M I N U T E S

KEIZER CITY COUNCIL
Monday, October 1, 1990
Robert L. Simon Council Chambers
Keizer City Hall

CALL TO ORDER

Mayor Orcutt called the regular session to order at 7:30 p.m. Roll call was taken as follows:

Present
Andrew J. Orcutt, Mayor
Phil Bay, Councilor
Yvonne Fischer, Councilor
Mike Hart, Councilor
Bob Pritchard, Councilor

Absent
Bob Newton, Councilor
Joe Van Meter, Councilor

Staff
Donald H. Otterman, City Manager
Wally Mull, Public Works Director
Chuck Stull, Police Chief
John Lien, City Attorney
Shannon Johnson, City Attorney
Skip Wendolowski, Marion County Planner
Sue Darby, City Recorder

PUBLIC TESTIMONY

There was no public testimony offered to the City Council.

COMMITTEE REPORTS

Planning Commission Awards

Mayor Orcutt presented a plaque for distinguished service to Mr. Ray Hansen. Mr. Hansen served on the Keizer Planning Commission from July, 1984 through September, 1990, and as chairman from March, 1989 through September, 1990. Mayor Orcutt expressed the City's appreciation for Mr. Hansen's service.

Alan Wilson was also recognized for his service on the Keizer Planning Commission. Mr. Wilson has moved to Portland and was unable to receive his plaque this evening.

Planning Commission Appointments

As the Council representative to the Planning Commission, Councilor Hart noted the expertise that Lee Dunn has contributed to the commission.

Councilor Hart moved to appoint Lee Dunn for a three year term on the Planning Commission. Councilor Pritchard seconded the motion. The

FMAGIC

motion was passed by the following vote:

AYES: Orcutt, Bay, Fischer, Hart, Pritchard (5)
NAYS: None (0)
ABSENT: Newton, Van Meter (2)

Councilor Bay stated that he is impressed with Marty Matiskainen's background and expertise.

Councilor Bay moved to appoint Marty Matiskainen to a three year term on the Planning Commission. Councilor Pritchard seconded the motion.

Mayor Orcutt noted that Mr. Matiskainen was actively involved with the Urban Renewal Advisory Committee.

Responding to a question from Councilor Hart, Mr. Otterman indicated that State laws stipulate that only one person from each type of occupation may serve on a Planning Commission.

The motion was passed by the following vote:

AYES: Orcutt, Bay, Fischer, Hart, Pritchard (5)
NAYS: None (0)
ABSENT: Newton, Van Meter (2)

Councilor Pritchard moved to appoint David Siegel to complete the remainder of a three year term vacated by Al Wilson. Councilor Fischer seconded the motion. The motion was passed by the following vote:

AYES: Orcutt, Bay, Fischer, Hart, Pritchard (5)
NAYS: None (0)
ABSENT: Newton, Van Meter (2)

PUBLIC HEARING - CONDITIONAL USE CASE 90-8, RUBY BRADY

Mayor Orcutt opened the public hearing on the appeal of Conditional Use Case 90-8, Ruby Brady, applicant.

Skip Wendolowski of Marion County Planning reviewed the staff report regarding this appeal. He highlighted Mr. Otterman's memorandum to the Council, noting that Ms. Brady's concern with the Zoning Administrator's decision is different from City staff's concern about expansion of a nonconforming use.

Ruby Brady, 800 Cade Street, Keizer, stated that she presently has a 1954 mobile home on the subject property. The decision of the Zoning Administrator indicates that approval would be

granted for a 1976 or newer mobile home. She explained that she can place her mother's 1970 mobile home on the property except for this condition. Ms. Brady noted that she is unable to afford a newer mobile home, and that she views the change as an improvement to the neighborhood. Ms. Brady stated that she lives on less than $300 per month. The 1954 mobile home, of which she submitted photographs into the record, is a one bedroom, 344 square foot unit. This mobile was extensively damaged in the kitchen by a fire last year. Her mother's mobile is 12' x 58', and contains two bedrooms, two baths, a utility room, a tip out awning and a deck. She understands that the main concern over a pre-1976 model consists of the wiring. Ms. Brady submitted a statement from Eagle Electric indicating that much of the wiring was in stable condition and listing the necessary improvements. The Marion County Building Inspector has given approval on the electrical wiring improvements.

Ms. Brady believed her situation to be unique and without precedent. Ms. Brady noted the general decline and deterioration of the surrounding neighborhood. She cited one next door neighbor who has 19 vehicles in the backyard, another with travel trailers, and an abandoned mobile home on another. One property contains garbage in the yard, and yet another neighbor has up to 1,000 plastic buckets stacked in his yard. Ms. Brady also introduced photographs showing the 1970 mobile.

There being no further testimony to come before the Council, Mayor Orcutt entered the statement from Eagle Electric and the five photographs into the record, then closed the public hearing.

PUBLIC HEARING - STATEMENT OF COSTS - NOXIOUS VEGETATION/ MARVIN FERRIS

Mayor Orcutt opened the public hearing to receive comments on the Statement of Costs for noxious vegetation; Marvin Ferris, owner.

Mr. Otterman stated that it does not appear that Mr. Ferris is in attendance at tonight's public hearing.

There being no further testimony to come before the Council, Mayor Orcutt closed the public hearing.

DELIBERATION - Conditional Use 90-8, Ruby Brady

At the request of Councilor Bay, Mr. Johnson outlined the procedurally correct applications for conditional use permits.

Mr. Wendolowski indicated there are a couple of ways to look at nonconformity. One way is to require that it conform should the use change. Another way is to allow a change if it does not create a more intensive use. He explained that Marion County, along with many other jurisdictions, require variance approval in order to change a nonconforming use. He noted that such a variance is very difficult to obtain and that economics cannot be brought into the matter. Mr. Wendolowski explained that Keizer's ordinance is slightly different in that it allows some flexibility for economic forces and other conditions which may be present.

Responding to a question from Councilor Bay, Mr. Wendolowski explained that normal setbacks would be required. He also noted that there were no comments received from neighbors.

Councilor Hart stated that under most circumstances, nonconforming uses need to conform when a change occurs. However, there are occasions in land use planning where hardships enter into the picture. When those hardships arise, the rules can be bent to accommodate those needs. Councilor Hart proposed that should the circumstances change for Ms. Brady, e.g., she no longer resides on the subject property, then the nonconforming use should cease.

Mayor Orcutt agreed that he would support the conditional use request, conditioned upon Ms. Brady residing on the property. The proposed mobile home will, he indicated, better the property and the neighborhood in general.

Responding to a question from Councilor Hart, Mr. Wendolowski indicated that his knowledge of the difference between the 1976 model mobile homes and earlier ones is the HUD sticker.

Councilor Bay commented on the need for a concrete block or other permanent type of foundation, as well as skirting around the mobile. Mr. Wendolowski indicated it would be appropriate for the Council to require these as conditions if it deems necessary. Mr. Otterman noted that the mobile will have skirting but

the photographs distributed by Ms. Brady show the skirting removed from the mobile to prepare for its relocation. Ms. Brady agreed with this.

Councilor Hart moved to direct the City Attorney to draft the appropriate document for City Council approval of the conditional use permit, deleting Item #8 from the Zoning Administrator's decision, and including a statement to the effect that once the applicant no longer lives on the subject property, the nonconforming use will cease. Councilor Pritchard seconded the motion. The motion passed by the following vote:

AYES: Orcutt, Bay, Fischer, Hart, Pritchard (5)
NAYS: None (0)
ABSENT: Newton, Van Meter (2)

BALLOT MEASURE NO. 5 IMPACT ON THE CITY OF KEIZER

Presented in the staff report was a summary of how State Initiative Ballot Measure No. 5 may impact the City of Keizer if it passes in the November general election. Mr. Otterman explained that he is waiting for additional information from the League of Oregon Cities. Once this is received, he anticipates preparing additional information for the Council meeting on October 15.

In essence, the ballot measure would require local jurisdictions to limit their combined tax rate to $10. This limit would apply to such charges as minimum sewer and water rates, systems development charges, etc. For the first few years, school districts would receive reimbursement from the State. This, he stated, may further reduce City revenues which are now received from the State.

Mr. Otterman stated that if an entity passes a new tax base, for example, and the total combined amount exceeds the $10 rate, all districts must reduce their respective rates in order to reduce the overall rate. This means that the City of Keizer may never be able to get a tax base that would support an adequate level of service.

Mayor Orcutt noted that Measure 5 would severely handicap government agencies.

Responding to a question from Councilor Hart, Mr. Otterman explained that if a taxing agency requests and receives approval for a new rate,

and the combined total then exceeds $10, then all jurisdictions must reduce their rate to no more than the combined $10.

MUNICIPAL JUDGE FUNDING AND SELECTION

Mr. Otterman explained that Erik Larson has been serving as Keizer's presiding Municipal Judge over the past few months since Bob Cannon's resignation. Mr. Otterman has reviewed the budget and believes there will be revenues available to pay a judge. Mr. Otterman explained that Judge Larson has been setting higher fines for defendants, and also requires the payments sooner than the former judge.

Mr. Otterman suggested that if the Council wishes to hire a permanent presiding judge, that it authorize the expenditure from the General Fund contingency fund and that a supplemental budget be passed later this year to show the increase in appropriations and expenditures.

Councilor Bay expressed concern with the amount of defendants who fail to appear or fail to pay. Mr. Otterman indicated that these figures should drop once the migrant workers move out of the area following the end of the harvest season.

Responding to a question from Councilor Bay, Chief Stull stated that, from the Police Department's perspective, the court is operating very smoothly and efficiently. He explained that many of those defendants who fail to appear or pay will, over a six month period, begin to show up and pay off their citations. The fail to appear rate has been in the area of 25% to 30%.

Councilor Pritchard asked whether Mr. Larson wishes to continue as the presiding judge. Mayor Orcutt and Mr. Otterman both agreed that Mr. Larson has expressed interest in doing so.

Councilor Pritchard moved to contract with Erik Larson to serve as permanent presiding judge and to direct the City Manager to prepare a supplemental budget to authorize the expenditures from the contingency fund. Councilor Bay seconded the motion. The motion passed by the following vote:

AYES: Orcutt, Bay, Fischer, Hart, Pritchard (5)
NAYS: None (0)
ABSENT: Newton, Van Meter (2)

PARKS ORDINANCE

Councilor Hart moved for passage of an ordinance on second reading establishing Keizer park regulations. Councilor Fischer seconded the motion. The motion passed by the following vote:

AYES: Orcutt, Bay, Fischer, Hart, Pritchard (5)
NAYS: None (0)
ABSENT: Newton, Van Meter (2)

MANUFACTURED HOUSING OVERLAY ZONE

Mr. Otterman reported that the City Council held a public hearing on September 17 and approved, in concept, establishment of a manufactured housing overlay zone. The ordinance to formalize that approval is before the Council tonight for first reading. He explained that the ordinance includes an emergency clause which would make the ordinance effective immediately. Without the emergency clause, there would be a 30 day delay before it takes effect. The ordinance requires that the manufactured housing overlay zone be applied through the zone change application procedure. If the decision of the Hearings Officer is not appealed within 10 days, the recommendation would go to the City Council for final approval.

Councilor Hart expressed concern with requiring a zone change in order to apply the overlay zone. He questioned whether this is appropriate when a conventionally built home does not require the same process. Mr. Johnson responded that this is the method recommended by the Planning Commission. The Commission preferred this to designating a specific area where mobile homes can be constructed within the City. He noted that the City of Portland, for example, has certain objective standards which all manufactured homes must meet, i.e., siding, foundation, roofing, etc., in order to be allowed. While the Planning Commission discussed this criteria, the members preferred taking each application on a case by case basis.

Responding to a comment from Councilor Hart, Mr. Otterman explained that manufactured home subdivisions would be allowed.

Councilor Pritchard moved for passage of a bill for an ordinance amending the Keizer Zoning Ordinance to adopt Chapter 141, Manufactured Home Overlay Zone, and declaring an emergency. Councilor Bay seconded the motion. The motion passed on first reading by the following vote:

AYES: Orcutt, Bay, Fischer, Pritchard (4)
NAYS: Hart (1)
ABSENT: Newton, Van Meter (2)

MARVIN FERRIS LIEN

Councilor Bay moved for passage of a bill for an ordinance declaring a lien against a certain property and directing the City Recorder to enter such lien in the minor lien docket pursuant to Ordinance 83-014 (Noxious Vegetation). Councilor Pritchard seconded the motion. The motion passed by the following vote:

AYES: Orcutt, Bay, Fischer, Hart, Pritchard (5)
NAYS: None (0)
ABSENT: Newton, Van Meter (2)

CONSENT CALENDAR

The Consent Calendar consisted of the following items:

- September 12, 1990 Special Session Minutes
- September 13, 1990 Special Session Minutes
- September 17, 1990 Regular Session Minutes
- Resolution - Underground Locating Agreement
- Purchase of Police Vehicles
- Resolution - Establishing Police Petty Cash at $100
- Traffic Safety Grant - Acceptance of Second Year Funding

Councilor Bay asked that the September 17, 1990 minutes be pulled off the Consent Calendar because he was absent from that meeting. The minutes were so noted.

A correction was made on page 6 of the September 13 minutes to insert Councilor Newton's name as the maker of the motion to remove Objective 13 from the proposed North River Road Urban Renewal Plan.

Councilor Fischer moved for approval of the remainder of the Consent Calendar, as amended. Councilor Hart seconded the motion. The motion was passed by the following vote:

AYES: Orcutt, Bay, Fischer, Hart, Pritchard (5)
NAYS: None (0)
ABSENT: Newton, Van Meter (2)

Councilor Pritchard moved for approval of the September 17, 1990 minutes. Councilor Fischer seconded the motion. The motion passed by the following vote:

AYES: Orcutt, Fischer, Hart, Pritchard (4)
NAYS: None (0)
ABSTAIN: Bay (1)
ABSENT: Newton, Van Meter (2)

OTHER BUSINESS

Mr. Otterman indicated that the joint meeting between Salem and Keizer regarding regional issues has been set for Tuesday noon at Salem City Hall. It was noted that Councilor Newton, one of the Council Subcommittee members, would be out of town. Therefore, Mayor Orcutt appointed the remaining committee members, Councilors Bay and Fischer, along with Councilor Hart, to represent the City at the meeting. The Council also decided to meet on Tuesday morning at 11 a.m. to discuss strategy for the noon meeting.

ADJOURNMENT

The meeting adjourned at 8:36 p.m.

Respectfully submitted,

Susan Darby, City Recorder

APPROVED:

MAYOR

(COUNCILOR NEWTON ABSENT)

(COUNCILOR VAN METER ABSENT)