



**MINUTES
KEIZER CITY COUNCIL/URBAN RENEWAL AGENCY
WORK SESSION**

**Thursday, September 25, 2003
Keizer City Hall
Robert L. Simon Council Chambers
Keizer, Oregon**

CALL TO ORDER

Chair Christopher called the regular meeting to order at 8:17 p.m.

Present:

Lore Christopher, Chair
Michel Gaynor
Jim Taylor
Jacque Moir
Judy Smith
Richard Walsh
Crisel Perez

Absent:

Charles Lee

Staff:

Tracy Davis, City Recorder
Rob Kissler, Public Works Director

DISCUSSION

**a. Development
Disposition
Agreement with
Northwest National
LLC – Keizer Station
Project**

Mayor Christopher outlined the process that would be used for this meeting. She would act as spokesperson for the Council and would point out the areas of concern. She stated that the goal was to have a final draft agreement by October 6. In attendance for Northwest National LLC were Chuck Sides, Alan Roodhouse, and Bob Thompson.

Members went over the agreement page by page as follows:

Page 3

Recital H - add the word Tribal Law.

Council is in favor of bifurcating the process. The fear is that it could lead to an issue that could be appealed because it does not specifically say "Master Plan".

Page 4

Article 1 SUBJECT OF AGREEMENT

§101 Definitions "Predevelopment Agreement" - Council feels that the Predevelopment Agreement has expired, that is why they are working on getting the agreement in place.

Page 5

§101 Definitions: - "Public Park" - Council feels a minimum of 2 acres of park area is necessary in addition to the four gathering places. Developer responded that this was not acceptable stating it would result in a loss of 100,000 feet of build able area. Mayor Christopher suggested that sizes of existing green areas, such as the bike path, be expanded to achieve the desired 2 acres.

Page 6

§107 Schedule of Performance - Regarding the change from 6 elements to 7, there was no problem, however, Mayor Christopher questioned if the two anchors were going in at the same time. Developer responded that that was the hope, but it was more likely that one of the anchors would follow the other. The two anchors represent almost one-third of the economic value that this project will generate.

Page 7

§108 General Description of the Project, Section E - Change the developer's inserted number from 80,000 square feet to 100,000 square feet. Developer agreed to this.

§109 Nonperformance by the Agency: Developer removed indemnification and waived all claims, causes of action, etc. Council wants indemnification in the section. Developer explained that the change was made because the references seemed to be directed at claims that the developer would have against the agency so they were trying to address it in a more legal manner. If the intent is to indemnify against third parties, developer objects to that, feeling that one partner should not have to indemnify another partner for something done by someone else. Councilor Walsh clarified that the reference was to subcontractors and Developer agreed to that pending the opinion of Rich Miller

Page 7 and 8

Article 3 PROVISIONS RELATING TO ACQUISITION PARCELS

§301 Acquisition of Acquisition Parcels

§302 Site Feasibility Assessment

§303 Development of Acquisition Budget and Acquisition Account

City Attorney Johnson noted that the concept was that the developer will front the acquisition costs (whether voluntary or not) and a specific acquisition account established for long-range purchases will not be necessary, but as long as the money is up front, all parties are in agreement. Final language has not yet been perfected.

Page 10

§304 Monitoring of the Acquisition Budget; Acquisition Account -

Add language saying that every thirty (30) days Agency will give Developer a statement.

Page 11

§305 Agency Condemnation Procedure, Paragraph I - Developer had removed the wording "being recorded against the property" and Council wants that wording left in the agreement. Developer said they didn't have a problem with that as long as they were put in the project documentation. He continued that the idea of covenants was not troubling, but the method that they are put in place could make a difference when dealing with national tenants.

§308 Form of Deed - The last sentence added by developer was acceptable for Development Parcels but not for Acquisition Parcels. It was noted that reference to "Acquisition Parcels" and "Development Parcels" needs to be specifically stated.

Page 13

§Physical Condition of the Acquisition Parcels, Paragraph B

Environmental Liabilities - Referring to the "sole responsibility" the developer had replaced "the Developer" with "parties other than the Agency", however Council felt that it was unclear as to who was the responsible party. Developer felt they would be burdened with environmental issues for property they did not own. They felt that, if property was contaminated, the one who contaminated it should be the responsible party. They pointed out that the wording "parties other than the agency" could be themselves. City Attorney Johnson pointed out that the agreement is solely between the Developer and the Agency and that third parties could not be held responsible for anything because they are not part of the agreement.

§311 Conditions of the Agency Acquisition of Property and Formation of LID Paragraph C

(1) Agency felt the words "material terms" should be added, however, Developer stated that with "economic terms" blacked out, the only thing left would be "material terms" so it was not an issue.

(3) Referring to the language "or commitments by major national tenants to provide funds, in the aggregate" Council questioned if that was referring to purchasers and developer affirmed noting that they would be responsible for their portion of the site work and probably also make contributions to the off-sites.

(4) Council is not comfortable with removing any language but find additional language acceptable with the exception of "Village Center Area, which plan shall generally portray all elements of the private improvements". Council wishes to remove the word "generally". Developer responded that the issue of the word "generally" was acceptable as well as the removed language, except for the Project Budget. Developer does not what that to be in the paragraph.

Paragraph D - Council wanted assurance that all 20 pieces of property are owned before acquisition and/or condemnation process begins. Developer noted that the process is usually that purchase of land is postponed until the last possible minute. The Developer is willing to prove to the satisfaction of the Agency that the land is under control. Developer concluded that the longest contract on property under contract is December 2004, meaning everything will be purchased by December 2004.

Paragraph G - Council accepts deletion of the words "construction permits", but wants all other wording to remain with "tribal approvals" being added between "land use approvals" and "governmental approvals".

Page 15

Paragraph J - Council wishes to leave the wording in. Developer was agreeable to this.

Paragraph L - Council wishes to leave the wording in. Developer questioned the definition of an "assurance". Council noted that acceptable wording would be "The parties acknowledge and agree that the area in Keizer Station known as Area A Entertainment and Sports Center may be developed."

Paragraph N - Wording was taken out by Developer but Council

wants it to remain. Developer is willing to leave it in.

Paragraph I - Council agrees to reduction of the bond based on existing financial obligations.

Last Paragraph of §311 - Developer asked for 30-day approval, however Council felt it could not be done in 30 days but could do it in 60 days. Developer agreed to that.

Page 16

Article 5 THE LOCAL IMPROVEMENT DISTRICT

§501 Formation – Council wants to leave the selection of a CEM out of the agreement.

Paragraph A (4) & (5) – The language which the Developer removed is language taken directly from the City of Keizer ordinances and cannot be removed. Developer stated that using front foot language does not work with a shopping center.

Page 17

Paragraph B - Council wants to change the language added by Developer "the Developer has not agreed to fund such excess" to "the Developer has not funded such excess". Developer offered compromise language offering a commitment that Developer can fund it. It was agreed that parties would discuss this matter further. Additionally, at the bottom of the page (top of Page 18) language was added which will also be discussed further.

Page 18

Paragraph I – Council finds it acceptable for Developer to not proceed with an LID before the first condemnation because once the first condemnation has been made, it should be committed to the LID.

Page 21

§502 LID Requirements - Paragraph following Paragraph D. Council wants that paragraph left in and the following paragraph taken out. Council felt the next paragraph needed more assurances. Developer was willing to work on this.

§503 No LID – Council accepts the language, however, City Attorney Johnson will work on related issues.

Article 6 DEVELOPMENT OF THE PROJECT

§602 Development and Construction of Private Improvements – In the last sentence beginning with “The Scope of the Development...” the word “generally” should be taken out. Developer agreed.

Page 23

Paragraphs D, E, F, G, H and the last paragraph. - Council feels 10 years, 7 elements, \$2.5 million, 14 one-half elements. Council wants the section of the document written to reflect the project has 10 years because of condemnation.

Page 24

§603 Construction of Public Area, Plaza Areas and Multi-Purpose Pathway, Item C Dedication and Easement – Council added “pursuant to the Master Plan A” following “in immediately adjacent areas of the Private Development on a reasonable basis”

Page 26

§607 Water Rights – Council indicated that the City agrees that Developer may use existing wells during the construction, but upon completion, City would acquire the water rights. Council agreed that more work needed to be done on this portion of the document.

§608 Non Remonstrance Covenant as to Entertainment & Sports Area. Council replaced the words “It is the preference of the Developer” or “It is contemplated” with “The parties acknowledge and agree” and further into the sentence the word “be” was replaced with the words “may be”.

Page 28

Article 9 FINANCING OF THE PROJECT

§901 Financial Commitments by the City and the Agency

Section A – Council removed the words “up to the first”.

Section B – In the first sentence following “30 years” Council added “pursuant to local law”.

Page 29

§902 Financial Commitments by the Developer, Section C – Council wants this section to read that Agency agrees that Developer would consent to pay the transportation SDCs and Agency agrees to adopt those transportation SDCs within 365 days and pay all lawfully adopted SDCs.

Chris Eppley summarized as follows: Council understands Developer's need to define off-site costs. They understand that transportation SDCs can do that and Council wants to do that for the Developer. They are okay doing it at the time of the building permit but Developer cannot apply for a building permit until Agency has an SCD methodology in place. Council agrees not to take more than 365 days (from the signing of agreement) to make that happen.

Council noted that the final language needs fine tuning..

Page 31

Article 10 DEFAULT AND REMEDIES; TERMINATION

§1004 Termination, Section B, Final Termination Date – Council wants the parenthetical comment “(except those conditions) to be deleted. Developer agreed to this.

Page 33

Article 11 REIMBURSEMENTS BY THE DEVELOPER

§1101 Reimbursements by the Developer – Council changed the second sentence to read “The Reimbursement shall be equal to each half of an element.....” Developer agreed to this.

§1102 Incentives – Council does not agree to any incentives as listed in the Agreement, however agrees that if Project is 90% complete in a seven year period, Council will pay back any Reimbursements paid by the Developer. If Project is 75% complete in seven years, Council will pay back 50% of any Reimbursements paid by the Developer, less any City costs.

Page 34

§1101 Reimbursement by the Developer – Council and Developer agreed to keep the established time line for the first three elements and telescope the last four elements so that the final project completion is 10 years, dividing the money up respectively.

Page 35

Article 12 GENERAL PROVISIONS

§1201 Project Managers, Section C – Council questioned Developer's strikeout of two sentences, and Developer affirmed that he indeed did not need the sentences in the agreement.

Page 41

§1228 Recording – Council prefers that an Intergovernmental Agreement be attached as an Exhibit to the Agreement and City

would sign there. Developer agreed.

City Attorney Shannon Johnson reminded Council that the attachments to the agreement will need to be completed.

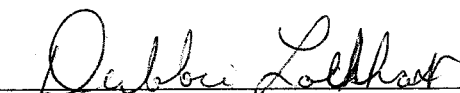
ADJOURNMENT

The meeting was adjourned at 10:14 p.m.

APPROVED:

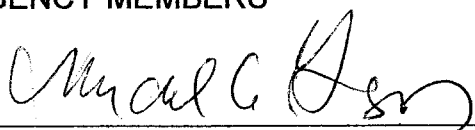


Lore Christopher, Chair



Debbie Lockhart, Recording Secretary

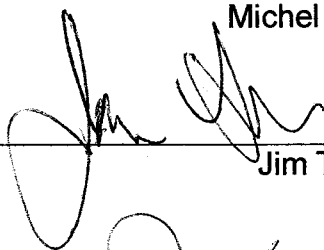
AGENCY MEMBERS



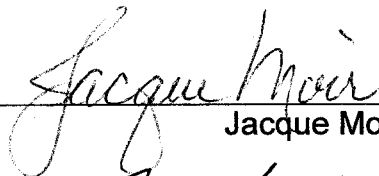
Michel Gaynor

(Absent)

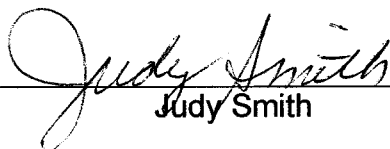
Charles E. Lee



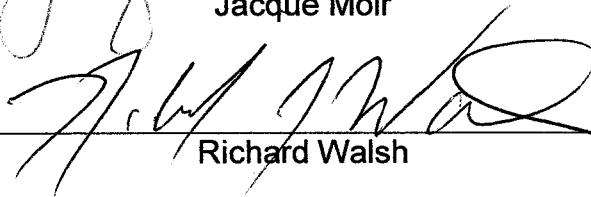
Jim Taylor



Jacque Moir



Judy Smith



Richard Walsh

Minutes approved:

November 3, 2003