

MINUTES
KEIZER CITY COUNCIL
Monday, October 16, 1995
Robert L. Simon Council Chambers
Keizer City Hall
Keizer, Oregon

CALL TO ORDER

Mayor Koho called the regular meeting to order at 7:00 p.m.
Roll call was taken as follows:

Present:

Dennis Koho, Mayor
Carl Beach, Councilor
Jim Keller, Councilor
Jerry McGee, Councilor
Al Miller, Councilor (arrived at 7:08 p.m.)
Bob Newton, Councilor
Jerry Watson, Councilor

Staff:

Dotty Tryk, City Manager
John Morgan, Community Development Director
Wally Mull, Public Works Director
Lt. Pat Bowe, Keizer Police Department
Shannon Johnson, City Attorney
Tracy L. Davis, City Recorder

**PUBLIC
TESTIMONY**

There was no public testimony to come before the Council.

**COMMITTEE
REPORTS**

Dotty Tryk, City Manager announced due to the recent resignation of Sam Goesch from the Planning Commission, the Volunteer Coordinating Committee met and reviewed four applications to fill this vacancy. The Committee unanimously recommended the appointment of Bill Pearl to fill the unexpired term.

**PLANNING
COMMISSION
APPOINTMENT**

Councilor Keller moved to appoint Bill Pearl to fill the vacancy on the Planning Commission. Councilor McGee seconded the Motion.

The Motion passed as follows:

AYES: Beach, Keller, Koho, McGee, Newton and Watson (6)

NAYS: None (0)

ABSTENTIONS: None (0)

ABSENT: Miller (1)

**CLAGGETT CREEK
GREENWAY TASK
FORCE**

Mayor Koho requested removing the word greenway from the title of the task force. This committee will be referred to as the *Claggett Creek Task Force*.

Dotty Tryk, City Manager reported previously Mayor Koho expressed his intent to improve and protect the Claggett Creek area. The first step would be to form a task force who would assist in making recommendations for this area. City Manager Tryk reviewed the mission statement and the desired membership for this task force.

Mayor Koho announced a meeting was held with the South East Keizer Neighborhood Association and the Claggett Creek Neighborhood Association and after discussing this issue, there was unanimous consensus to pursue forming a task force to explore options for this area.

In response to a question from Councilor McGee, Mayor Koho stated the unanimous agreement was to take a look at Claggett Creek and pursue options to protect or preserve this area for public use in those areas intended for use by the public.

Councilor Keller recalled a previous presentation by the McNary Science Club in which they proposed improvements rather than preservation.

Mayor Koho also indicated this task force could explore possibilities for funding options through grants if there were not heavy commitments attached.

Councilor Newton voiced his concern the Mayor would be responsible for appointing the chair of the task force.

Councilor Newton moved to approve the Claggett Creek Task Force mission and membership with the exception the chair will be appointed by the task force rather than the Mayor. Councilor Keller seconded the Motion.

The Motion passed as follows:

AYES: Beach, Keller, Koho, McGee, Miller, Newton and Watson (7)

NAYS: None (0)

ABSTENTIONS: None (0)

ABSENT: None (0)

Mayor Koho announced the property owner positions would be filled by Jay Compton and Holly Erickson.

Councilor Newton requested Rosalie Herber-Moore be appointed as the third property owner.

Councilor Watson requested Ms. Herber-Moore also serve as a liaison for the Parks Advisory Board.

Mayor Koho requested each Councilor notify the City Manager of their individual appointment.

SKPAC PROCESS UPDATE

Mayor Koho reported at the October 12, 1995 SKPAC meeting, the Councils agreed to appoint two members of each Council, staff members and property owners to further discuss this issue. Mayor Koho noted he would be interested in being involved as a member of Council.

Councilor Miller also requested to be part of these discussions.

Councilor Watson pointed out the ideas raised by Keizer City Council be carried forward during these discussions.

PUBLIC HEARINGS

KOUFAX LANE STREET LIGHTING LOCAL IMPROVEMENT DISTRICT

Mayor Koho opened the public hearing.

Dotty Tryk, City Manager reported a local improvement district was initiated at the request of the residents of this subdivision. An engineering report was completed and notice of the public hearing was mailed as required by Ordinance. Ms. Tryk noted she has not received any written remonstrance to this project.

There was no public testimony to come before the Council.

Mayor Koho closed the public hearing.

Mayor Koho moved a Resolution forming the Koufax Lane Street Lighting Local Improvement District. Councilor Miller seconded the Motion.

The Motion passed as follows:

AYES: Beach, Keller, Koho, McGee, Miller, Newton and Watson (7)

NAYS: None (0)

ABSTENTIONS: None (0)

ABSENT: None (0)

Mayor Koho moved an Ordinance Spreading Assessments to Koufax Lane Street Lighting Local Improvement District. Councilor Miller seconded the Motion.

The Motion passed as follows:

AYES: Beach, Keller, Koho, McGee, Miller, Newton and Watson (7)

NAYS: None (0)

ABSTENTIONS: None (0)

ABSENT: None (0)

ADMINISTRATIVE ACTION

ORDINANCE - DISPOSITION OF UNCLAIMED PROPERTY, FIREARMS, AND CONTRABAND

Shannon Johnson, City Attorney reported recently he had an opportunity to review the ordinance, adopted in 1988 regarding the disposition of unclaimed and surplus personal property. The basis for this review was the procedure for the disposal of houses located on property owned by the City. Mr. Johnson reviewed the changes as outlined in his staff report.

In response to a question from Councilor Keller, Mr. Johnson indicated there are not standard procedures used by other local government agencies for the disposition of personal property. In addition, an auction would be circumvented based upon Council approval only.

Dotty Tryk, City Manager advised the value or minimum bid for the houses would be determined through information collected from individuals in this profession.

Mayor Koho confirmed controlled substances would be inventoried, weighed and verified after being returned from the prosecuting attorney or courts following the completion of the case or investigation.

Councilor Beach questioned the firearms destruction process rather than selling to licensed gun dealers. These proceeds could be returned to the general fund.

Councilor McGee suggested publishing a legal notice for solicitation of bids to allow all interested parties an opportunity to submit a bid. This will act as a safeguard for public notification on the disposition of surplus items.

Councilor Watson concurred with the addition of this procedure for the disposition of personal property.

The Council agreed by consensus to include this concept in the Ordinance. The wording on page 3 - line 23 shall read...the City Manager shall solicit proposals from persons or organizations for unclaimed and surplus personal property by causing notice to be published in a newspaper of general circulation in the city at least once a week prior to the date set for opening of proposals..

Councilor McGee expressed his concern the Ordinance should also include the destruction of other weapons such as knives. He suggested the language be changed to weapons rather than firearms to address all different types. In addition, he voiced his disagreement with the three exceptions to destruction as listed in the ordinance. In particular, he noted displaying of the weapons is not worth the risk to the public. Councilor McGee also disagreed with the concept of donating or selling the firearms to another police agency. Furthermore, if there is a need for a particular weapon by the Police Department, it should be purchased for that purpose. In conclusion, he noted all weapons should be destroyed.

Pertaining to the comments made by Councilor McGee, Councilor Watson stated he is also concerned with public safety in retaining these dangerous weapons.

In response to a question from Councilor Newton, Lt. Pat Bowe stated there are instances when weapons are traded or donated to other law enforcement agencies for display and training purposes.

Councilor Keller voiced his concern that the current ordinance allows for destruction of these weapons, however the City has not followed this procedure for the past eleven years. City Manager Tryk stated this was an apparent oversight in which these weapons were not destroyed after passage of the present ordinance. Furthermore, Councilor Keller stated the proposed ordinance also allows for weapons to be retained by the Police Department.

Mayor Koho expressed his feelings with the number of illegal guns in the community, however he understands the training value by retaining and trading these firearms.

Councilor Beach noted the same rationale could be used with the impoundment of vehicles - cars can kill people too.

Councilor Miller proposed the following changes to the ordinance:

- the title should be changed to read disposing of unclaimed *personal* property, surplus *personal* property;
- on page 5- section 6 the title should be changed from firearms to weapons and the word weapons substituted for all other references to firearms;
- page 6 - line 10 - addition of *rendered permanently inoperable* and retained by and kept.....

Councilor McGee supported the changes to the title and using the word weapon rather than firearms. However, he disagreed with retaining and making the weapons inoperable based on the safety to the public. In addition, Councilor McGee expressed his concern these weapons may be retained for other purposes than training and display which will bring forth public criticism to the department. In conclusion, he fully supports the destruction of all weapons.

Shannon Johnson, City Attorney stated the statutes referenced in the ordinance relate to firearms and other illegal weapons which are covered under the section outlining the procedures for contraband. In addition, Mr. Johnson noted the statutes state firearms need to be destroyed, however there is an exception in ORS 166.280 which is repeated in the ordinance.

Councilor Watson requested staff investigate the proposed revisions to assure they do not violate the provisions of the statute.

Councilor Keller proposed eliminating lines 10, 11 and 12 on page 6 of the ordinance.

The Council agreed by consensus to eliminate lines 10, 11 and 12 of Section 6 (D)(ii).

Councilor Miller proposed an amendment to Section 7, line 19 to read....*which is unlawful to produce or possess, including, without limitation, illegal weapons, controlled substances as defined...*

The Council agreed by consensus to changing the language in section 7, line 19 as stated by Councilor Miller.

Councilor McGee again voiced his concern with the provision to allow the firearms to be sold or donated to other law enforcement agencies.

City Attorney Johnson noted this provision is only for surplus weapons not contraband type weapons.

Councilor Beach moved a bill for an Ordinance Disposing of Unclaimed Personal Property, Surplus Personal Property, Firearms and Contraband; Repealing Ordinance 88-117; Declaring an Emergency as amended during these discussions. Mayor Koho seconded the Motion.

Councilor Watson noted with proper control there should not be any reason to not sell surplus police weapons.

Councilor McGee requested stipulating in the ordinance weapons will not be received by trading from other agencies. The ordinance shall only allow for the selling or donating to other agencies.

Councilor Watson suggested the ordinance include language that would not allow the police department to purchase firearms from another agency. He proposed the following changes to the ordinance:

- the language on page 6 - section D (*firearms remaining unclaimed after adjudication despite notification of the owner*) shall be inserted on page 5 - section B - line 18 after the word *contraband*.
- insert language on page 6 - section iii at the end as follows: *however, provided that no part of a sale to another law enforcement agency shall consist of a trade for any other firearms or weapons.*

Councilor McGee noted section 6-D-iii does not indicate traded goods can be received back to the department, it only states they can be sold or donated. However, he suggested a policy covering this procedure could be drafted.

Councilor Watson requested his proposed language changes be withdrawn.

Councilor Keller asked for assurance the guidelines and procedures set forth in this ordinance be followed.

AYES: Beach, Keller, Koho, McGee, Miller, Newton and Watson (7)

NAYS: None (0)

ABSTENTIONS: None (0)

ABSENT: None (0)

CONSENT CALENDAR

The consent calendar consisted of the following:

- a) RESOLUTION - Initiate Michael's Place Street Lighting District
- b) Approval of October 2, 1995 Regular Session Minutes

Councilor Keller moved for approval of the Consent Calendar.
Mayor Koho seconded the Motion.

Councilors McGee and Miller noted they would be abstaining from voting on approval of the minutes due to their absence at the meeting.

The Motion passed as follows:

AYES: Beach, Keller, Koho, Newton and Watson (5)

NAYS: None (0)

ABSTENTIONS: McGee and Miller (2)

ABSENT: None (0)

OTHER BUSINESS

Dotty Tryk, City Manager announced the financial reports will be in Council boxes on Tuesday, October 19. Councilor Beach requested the Council notify Kim Krause, Finance Officer if a financial summary is sufficient rather than the detailed report.

In addition, City Manager Tryk stated she will be away from the Office October 21st through 25th. In her absence, John Morgan will be acting manager.

Lt. Pat Bowe reported the Keizer Police Department held a Hispanic driver's license class conducted by Officers Juan Mendoza and Detective John Troncoso. There was an overwhelming response to the class with approximately 70 participants. Lt. Bowe noted the extensive advertising resulted in the success of this class. City Manager Tryk added this program was submitted to the League of Oregon Cities for an entry in the award for excellence program.

Wally Mull, Public Works Director advised the fall leaf haul will be held on Saturday, December 2, 1995.

There was no further other business to come before the Council.

WRITTEN COMMUNICATION

There was no written communication to come before the Council.

EXECUTIVE SESSION

Mayor Koho announced the item scheduled to be discussed in executive session would be discussed in open session.

PURSUANT TO ORS192.660(1)(E) - REAL PROPERTY TRANSACTIONS

Dotty Tryk, City Manager reported on March 6, 1995 the Council considered declaring a piece of property at Trail and Manzanita surplus and authorizing it sale. At the request of Councilor Watson, staff notified the property owners in the area of the possibility of a sale of this property and the Gubser Neighborhood Association. At the meeting of April 17, 1995, the Council referred this matter to the Gubser Neighborhood Association for a report listing suggested uses for the property. Ms. Tryk noted as of this date a report has not been received. In August, Ms. Tryk stated an offer for purchasing was received and rejected based upon a lack of authority to sell the property.

In response to a question from Councilor Keller, Wally Mull, Public Works Director stated the property was brought forth for consideration of sale due to the amount of maintenance the City was enduring in caring for this parcel of property.

Councilor Watson confirmed there had been a proposal for purchasing the property as early as March before staff had brought this issue to the Council. In addition, there was not a study made on the possible public uses or the costs of the maintenance for this parcel. In conclusion, Councilor Watson noted there was not substantial documentation to support the conclusion this property should be considered surplus and sold.

Councilor McGee moved to give notification for public hearing for consideration to surplus this parcel of property. Councilor Miller seconded the Motion.

Councilor McGee stated this would give the Gubser Neighborhood Association a final opportunity to report on the possible public uses for this parcel of property.

Councilor Miller reviewed the concerns from the earlier meetings if the parcel was sold and what the process is to place conditions or restrictions on the uses on this parcel of property would be. However, with the purchase offer, the intended use is outlined.

Councilor Beach requested a traffic study be conducted on the impact to the neighborhood if the property is used for a gas station.

John Morgan, Community Development Director noted access to the property would not be allowed from Manzanita. Furthermore, Mr. Morgan reported the estimated cost for a study would be \$1600.

Councilor Beach commented the adjoining site has been a gas station for a number of years and therefore does not feel there will be a severe impact on the neighborhood.

Mayor Koho remarked the proposed improvements to the gas station will make an additional increase in the traffic.

Councilor Watson fully supported the public hearing process in order to gather information on the possible uses for this public property. However, he requested the hearing be delayed for three months until all data can be gathered on the potential impact to the neighborhood and other possible public uses for

this property. He added there is no obligation to sell this parcel of property for the limited resources it will bring.

Councilor McGee noted there are several reasons to hold a public hearing on this issue and thirty days should be sufficient time for the neighborhood association and property owners to discuss the matter.

Councilor Miller added there will be an opportunity for the Council to discuss the testimony and decide if a traffic study is necessary at the time of the public hearing.

Councilor Beach stated the neighborhood association has had six months to consider this matter and therefore the hearing should be set within thirty days.

Mayor Koho fully supported the public hearing process and the opportunity for the neighborhood association to address the Council with their concerns.

Councilor Watson reiterated this is an important issue and there is not any reason to expedite the hearing. In addition, he feels there should be adequate information provided to all area property owners to allow for their comment.

Mayor Koho moved to amend the motion to schedule the hearing for the first council meeting in February and a traffic report be completed by this date. Councilor Watson seconded the Motion.

The Amendment to the Motion failed with the following votes:

AYES: Koho and Watson (2)

NAYS: Beach, Keller, McGee, Miller and Newton (5)

ABSTENTIONS: None (0)

ABSENT: None (0)

Councilor Miller moved to amend the motion to schedule the hearing for the second council meeting in November. Councilor Beach seconded the Motion.

The Amendment to the Motion passed with the following votes:

AYES: Beach, Keller, McGee, Miller and Newton (5)

NAYS: Koho and Watson (2)

ABSTENTIONS: None (0)

ABSENT: None (0)

The Main Motion as Amended passed as follows:

AYES: Beach, Keller, Koho, McGee, Miller and Newton (6)

NAYS: Watson (1)

ABSTENTIONS: None (0)

ABSENT: None (0)

Mayor Koho requested staff notify all property owners and the Gubser Neighborhood Association of this hearing.

In response to a question from Councilor Miller, Mr. Morgan stated there is sufficient information to proceed with a traffic study based upon the proposed use by Mr. VanCleave.

Mayor Koho requested the traffic study be considered after hearing the testimony at the hearing.

Councilor Watson requested the staff report include a report on the traffic impact to the neighborhood. In addition, he again expressed his concern with the process being used to consider the potential sale of this property.

Responding to a question from Mayor Koho, Mr. Morgan noted a report on the traffic generation and how it is distributed on the streets could be included in the staff report. Other concerns such as lighting, littering, etc... may be more objective and difficult to prepare.

The Council agreed by consensus to not have a traffic report prepared prior to the hearing.

AGENDA INPUT

Mayor Koho noted the agenda input items.

ADJOURNMENT

The meeting was adjourned at 8:56 p.m.



Tracy L. Davis
City Recorder

APPROVED:

MAYOR:

Dennis Koho

Dennis Koho

COUNCIL MEMBERS:

Jim Watson

Councilor #1 - Jerry Watson

Carl E. Beach

Councilor #4 - Carl Beach

Bob Newton

Councilor #2 - Bob Newton

Al Miller

Councilor #5 - Al Miller

Jim Keller

Councilor #3 - Jim Keller

Jerry McGee

Councilor #6 - Jerry McGee

Minutes approved:

12-495
qd