESTRICTED TO THE SAME LEVEL AS THE 1997 SEASON.**

Since being advised that there are residents on Radiant Drive that do not wish the speed limit lowered, the GNA Traffic Committee (with concurrence from Radiant Drive residents on the committee) withdraws its recommendation to lower the speed limit to 25 mph. However, we would like to advise the City that the speed limit is currently 35 mph, not 30 mph.

The City needs to make some good faith efforts to implement these recommendations and work with the GNA. Additionally, the GNA requests updates and information regarding infrastructure plans.

Regarding suggestions from the October 24th meeting, the GNA Traffic Committee supports advanced ticket sales if it does not impact the above traffic flow recommendations. The GNA Traffic Committee vigorously opposes the Salem Transportation suggestion to use our neighborhood as a park and ride.

The following provides rationale for the GNA recommendations:

For recommendation number 1; Keep Radiant Drive TWO-WAY at ALL TIMES, the Gubser Neighborhood Association wants the council to know that this is our number one concern and recommendation because of the safety concerns.

The draft of the Keizer Ballfield Event Management Plan states as its purpose "to establish the process necessary for the safe and efficient movement of traffic to and from the ... stadium." In addition, it states that "Success often hinges on the ability of a system to change as necessary to achieve the safest and most efficient system possible." The Gubser Neighborhood Association believes that the current traffic plan is not safe. By adopting and implementing our recommendation of keeping Radiant Drive TWO-WAY at ALL TIMES you guarantee consistency, thus promoting safety by eliminating the confusion present in the 1997 season.

Consistency is guaranteed, because there would be NO worry or questions as to when the traffic pattern would change, **IT WOULD NOT CHANGE.** Radiant Drive was changed from two-way to one-way any time from the 6th inning to the 9th inning (from 8:30 pm to 9:30 pm). Many times this change takes place prior to the street signs being flipped. At every home game this year residents on Radiant Drive have observed traffic using the street as a one-way prior to the game (which it is not) and after the game prior to

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the signs being flipped. Under this present traffic pattern the residents of the Radiant Drive neighborhood do not know when, or if, they can go North on Radiant Drive. The Gubser Neighborhood Association, which includes the residents of the Radiant Drive area, are concerned for the safety of the residents and for the safety of anyone using Radiant Drive after a game has started.

This would also provide more safety for the residents, the police officers working traffic, and for pedestrians walking on Radiant Drive. In addition, emergency vehicles and residents will have an easier time getting into and out of the neighborhood, allowing them more flexibility in their choice of a route.

The Gubser Neighborhood Association is asking the City Council to approve a safe and consistent traffic pattern for the stadium and we believe that keeping Radiant Drive two-way at all times is the first important step to accomplish this.

Recommendation number three, to divert traffic from the South gate to the East gate, will help with traffic backup on Radiant Drive. It is being used to some extent with the present traffic plan, but those who are directing drivers to the East gate don't always get cooperation from the drivers. This is where recommendation number two, a sign pointing to the East gate and having the gates marked, would help. Many of the drivers going to the stadium do not even know there is a second gate into the parking lot and a sign would let them know.

Recommendations number four and five, those dealing with maps and announcements, will also help with the above recommendation to get people to use the East gate. Because of poor maps and directions that have appeared in the local papers, people driving to the stadium are confused about how to get there. Most believe that Radiant Drive is the only entrance/exit to the stadium. By having correct directions and maps it will be easier to encourage people to use alternate routes. By having these maps at the stadium and having the announcers give directions will also encourage drivers to use routes other than Radiant Drive. One 7th and 8th inning announcement about exiting the stadium emphasizes exiting on Radiant Drive and mentions as an after thought "Or you may travel NORTHBOUND by exiting the parking lot on the East side and turning left." There needs to be more directions announced about turning left and going northbound.

In addition, the announcers need to tell drivers to be courteous and considerate to the residents who live along the routes to and from the stadium. To please allow them to enter and exit their driveways.

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Recommendation number eight is not a change in the present traffic pattern. The Gubser Neighborhood Association wants to keep Tepper Lane traffic as is; that is, to put road closed signs at the intersection of Radiant Drive and Tepper Lane and on Tepper Lane, west of the rail road tracks. Allow only emergency vehicles, Radiant Drive residents, and their visitors to use Tepper Lane east bound to get to residences in the Radiant Drive area.

In closing, let me again state that these recommendations come from the Gubser Neighborhood Association and we are asking that the City Council act on them by directing staff to implement these recommendations as soon as possible.

Thank You.