

MINUTES

KEIZER CITY COUNCIL

Monday, October 21, 1991

Auditorium
Keizer City Hall

CALL TO ORDER

Mayor Orcutt called the regular session of the Council to order at 6:04 p.m. Roll call was taken as follows:

Present

Andrew J. Orcutt, Mayor
Mike Hart, Councilor
Dennis Koho, Councilor (left at 9:18 p.m.)
Jerry McGee, Councilor
Al Miller, Councilor
Bob Newton, Councilor

Absent

Joe Van Meter, Councilor

Staff

Donald H. Otterman, City Manager
John Morgan, Community Development Director
Wally Mull, Public Works Director
Kevin Wickman, Parks Director
Shannon Johnson, City Attorney
John Lien, City Attorney
Susan Darby, City Recorder

PUBLIC TESTIMONY

Mayor Orcutt indicated that he would hold the public testimony over until 7:30.

COMMITTEE REPORTS

There were no committee reports.

CITY MANAGER EVALUATION FORMAT

Mayor Orcutt stated that he met with Councilors Koho and McGee to develop a draft form to be used in evaluating the City Manager's performance as well as a form for employees to submit their comments on the Manager's performance. With respect to this latter form, employees in the Administrative office and

department heads will be asked to complete the evaluation form and return it in an envelope to Mayor Orcutt's residence. He will then tally the results of those responses and report them to the Council members. Mayor Orcutt stated that those employees specifically excluded would be the police sergeants, members of the collective bargaining unit and the water field employees.

Councilor Koho commented that the intent was that these evaluation forms will not be included in the City Manager's personnel file but would be a tool for the Council to use in developing its evaluation of the Manager's performance.

Following discussion on the dates available for the Council to meet in Executive Session to compile the evaluation, the members agreed to meet on Sunday, October 27, at 5 p.m.

The City Recorder was directed to distribute copies of the employee evaluation form to those affected employees with a request that they be placed in the mail by Thursday, October 24. The Council members were directed to get their completed forms to the Mayor by late Friday.

Responding to a comment from Mr. Otterman, Mayor Orcutt stated that the Council will compile the evaluation and determine how it will be presented to the City Manager.

PURCHASE OF WATER VEHICLE

Mr. Mull reviewed the staff report regarding the purchase of a pickup truck for the Water Department. In order to come in under budget for this purchase, Mr. Mull proposed that the requirements of Ordinance 88-117 be waived with respect to disposing of the 1978 Ford van and that the van be traded in against the cost of the pickup.

Councilor Koho stated that the budgeted amount is a target and not necessarily an absolute limitation. He believed this issue was presented for Council consideration because it would be an expenditure over the budgeted amount. However, he did not believe this was necessary when the over expenditure would be a couple of hundred dollars.

Councilor Miller asked where the diesel would be obtained for the vehicle. Mr. Mull explained that there is a diesel tank at the Water shops which is used to fuel the diesel engine and other equipment.

Councilor Koho moved for passage of an ordinance allowing the transfer of a 1978 Ford E150 van to be exempted from the requirements of Ordinance No. 88-

117; and declaring an emergency. Councilor McGee seconded the motion. The motion passed unanimously on first reading, as follows:

AYES: Orcutt, Hart, Koho, McGee, Miller, Newton (6)

NAYS: None (0)

ABSENT: Van Meter (1)

Councilor Hart asked whether it would be appropriate to adopt an ordinance allowing for such variances from the surplus property ordinance. Mr. Lien responded that this discussion comes up at staff level, usually when the police vehicles are ready to trade in. He has noted this as a future agenda item to discuss revision of that ordinance.

PROPERTY TAX LEVIES AND TAX BASES

Mr. Otterman reported that cities are now required, under recent legislation, to prepare an estimate of their taxes to be collected by December 4. By a separate Department of Revenue regulation, cities must request new tax bases anytime they operate three years above their existing tax bases. Therefore, the City of Keizer must request an updated tax base in May of 1992. Between now and December 4, the City must estimate what it will need in the way of taxes. The original thought was that the Keizer Tomorrow Committee, after conducting its study and review of city services, would recommend the needed tax base. However, the Keizer Tomorrow Committee cannot have their work completed in time for the December 4 deadline. Mr. Otterman stressed, however, that the December 4 deadline is for an estimate only.

The City must hold a special public hearing on the potential impact on other jurisdictions no later than December 24 in order to meet the elections cutoff date for the March ballot, should the Council decide to place a measure on that ballot. Other possibilities include the May and June elections. However, because of the timeframes, it would be necessary, for example, to submit a measure to the voters for May before knowing whether the March levy passes. If the City decides to request a tax base in May, and the request fails, it will be impossible to place a levy request on the June ballot because of those timeframes.

Responding to a question from Councilor McGee, Mr. Otterman explained that the City needs to request a tax base; it does not have to be approved by the voters.

Mr. Otterman discussed with Marion County Legal Counsel Bob Cannon the possibility of submitting a measure, for example, for the June ballot before knowing the outcome of the May ballot. Mr. Cannon saw the timing in what Mr. Otterman was proposing, but refused to commit himself without talking with Marion County Clerk Alan Davidson. Mr. Cannon believed that this

approach may not work.

Mr. Otterman requested some general direction from the Council to enable him to conduct further research with the County and State. In addition, the Council needs to designate a representative for the December 4 Marion County meeting. The representative could be an elected or appointed official.

In response to a question from Councilor Hart, Mr. Otterman stated that the County stressed that the figure the City gives to them by December 4 would be an estimate only and subject to revision.

Councilor Hart questioned how this legislation bypassed the County and the League of Oregon Cities. Mr. Otterman explained that this legislation affects all agencies except schools and Multnomah County. He noted that Multnomah County caught this proposed legislation and obtained an exemption from its effects.

Councilor Hart indicated that he spoke with the Salem Budget Officer. That individual does not believe Salem will give a great deal of weight to the estimate given to the County by December 4. Mr. Otterman stated that Marion County indicates it will approach this requirement very conservatively. If an estimate is not given to the County, Mr. Davidson will not allow any money measures on the ballot from that jurisdiction.

Councilor Newton favored asking for a tax base and having a fall back position for a levy. He proposed that the estimate contain the existing programs and staffing with the addition of the two police officers on the grant program. He suggested no new additional capital purchases outside of the current operating needs. Further work needs to be done by the City with respect to revision of its mission statement, prioritizing a capital improvements program, discussions on police staffing level, and obtaining the Keizer Tomorrow Committee's vision statement.

Councilor Koho indicated he may favor a tax base request, with another tax base request coming after Keizer Tomorrow Committee completes its work. In addition, he would like to consider something else than simply status quo. If there had been a couple of positions on staff over the past year, it might have lessened if not eliminated some of the problems the City has had to face. He favored avoiding those types of problems again.

Councilor Miller said he would prefer to have this discussion with the Budget Committee on Wednesday night. He said that staff had at one time prepared a list of items for earlier budget deliberations but which were put off. He recalled some discussion on possible equipment purchases, additional staff, etc. He asked that those items be presented to the Budget Committee.

Councilor McGee said that the City must request a base in May, with Councilor Newton suggesting a fall back position in June. Councilor McGee said that the term "status quo" is not a dirty word in that it does not necessarily mean "no growth". He said that the purpose of the tax base is to eliminate special levies. There has been a staff a year in the central administration office. He said that status quo is normal growth.

Mr. Otterman explained that the Budget Committee meeting was set several weeks ago and the emphasis at that time was to be on program budgeting. The focus now will be on what the City has to do in order to meet the new legislation. He expressed uncertainty over whether the City could proceed along the lines of Councilor Newton's suggestion to go for a tax base in May and a fall back levy in June. Doing so may necessitate layoffs procedures since the June election will not be held until June 30. The City will not know until the day before layoffs would need to take effect whether the levy will pass.

Councilor McGee said that this encourages the City to complete the goal to accelerate a budget process. He noted that layoff notices are no big deal. He asked the Council to think about why the City has had to go out for levies twice in the past. He believed it is because the people of this community will support a solid budget rather than one that is fuzzy. Such a budget must be super clean and understandable.

Councilor Koho suggested the Council keep in mind that few tax bases are adequate and that voters are much more inclined to approve one year levies. He believed it would be foolhardy to anticipate passage of a tax base and that the Council should consider an early levy and a tax base request in May, giving the opportunity to go in June if the March levy fails.

Councilor Hart favored staying with the current amount for the December 4 estimate, but going to a dollar amount per thousand dollars rather than a total amount. He would like to hear from the Budget Committee on the members' desire for a tax levy versus a tax base and the specific timing.

Mayor Orcutt took exception to the comment by Councilor McGee with respect to proposing a solid budget. He stressed that he has never proposed a budget that was not solid, but that opinions regarding this may differ. Mayor Orcutt indicated his preference is to go out for a levy in March and a tax base in May, however, he would also prefer to obtain the Budget Committee's input on Wednesday and an estimate for the December 4 deadline.

There being no objection from the Council, Mayor Orcutt appointed Mr. Otterman as the representative to Marion County's December 4 meeting.

CONSENT CALENDAR

Items on the Consent Calendar included:

- a. October 7, 1991 Regular Session Minutes
- b. Resolution - Authorizing an agreement for the Law Enforcement Data Systems (LEDS)
- c. Resolution - Declaring the City's intent to initiate a Street Lighting District (Willow Lake Estates Phase II and III) and directing the City Engineer to make a survey and file a written report with the City Recorder.
- d. Resolution - The Meadows Phase 4 Street Lighting District.
- e. Resolution - Orchard Crest Street Lighting District
- f. Liquor License Renewal - Bray's Family Restaurant - 5024 River Road North - Dispenser Class "A" and Change of Privilege
- g. Resolution - Appointment of Records Manager
- h. Award of Bid - Comprehensive Park System Development Plan

Councilor Miller removed items b. and g. off the Consent Calendar. Councilor Hart removed item h. off the calendar.

LEDS/Municipal Court Agreement

Councilor Miller stated that the LEDS agreement does not indicate what it will cost to use the system. Mr. Otterman explained that there will be no additional cost. The agreement permits the Municipal Court to use the LEDS system for DMV records only, not for any other type of record. The Court is currently unable to do so.

Councilor Miller said he wants more specific certainty that there will be no cost. Mr. Otterman explained that the Police Department has such an agreement that includes the access to all criminal history. It does not cost anything separately from the police department. It gives the court access to DMV records only, under the same conditions as the police department's agreement with LEDS. The court will, as with the police department, use the existing RAIN computer and the court will be assigned its own specific access number. The court is now using the LEDS system through the police department's access number. LEDS desires that courts have their own numbers and separate agreements.

Councilor Miller questioned about the police department not paying for each inquiry, although the City, through the police department, would be paying for that access. Mr. Otterman explained that the RAIN system is paid, but there is no separate cost for the LEDS system. He stressed that the court will not be paying anything extra for access to the LEDS system. He discussed this today with the Police Chief and he indicated he spoke with a LEDS representative. This is being done on a four state basis with Oregon, California, Washington and Idaho to separate out the courts from the police departments.

Councilor Newton moved for passage of a resolution authorizing an agreement for the Law Enforcement Data System (LEDS). Councilor Hart seconded the motion. The motion passed unanimously by the following vote:

AYES: Orcutt, Hart, Koho, McGee, Miller, Newton (6)

NAYS: None (0)

ABSENT: Van Meter (1)

Appointment of Records Manager

Councilor Miller questioned when the law was passed that required cities to designate a records manager. Mr. Otterman explained that it went into effect on September 29.

Councilor Miller said that there is no mention in the City Charter that this is a duty of the City Recorder. He would recommend that the City Council designate the City Manager as the Records Manager and that the City Manager can then designate someone.

Councilor McGee said that he has no problem with this approach, however, he questioned why Salem appointed their records manager over a year ago. He indicated he had a problem with this since the law became effective only September 29, 1991. Councilor McGee stated that the City Recorder has an evaluation due in 60-90-120 days and that should it not be positive, this would be poor timing to name her as the Records Manager. Mr. Otterman indicated that the evaluation will be done this week. Councilor McGee stated that since it has not yet been done, he did not believe there was a need to be in a big rush to appoint her as Records Manager and that the alternative would be better.

Councilor Koho disagreed, indicating that he thinks in terms of the City Recorder and Records Manager as the same person. He noted that while some may have problems with the particular individual in the office, there has been no repeat of the sorts of things that brought all the attention this year. He would rather separate the person from the issue.

Councilor McGee again questioned naming the City Recorder as the Records Manager a week before her evaluation is completed. Councilor Koho stressed that the law took effect September 29.

Councilor Hart asked whether there is anything different in being appointed as Records Manager that the City Recorder has not been doing in the past. Mr. Otterman stated that the City Recorder currently has the records of the City under her basic control with the exception of personnel files. Appointment as the Records Manager spells it out in specifics.

Councilor Hart moved for passage of a resolution designating the City's Records Manager as the City Recorder. Councilor Newton seconded the motion. The motion passed as follows:

AYES: Orcutt, Hart, Koho, Newton (4)

NAYS: McGee, Miller (2)

ABSENT: Van Meter (1)

Parks System Development Plan

Mr. Wickman reviewed the staff report regarding requests for proposals on the Park Comprehensive Development Plan, recommending the award go to Otak Incorporated Architects at a price of \$18,650. He reported that seven proposals were received.

Councilor Hart moved to accept the bid from Otak Incorporated Architects of Lake Oswego of \$18,650 and award them a contract to complete the Comprehensive Park System Development Plan for the City of Keizer. Councilor McGee seconded the motion.

Councilor Hart asked whether this was a bid or a recommendation. Mr. Morgan explained that this is not a bid but rather a contract. In this instance, staff is looking for the best value rather than a specific price. No specifications were written upon which vendors could submit prices.

Councilor Newton indicated that he finds some fault in the manner in which this matter was handled and, therefore, will not support it. Councilor Hart agreed with the confusion, but said he contacted staff to clarify the issue.

The motion passed by the following vote:

AYES: Orcutt, Hart, Koho, Miller (4)

NAYS: Newton, McGee (2)

ABSENT: Van Meter (1)

PUBLIC TESTIMONY

Chapman/Chemawa Road Curb

Pat Chapman, 2235 Chemawa Road NE, Keizer, provided a packet of information to Mayor Orcutt regarding her curb being damaged and survey stakes being removed from her property during the paving of Chemawa Road. She stated that her surveyor will have the survey completed in time for the November 4 City Council meeting. She stated that the questions are still the same as the last time she appeared before the Council, i.e., curb repairs, survey stakes, black top on her property. Ms. Chapman said she is in a predicament since she cannot sell her property because of infringement. An estimate from one of the curb repair firms indicates that it will cost close to \$3,000 to have the

damage repaired. A neighbor is at tonight's meeting who also had their survey stakes pulled up.

Mayor Orcutt indicated that the Council received a staff report from Mr. Mull last week but that they have not had an opportunity to discuss it yet. It appears that the road was properly placed according to the City's engineers and, until Ms. Chapman's surveyor indicates otherwise, the parties are at a standstill.

Ms. Chapman said that Chemawa Road has been improperly located for many, many years.

Councilor Koho indicated that while he appreciates her concerns, the City's engineers say the road does not infringe on her property. However, if Ms. Chapman's survey indicates otherwise, then the parties need to resolve the issue.

Ms. Chapman said that since 1964 when her house was built, there was no asphalt over the survey stakes. Since 1986 there has been asphalt over the stakes and the stakes have been pulled up. Ms. Chapman indicated that asphalt should not have gone over the stakes without payment to the property owners. Councilor Koho reiterated that as soon as the City receives her surveyor's report, then the issue can be resolved.

Responding to a question from the Mayor, Ms. Chapman said that the survey should be completed in time for the next Council meeting. Mayor Orcutt said that as soon as the City receives her survey, the matter will be set for Council discussion and that Ms. Chapman will be notified.

Ms. Chapman asked why the major survey point on Lockhaven is constantly being moved. She said that this question will also need an answer. Mayor Orcutt indicated that the Public Works Director will be able to respond to this question.

Scout Troop 121

Councilor Koho introduced Philip Schafer (sp?), Scout Troop 121, who is working on his citizenship and merit badge. His father, Bill, is also present tonight. Mr. Schafer is formerly from Troop 25 in Bend, Oregon.

PROPERTY TAX STATEMENTS

Marion County Commissioner Gary Heer and Assessor Doug Ebner addressed the Council and the audience with respect to the tax statements which will be mailed soon. Commissioner Heer indicated that, overall in the county, taxes will increase 14% to 15%, mostly in the north end near Wilsonville, Tualatin,

Woodburn and other small towns. Otherwise, most property owners in the county will receive a tax reduction.

Mr. Ebner stated that tax statements will be mailed on October 25. Taxes will be reduced to \$10 per \$1,000 value except for schools rates which will be \$15 per \$1,000 value. This latter figure, however, will eventually be reduced to \$5 per \$1,000 value. Mr. Ebner explained the components of the tax statement. He noted that this is the first knowledge property owners will have of their property values since the county no longer mails out valuation notices earlier in the year. He also noted that the statements coming out in the mail this year have 18 months worth of valuation on them in order to catch up with the rising property values. Mr. Ebner indicated that Ballot Measure 5 requires the assessor to use real market values.

Responding to a question from a lady in the audience, Mr. Ebner explained that some property owners will receive special assessments for lighting districts on their tax statements.

A gentleman from the audience asked about the process for appeal. Mr. Ebner explained that if a property owners wishes to appeal the valuation, he or she needs to go to the County Clerk's office and file a petition. A copy of that petition then goes to the Assessor's office. The Assessor's office will conduct a review and, if they have erred, an adjustment and refund will be made.

Mr. Otterman asked about the County tax rate for those cities under compression. Mr. Ebner explained that the County tax rate will differ among cities depending on whether or not they are compressed. For example, Keizer's county tax rate will be about \$3.66, while in Salem it will be \$3.56. In rural areas, the tax rate will be about \$3.76.

In closing, Mr. Ebner indicated that there are two telephone lines identified on the tax statement for property owners to call and obtain information.

PUBLIC HEARING - MCNARY ACTIVITY CENTER PLAN

Mayor Orcutt reopened the continued public hearing on the McNary Activity Center Plan.

Mr. Morgan indicated that at the last meeting, the Council directed staff to assist in working out the differences between the parties regarding the McClure Street extension and the potential turn around. Those issues have been resolved, and staff is recommending that the Council close the public hearing tonight, deliberate, and that staff come back with an ordinance at the next meeting.

Mr. Morgan outlined components of the design plan. He noted that many changes are items suggested by Staats where the requirements were too tight to respond to the market with the greatest flexibility. Mr. Morgan also highlighted the comprehensive plan and zoning ordinance revisions document.

Ken Sherman, Jr., Attorney at law representing Staats, 687 Court Street, Salem, provided signed copies of a letter of agreement between Staats Corporation and Hillman Properties. At the Mayor's request, Mr. Sherman highlighted the agreements reached which were contained in the letter of agreement. Mr. Sherman indicated that Staats ultimately would like to see an integrated development with Hillman Properties and hoped that there will be no need for a security gate into McNary Estates.

Responding to a question from Councilor Koho, Mr. Sherman stated that the hammerhead turn around would be constructed only at such time as the gate is installed and, therefore, it is not being recommended that wiring and construction of the hammerhead occur at this point in time.

Mr. Sherman assured the Council that the letter of agreement he distributed tonight to the Council is identical to the unsigned copy they received earlier.

Councilor Koho thanked Mr. Sherman and the other parties for bringing matters to a conclusion in an amicable manner.

Mr. Sherman indicated that his client thoroughly endorses the McNary Activity Center Plan which is before the Council tonight.

Responding to a question from Councilor Newton, Mr. Morgan stated that the park will be north of the vacant land behind or west of the school near the current school playground. When a specific plan comes in, it will be more thoroughly evaluated at that time.

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

DELIBERATION - MCNARY ACTIVITY CENTER PLAN

Councilor Koho moved to direct staff to prepare and return to Council with an ordinance amending the comprehensive plan, zoning ordinance, rezoning property and adopting the McNary Activity Center Plan. Councilor Newton seconded the motion.

Councilor Miller declared a potential conflict of interest because he resides in McNary Estates development.

In response to questions from Councilor McGee, Mr. Morgan indicated that a permanent houseboat is one that has water and sewer hookups. He also

indicated that the appendix can be amended to correct scrivener's changes as the final version is written over the next several weeks.

Councilors McGee and Miller both expressed concern with the mixed use zone in that it might stagnate development. Councilor Miller also expressed concern with the allowance for houseboats in light of the geographical situation. Mr. Morgan explained that the policy simply recognizes that there may be houseboats. If the Council wishes to preclude houseboats completely, a policy would need to be included.

Mr. Morgan explained, in response to a concern expressed by Councilor Miller, that the appendix identifies issues and analyzes those issues. The conclusions are then used to develop the design plan.

Councilor Miller expressed concern with vehicle access points onto River Road. Mr. Morgan explained that there is 1,600 feet from River Road to McClure, which is sufficient room for four access points approximately a block apart. There will probably be an independent traffic engineering analysis on the traffic impacts.

Councilor Miller expressed concern with the promenade being interrupted by big shops. Mr. Morgan indicated that this is possible, although the final design will be determined through the approval process when specifics are available.

Councilor Hart stressed that this is an overall comprehensive plan in that the City does not yet have specifics on street patterns, promenade, etc. Those are things which will be dealt with when the specific plan is presented to the Council.

Councilor Miller expressed concern about parkland development. Mr. Morgan explained that the plan before the Council does not relate to parks development charges other than that policy will apply. This plan in no way precludes imposition of appropriate system development charges at the time of development.

Responding to a concern from Councilor Miller, Mr. Morgan stated that some wording may have not adequately gotten back to the appendix, specifically with respect to the Claggett Creek corridor. He indicated that the sentence is intended to say the corridor is to be preserved in public or private ownership, specifically anticipating that it not be developed and preserved in a natural sense. However, it appears as an incomplete sentence and both sentences need to be reworded.

Councilor Miller took exception to comments made in the appendix with respect to wildlife issues not being relevant. Mr. Morgan explained that the goose policy was removed from the plan; it is not binding in the appendix. He stated

that there is nothing in state or federal law that requires preservation unless it's a wetland or some other specifically designated wildlife preserve. Councilor Miller stated that it may not be mandated but it is not necessarily irrelevant. He believed it is relevant to a lot of citizens in Keizer. He directed that this sentence be removed from the appendix. Mr. Morgan indicated that the wording could be amended to state that this is not generally an issue dealt with in an urban area. Councilor Hart indicated that he preferred the statement as presently worded.

The motion passed unanimously as follows:

AYES: Orcutt, Hart, Koho, McGee, Miller, Newton (6)

NAYS: None (0)

ABSENT: Van Meter (1)

Councilor Koho left the meeting at 9:18 p.m.

PUBLIC HEARING - FERNWOOD PARK VACATION

Mayor Orcutt opened the public hearing to consider remonstrances to the vacation of Fernwood Park.

Mr. Morgan indicated that this public hearing is being held for the purpose of considering the potential vacation of Fernwood Park. He explained that Fernwood Park was dedicated to the public in the 1950's when the Fernwood subdivision was created. The purpose of the hearing is to vacate ownership to the public and vest it instead in the City of Keizer. Mr. Morgan indicated that Mr. Johnson has spent a considerable amount of time probing the law on this issue. In addition to the vacation, Mr. Morgan wanted to use the public hearing process as an opportunity to air the much broader issue of Fernwood Park itself.

Mr. Morgan reviewed the staff report regarding this issue, explaining the three major players as the City of Keizer, Springer Development and Keizer Heritage Foundation. In essence, Springer Development would develop the park. In exchange, Keizer Heritage would maintain the park in perpetuity. Vacating the public interest would give the City the ability to enter into these agreements with the parties. The fourth player is the neighbors. Mr. Morgan stated that if owners of more than 50% of the affected land area remonstrate against the vacation, the proceedings will cease. Although letters were received in opposition to the vacation, Mr. Morgan indicated that he was unsure whether it represented more than 50% of the land area. A subsequent informational meeting was held, and some of the owners rescinded their remonstrances. Mr. Morgan stated that the staff recommendation is to approve the vacation, and condition that the property will be used for park or related purposes only, and to authorize staff to proceed with the agreements with Keizer Heritage

Foundation and Springer Development. The draft agreements would come back to the Council for final approval.

Councilor Miller asked what would occur if Keizer Heritage fails to maintain the property. Mr. Morgan explained that since Keizer Heritage is a foundation, the only consequence is that the City of Keizer would inherit the school building. It may be possible to have the foundation post a bond, or perhaps just deal with that possibility if it ever comes up. A worst case scenario is that the City would take over the maintenance which involves mostly mowing and watering. Keizer Heritage will be required to meet a list of conditions and, if they fail to do so, they have 90 days to return the school to its original site. This condition goes into effect three weeks from now.

Councilor Miller suggested that staff explore possibilities as to what might happen if Keizer Heritage fails to properly maintain the park.

Mr. Johnson clarified Mr. Morgan's earlier comment that the City Council cannot pass a motion to vacate the property until staff has fully analyzed the remonstrances and determined that they represent less than 50% of the land area. He suggested that the Council hold the hearing open so that staff can report back on the remonstrances at its next meeting.

Holly Erickson, president of the Keizer Heritage Foundation, had nothing new to add to what she has already reported to the City.

Ray Clark, 306 Kestrel Street, Keizer, stated that he does not believe the school is his concern or the concern of his neighbors in Fernwood Park. The concern is vacating the park property. The neighbors were told that if there was 51% opposed to the process, the vacation would be halted. Mr. Clark indicated that he has 31 signatures opposing the vacation, and Mr. Morgan says he has received two rescissions, for a total of 29 remonstrances.

Mr. Clark indicated that everything can be done without vacating the park. It can be mowed, seeded, etc. If Keizer Heritage comes up with the money to refurbish the school, the City should allow them to proceed with their agreement.

Responding to a question from Councilor Miller, Mr. Clark stated that although some of these improvements can't be done immediately, they could be accomplished several years down the road. Councilor Miller questioned whether the neighbors are aware that the park would remain in its undeveloped state. Mr. Clark indicated that this is what the neighbors have said in their letters. Mr. Clark added that the agreement says that Keizer Heritage is to maintain the entire park, not just the area around the school building.

Mr. Morgan responded that Keizer Heritage is responsible for improving the school and that they can put bushes around the school building, for example. The agreement indicates that they are to maintain the grounds, but there is nothing which requires them to develop the entire one acre park. Mr. Clark indicated that he has seen plans for Keizer Heritage to develop a gazebo on part of the property. Mr. Morgan indicated that this drawing exists, however, there is nothing to require Keizer Heritage to make the improvements.

Councilor Hart asked what the basic objection is of the neighbors. Mr. Clark indicated that if the City vacates the property and are the sole owners, the City can enter into a lease agreement with the day care center to fence off part of the park.

Councilor Hart indicated that the Little League Park is owned by the City and maintained by the Little League. The Little League uses the park for certain times and it is open to the public for the remainder. Councilor Miller added that the day care center would be installing toys or recreational things in the park and those things would be available for public use where the City would not have to expend any money in purchasing the equipment.

Mr. Clark said that the neighbors are trying to tell the City of Keizer that they would like the City to listen to them instead of short changing them. The neighbors have the right to stop the vacation process and they would like to see Mr. Morgan and his staff take steps to cease the vacation.

James Farrier, 356 Kestrel St N., testified that the opposition is not necessarily directed at the school, but that the neighbors were given the rules and those rules have been followed to stop the vacation. The neighbors have been going at this since July of 1989, but there is still no record of who said the school could be set down where it was located. Out of the 33 homes, 31 have signed, one was a rental and the other was going to come down and sign. Even with two rescissions, there is still more than 50% of the property area represented. Mr. Farrier indicated that the City will take care of developing the park in the same manner as the process used in going through school levies.

Lola Stingley, 307 Kestrel St N., testified that she has been at this location for 40 years and she happens to like the area as it is. She does not care about the weeds, but does question children being able to take the land. When the day care center enlarges, there may be an expansion of the area needed for the park.

Hart Wover (spelling?), 5056 Elizabeth Street N, indicated that there is a problem with securing this area. He questioned whether Keizer Heritage was to prevent vandalism to the school from occurring. Mr. Morgan indicated he did not have a copy of the agreement with him

Tom Bauer, 1125 Swingwood NE, representing Keizer Heritage as the vice president, expressed concern about the approaching November 15 deadline for an extension and the need to resolve some issues for that agreement. He also stated that Keizer Heritage has \$45,000 cash to proceed with the project. He joined the Keizer Heritage Foundation because he saw a need to finish a project that was well thought out. Mr. Bauer indicated that while all the things the Council may have heard about the school are correct, things are significantly better than they used to be and that they will be significantly better in the future. He indicated that some tenants have signed letters of intent to lease within the building.

Carl Beach, 810 Ventura N., and owner of a home at 5088 4th Place N., testified that he attended the informational hearing on September 24 and would defer to neighbors who live directly in the area. He believed that this proposal could be a winner to everyone concerned. As a member of the City's Budget Committee, and knowing that the City does not have the funds to improve parks, the public would get a park developed with the grass, irrigation and other amenities which seems much better than having a natural field that no one uses. He believed that if enough conditions are included to prevent use other than for park property, there would be very little concern for Fernwood neighbors.

Mr. Beach indicated that the petitions were circulated for signature prior to the informational meeting being held so many of the neighbors may have signed without full knowledge of what could be done with the property. He suggested that a letter be sent to the neighbors specifying the types of improvements that would occur and see if they all still wish to remain in opposition after having all of the information.

Responding to a question from Mr. Clark, Mr. Beach indicated that he received the letter from Mr. Morgan and that he thought it was a good letter.

Ms. Stingley asked why the neighbors have to come to one meeting after another. Mayor Orcutt explained that this is the first time the Council has held a public hearing and considered the issue.

Mayor Orcutt indicated that he would continue the public hearing and give staff the opportunity to verify remonstrances that have been received to date. If there are remonstrances from more than 50% of the land area, the vacation will die.

In response to a question from Mr. Morgan, Mayor Orcutt directed staff to negotiate for a new agreement with Keizer Heritage on the extension of the November 15 date. Councilor Newton asked for information on how the agreement in force at the present time has been carried out.

OTHER BUSINESS

There was no other business to come before the Council.

WRITTEN COMMUNICATIONS

There were no written communications to come before the Council.

AGENDA INPUT

In addition to those items shown on the agenda, the following items were added:

- Continued public hearing on Fernwood Park
- Extension of Keizer Heritage agreement
- McNary Activity Center Plan ordinance

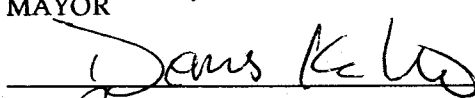
ADJOURNMENT

The meeting adjourned at 9:59 p.m.


Susan Darby, City Recorder

APPROVED


MAYOR









(COUNCILOR VAN METER ABSENT)