MINUTES

KEIZER CITY COUNCIL
Monday, September 21, 1992
Robert L. Simon Council Chambers
Keizer City Hall

CALL TO ORDER

Mayor Orcutt called the regular meeting to order at 7:37 p.m. Roll call was taken as follows:

Present
Andrew J. Orcutt, Mayor
Mike Hart, Councilor
Dennis Koho, Councilor
Jerry McGee, Councilor
Al Miller, Councilor
Bob Newton, Councilor
Joe Van Meter, Councilor

Staff
Donald H. Otterman, City Manager
John Morgan, Community Development Director
Wally Mull, Public Works Director
Charles Stull, Police Chief
Bill Peterson, City Engineer
Tracy Davis, City Recorder Pro Tem
John Lien, City Attorney
Shannon Johnson, City Attorney
Linda Sanders, Recording Secretary

PUBLIC TESTIMONY

Speaking was:

Richard Inman, 832 Cummings Avenue N., Keizer, Oregon 97305. Mr. Inman asked for resolution of a complaint filed with the City Administration the first week of May. He gave the background on the situation with the field of the property owner next to his home. After the complaint was filed, the owner mowed part of the field. In mid July, Mr. Inman met with the City Manager and a final warning was to be sent. Mr. Inman stated he was then told by the City Manager and Public Works Director that the field would be mowed by the 1st week of September. At present, the field has still not been mowed. He asked that the field be mowed and the City's slow action not be repeated.

Mayor Orcutt asked for a report from the City Manager regarding resolution of the situation. Mr. Otterman stated he would include an update on Friday. He

FMAGIC

commented that several extenuating circumstances were involved. Notices to the property owner sent certified mail have come back unclaimed. The owner also has 2 citations pending in court on solid waste violations. Councilor Miller suggested a police officer could hand deliver the notices.

COMMITTEE REPORTS

Volunteer of the Month

Chief Stull introduced Ms. Diane Burns as the Volunteer of the Month. She was nominated by the Police Department for her extensive work with the Neighborhood Watch programs and Neighborhood Night Out. She has worked in other neighborhoods as well as her own.

Mayor Orcutt presented the September Volunteer of the Month Award to Ms. Burns.

PUBLIC HEARINGS

Flamingo Club Liquor License

The Mayor opened the Public Hearing. Mr. Otterman reported that an application was received by the City and processed through standard procedures including a background check on the applications. The investigation showed action had been taken against one applicant for serving minors. One of the applicants stated there was no court action pending on his application when in fact there is an action pending for Driving Under the Influence. A petition was received from the Salem Area Seniors with 331 signatures recommending to the City Council that the application be denied. Mr. Otterman also stated that there are 15 liquor licenses in the area bounded by Mandrin and the Salem Parkway. He recommended that due to the background investigation, incorrect information on the application and the saturation of liquor in the area that the application be denied.

Speaking was:
John Lench, applicant. Mr. Lench stated that due to the turnout and the overwhelming sentiment and since he would not want to operate a business where the neighbors would not want it, he felt it would be to everyone's best interest to have the Council deny the application. Councilor McGee asked why he did not withdraw the application. Mr. Lench stated his lease required he go through the application process. In answer to a question regarding what he would be saying to the Oregon Liquor Control Commission, Mr. Lench also stated he wouldn't want to have a business where there is animosity.

Terry Eivers, 666 Salem Heights Avenue S., Salem, Oregon. Ms. Eivers stated she appreciated Mr. Lench's withdrawal and hoped he would keep his word.

Gene Watson, 9711 Arekara, Tualatin, Oregon. Mr. Watson stated he was pleased with the results.

Dorothea Pickette, 3918 Meadowlawn SE, Salem, Oregon. Ms. Pickette agreed with the previous speakers.

Vera Beecroft, 190 Menlo Drive N., Keizer, Oregon. Ms. Beecroft stated she had always been able to do business in the community without having to get near a tavern. She said it scared her to death to think that she might not feel secure going to the Senior Center. She would not feel safe if a tavern were located near the Center.

Harold Christiansen, 2387 Wintergreen Avenue NW, Salem, Oregon. Mr. Christiansen agree with prior speakers.

Van O'Sullivan, 2200 Lancaster Drive SE, Salem, Oregon. Ms. O'Sullivan stated the Seniors had been very happy in Keizer and feel at home there. She wanted that feeling to continue.

Mayor Orcutt closed the Public Hearing.

Conditional Use Appeal
91-9-(Chandler)

Mayor Orcutt opened the Public Hearing. Mr. Morgan gave the staff report. He stated that the Salem City Council had rejected the proposal made by the City staffs. The rejection was based on the City attorney's opinion. The Council was concerned that a liability might exist for them and they did not want to get involved. Mr. Morgan reported that 4 options are available for the City of Keizer. The Councilors could: approve the Conditional Use which would probably result in a LUBA appeal from Salem, convene a SKAPAC meeting which would unlikely change the Salem Council position significantly, deny the Conditional Use or table the Conditional Use which would continue the hearing until the study is completed. The staff recommended that option number four be chosen to allow the hearing to be continued until August 1993.

Speaking was:
Mark Grenz, Multi-Tech Engineering, 1155 13th Street SE, Salem, Oregon. Mr. Grenz spoke as the representative of the Church. He stated he would support the staff's recommendation although his first choice would be to convene a SKAPAC meeting. He felt the Salem City Council was mainly concerned about their liabilities instead of the pluses and minuses of the appeal. He was concerned that even after the study is completed, nothing will be known but that there is an

odor.

Councilor McGee commended the City Staff for their professional presentation to the Salem Council. He felt the Council responded by lecturing in a patronizing fashion. He asked if the City of Keizer could indemnify the church. Councilor Koho shared the same concerns and said he also had ideas for the deliberation section.

Mayor Orcutt recessed the Public Hearing until no certain date.

Readopting Salem's Comprehensive Plan

The Mayor reopened the Public Hearing continued from August 17. Mr. Morgan reported on the history of the Keizer Comprehensive Plan and the work being done to bring all four jurisdictions in concurrence. The basic issue of difference is the industrial lands policy. Since Keizer only has one piece of land with 67 acres under this policy, the Council is opposed to requiring a 40 acre parcel must remain if the land is divided.

Mr. Morgan reported that the City of Salem staff recommended Keizer revise its policy to correspond with the one in the revised Salem Comprehensive Plan. This policy states that division of industrial lands requires a review and approval process. Parcels will only be divided so that no more than 30% of the original parcel is divided into parcels of less than 20 acres. Mr. Morgan stated the Salem City Manager had felt there would be little difficulty in getting this adopted by the Salem Council. Mr. Morgan reported that Mr. Epping, the owner of the one Keizer parcel, is out of town until the 28th and cannot comment. He also reported that at least two County Commissioners have agreed to the policy.

Mr. Morgan summarized the major point as whether the Council was willing to accept the change. The LCDC has told the Salem City Staff their industrial lands policy is not strict enough. Salem is planning a study in the spring which may result in a change. The staff recommendation is for the Council to adopt Salem's order.

Councilor Miller asked if it would be possible to defer action until it could be discovered if Salem and Marion County would concur with Keizer's plan. Mr. Morgan said Salem is under order to concur by the 1st of October. Councilor Koho stated his wish for the Councils to consider the ordinance on the same night. Mr. Morgan reported the Councils do not meet on the same night but Keizer could say they will adopt as soon as Salem adopts.

Mayor Orcutt stated now is the time to get the adoption out of the way. He said someone has to be first and he spoke in favor of Keizer doing so. Councilor McGee agreed that it is time to show the Council could be statesmen and professional but he was interested in simultaneous meetings.

Amended Budget 1992-93

Mayor Orcutt opened the Public Hearing on the Budget. Mr. Otterman reported that the Council needed to adopt a budget based on the levy request. Following the Public Hearing and questions, the approval of the budget is included in the Consent Calendar.

No one wished to speak so Mayor Orcutt closed the Hearing.

DELIBERATION

Flamingo Liquor License

A motion was made by Councilor Hart to recommend to the OLCC denial of the liquor license request for the Flamingo Club. The motion was seconded by Councilor Koho.

The Councilors discussed whether the motion needed to include the reasons for denial. Mr. Otterman commented that the recommendation will include the reasons for staff recommendation of denial, the staff report and the minutes. Mr. Lien, City Attorney, stated that the motion probably would not need to include any more specifics.

The motion passed unanimously.

AYES: Hart, Newton, Orcutt, Van Meter, Koho, Miller, McGee (7)
NAYS: None
ABSTENTIONS: None
ABSENT: None

Conditional Use Appeal (Chandler)

Councilor Koho stated he still believed that the church would be one of the best uses for the property. He also asked about the idea mentioned before of dividing the property so that a piece would be in the special use zone and another would be outside. Mr. Morgan stated the agreement has a legal description which goes around the total property and the only way to do that would be to remove a piece of property from the zone. Councilor Koho stated he would like to convene SKAPAC, hoping some of the problems could be worked out.

Councilor Van Meter stated he believed the attitude of the Salem City Council was not new and was also shared by the County Commissioners. He did not think their attitudes were going to be changed. Councilor Hart reminded the Council of the history of working through the initial 45 issues down to 14 and then struggling with the final 14 one by one. He felt the issue was one individual who was not necessarily anti City of Keizer but treated his own City Council and City staff in the same manner. He agreed with the Mayor that the issue should be finished.
Councilor McGee requested a reaction from the Council, City staff and legal staff regarding the possibility of removing the fear of liability from the Salem City Council. Mayor Orcutt spoke against going into the insurance business and putting the legal council's resources on the line. Mr. Morgan clarified that the facility is a regional one, administered by Salem, and the real disagreement is over management of the facility.

Councilor Newton moved that the Public Hearing be continued until the noise and odor study is completed. Councilor Van Meter seconded the motion.

Councilor Miller asked for a date to be included in the motion and he suggested August 2, 1993. Councilor Newton accepted the request and added the date to his motion. Councilor Van Meter, as the second, also agreed. Mayor Orcutt stated he would abstain since he is employed with Mr. Chandler's firm.

The motion is for the Public Hearing to be continued until the study is completed, not later than August 2, 1993. The motion passed with the following votes:

AYES: Hart, Newton, Van Meter, Koho, Miller, McGee (6)
NAYS: None
ABSTENTIONS: Orcutt (1)
ABSENT: None

Salem Area Comprehensive Plan

Councilor Hart asked that his previous testimony be considered in this deliberation.

Councilor Hart moved that the Bill for an Ordinance in the Matter of the City of Keizer's Concurrence with the Salem Final Local Review Order (July 1991) as Amended by the May 27, 1992 Errata Sheet; amending Ordinance 92-221 be approved. The motion was seconded by Councilor Van Meter.

Councilor McGee requested a simultaneous signing.

The motion passed with the voting as follows:
AYES: Hart, Newton, Van Meter, Koho, Miller, Orcutt(6)
NAYS: McGee (1)
ABSTENTIONS: None
ABSENT: None

Councilor McGee asked if he would be allowed to change his vote so that the order would not have to return to the Council. Mayor Orcutt allowed the change.

The Amended votes are as follow:
AYES: Hart, Newton, Van Meter, Koho, Miller, McGee, Orcutt (7)
NAYS: None
ABSTENTIONS: None
ABSENT: None

Amended 1992-93 Budget

Mr. Otterman stated no action was needed since a Resolution was included in the Consent Calendar.

ORDINANCES

Disposing of Surplus Property

Mr. Otterman reported that the present ordinance requires an auction which has proved very cumbersome for staff. An alternative is to become a part of the State surplus property disposal program. This could be done by amending the present ordinance to add a Section G. That section would allow for the use of the surplus program when the net return would be higher than if the property were sold at public auction. The change in the ordinance would result in the property being considered on a case by case basis.

Councilor Van Meter moved to pass a bill for an ordinance for Amending Ordinance 88-117 for disposing of unclaimed property, surplus property, firearms and contraband by authorizing disposition through the state of Oregon Surplus Property Program. The motion was seconded by Councilor Koho.

Councilor McGee also noted that if the net return is equal the use of the program saves a lot of problems associated with a public auction.

The motion was passed unanimously.
AYES: Hart, Newton, Van Meter, Koho, Miller, McGee, Orcutt (7)
NAYS: None
ABSTENTIONS: None
ABSENT: None

The Council recessed briefly at 8:40 p.m.

The Council was reconvened at 8:55 p.m.

DISCUSSION
ES-O-EN Variance Request

Mr. Morgan reported the major policy issue has been introduced by the ES-O-EN Company. It will result in appeals since the staff has no option but to deny. The Hearings Officer will probably deny. The question is whether to call up the Variance Request for the October 19th meeting and bypass the Hearings Officer and the staff on this.

Councilor Koho stated he did not want to bypass the staff report. Mr. Morgan clarified that the staff report will be written just the same.

Councilor McGee moved that the Variance Request be called up for October 19. The motion was seconded by Councilor Newton.

Councilor McGee noted the move will save time for the City, time for the applicant and money for the City. Councilor Miller stated he agreed with Councilor Koho. He wanted not only the staff report but the outlining of the issue that takes place during the process. He did not think all the arguments will take place if the Request is called up to the Council in a one shot approach. Councilor Hart asked if the request would be in compliance if the billboard were not included. Mr. Morgan stated yes. Councilor McGee stated that if the necessary information was not available, then the Council could continue the hearing process to make it as exhaustive as it needed to be.

Councilor Newton stated that ES-O-EN understood a precedent was being established and they wanted to get to the bottom line at the earliest possible date so they can get on with their business. He asked if they would have a rebuttal. Mr. Morgan said they could file a LUBA appeal although he did not think they would. Councilor Koho stated the real issue is billboards and what the Council is going to do about it. Councilor Hart supported a sign code but felt the present one was too restrictive and corrections need to be made.

The motion passed with voting:
AYES: Newton, Van Meter, McGee, Orcutt (4)
NAYS: Hart, Koho, Miller (3)
ABSTENTIONS: None
ABSENT: None

Bid Award
Lockhaven/McLeod

Mr. Peterson gave the staff report. The bid opening was held on Friday but the final recommendation will be made when the sale agreement is made on all the parcels which should be within the next two to three weeks. At the bid opening, the Gelco Construction Company was the lowest bidder. The City has 45 days to make the bid award. The completion date was extended to early in the spring of 1993.

Councilor Newton asked when the estimated time of completion would be. Mr. Peterson stated it was some time in May since he did not believe the contractor can move fast enough to get the paving done before the winter. They would like to get the curb at State Farm Insurance done soon. A contractor is interested in moving the remaining house to another location. Mayor Orcutt stated he would like to see the City require a performance bond for that move so that if the work is not done there will be money for it to be done. Mr. Peterson said he would express that to the contractor.

Councilor Newton asked if there was anything that could be done to minimize the danger of construction and traffic using the street. Mr. Peterson said a traffic control plan is required from the contractor.

Recruitment-City Manager
Job Description

Mayor Orcutt suggested that the word "Desirable" be removed from the section entitled "Desirable Qualifications."

<u>Councilor Koho moved for approval of the Job Description with the removal of "Desirable" from "Desirable Qualifications". The motion was seconded by Councilor Van Meter.</u>

<u>The motion passed unanimously:</u>
AYES: Hart, Newton, Van Meter, Koho, Miller, McGee, Orcutt (7)
NAYS: None
ABSTENTIONS: None
ABSENT: None

Recruitment-City Manager
Screening Committee

Mayor Orcutt asked for nominations from the Council members for public members of the Screening Committee. Each Council member will then vote for three nominees and the top three vote getters will be chosen.

The nominations were as follows:
Councilor Hart nominated Richard Sawyer.
Councilor Koho nominated Lydia Muniz, Chet Patterson,

Jim Keller, Betsy Dal Ponte and Jerry Watson.
Councilor Miller nominated Ted Anagnos and Jim Reimann.
Councilor McGee nominated Robert Keilbach.

The Councilors voted for three nominees:
Councilor Hart - Richard Sawyer, Chet Patterson, Betsy Dal Ponte
Councilor Newton - Robert Keilbach, Ted Anagnos, Jim Reimann
Councilor Van Meter - Lydia Muniz, Betsy Dal Ponte, Ted Anagnos
Mayor Orcutt - Lydia Muniz, Ted Anagnos, Richard Sawyer
Councilor Koho - Lydia Muniz, Betsy Dal Ponte, Chet Patterson
Councilor Miller - Ted Anagnos, Jim Reimann, Robert Keilbach
Councilor McGee - Robert Keilbach, Ted Anagnos, Jim Reimann

Councilor Miller commented that since the elected candidates will be involved in the later stages and this is the initial screening committee, he thought it was important to elect 3 citizens who will not be involved in the screening later.

<u>The result of the first ballot was:</u>
Ted Anagnos - 5 votes
Lydia Muniz - 3 votes
Betsy Dal Ponte - 3 votes
Jim Reimann - 3 votes
Robert Keilbach - 3 votes
Richard Sawyer - 2 votes
Chet Patterson - 2 votes

Ted Anagnos was the first member of the Committee selected. Councilor McGee asked it the Committee size was restricted to 3 citizens. Mayor Orcutt thought 5 citizens and 3 Council members would be a large number to be involved. Councilor Koho was in favor of appointing all those who had received who received 3 or more votes.

<u>Councilor McGee moved that the Committee be expanded to include 5 public members. Councilor Koho seconded the motion.</u>

<u>The motion failed with votes:</u>
AYES: Koho, Newton, McGee (3)
NAYS: Orcutt, Van Meter, Miller, Hart (4)
ABSTENTIONS: None
ABSENT: None

The nominees with 3 votes, Lydia Muniz, Betsy Dal Ponte, Jim Reimann and Robert Keilbach, were considered again. The Councilors voted for two nominees:

Councilor Hart - Betsy Dal Ponte, Jim Reimann
Councilor Newton - Robert Keilbach, Jim Reimann
Councilor Van Meter - Lydia Muniz, Betsy Dal Ponte
Mayor Orcutt - Lydia Muniz, Richard Sawyer (vote not included because nominee was not included)
Councilor Koho - Lydia Muniz, Betsy Dal Ponte
Councilor Miller - Jim Reimann, Robert Keilbach
Councilor McGee - Robert Keilbach, Jim Reimann

The results in the second voting were:
Jim Reimann - 4 votes
Lydia Muniz - 3 votes
Betsy Dal Ponte - 3 votes
Robert Keilbach - 3 votes

Jim Reimann was added to the Committee. The remaining three nominees were included in a third balloting. The Councilors voted:

Councilor Hart - Betsy Dal Ponte
Councilor Newton - Robert Keilbach
Councilor Van Meter - Lydia Muniz
Mayor Orcutt - Lydia Muniz
Councilor Koho - Lydia Muniz
Councilor Miller - Robert Keilbach
Councilor McGee - Robert Keilbach

The results in the third balloting were:
Lydia Muniz - 3 votes
Robert Keilbach - 3 votes
Betsy Dal Ponte - 1 vote

Since the vote resulted in a tie, Mayor asked for a voice vote between Lydia Muniz and Robert Keilbach. The votes were:
Lydia Muniz: Hart, Van Meter, Orcutt, Koho (4)
Robert Keilbach: Newton, Miller, McGee (3)

Ms. Muniz will be asked to be a part of the committee. Councilor Miller asked that the screening process take place prior to 2:00 p.m. for Mr. Anagnos' schedule. He suggested if Mr. Anagnos could not participate Mr. Keilbach be appointed. Mr. Hershey of COG noted that 75 applications have been received.

Recruitment-City Manager
Profile Adoption

In discussing the profile, Councilor McGee stated that he felt very strongly that since the Skills and Abilities were supposedly listed in order, integrity should be number 1 instead of number 6. Councilor Koho commented that sometimes in the national arena, officials who have the most integrity haven't been able to get things done. He would be happy to suggest that the sentence stating "the list is in priority order" might be deleted. Councilor Van Meter stated the Council spent a lot of time discussing the prioritization and the point is that integrity is integral to all the other skills prior to it. Councilor McGee felt it was wrong to announce that basic honesty was number 6 on the list. Councilor Van Meter asked for support from the Council to move the integrity section to the preamble and condense it. Councilor McGee agreed with him.

Councilor Van Meter moved that the section on Draft #2 entitled "integrity" be made into one paragraph and moved to the preamble. The motion was seconded by Councilor Koho.

The motion to amend passed unanimously:
AYES: Hart, Newton, Van Meter, Koho, Miller, McGee, Orcutt (7)
NAYS: None
ABSTENTIONS: None
ABSENT: None

A motion was made by Councilor Newton that the Profile of Most Desired Skills and Abilities be adopted as amended. Councilor Van Meter seconded the motion.

The motion to adopt passed unanimously:

AYES: Hart, Newton, Van Meter, Koho, Miller, McGee, Orcutt (7)
NAYS: None
ABSTENTIONS: None
ABSENT: None

CONSENT CALENDAR

a. RESOLUTION - Change in Compensation for Certain Employees

b. RESOLUTION - Amending Certain Fringe Benefits for Non-Represented Employees

c. Utility Billing Clerk II Reclassification

d. RESOLUTION - Levying Ad Valorem Taxes

e. RESOLUTION - Making Appropriations (Amending R92-580)

f. RESOLUTION - Adoption of 1992-93 Budget

g. RESOLUTION - Approving Intergovernmental

Agreement for Surplus Property Disposal

h. **RESOLUTION** - Declaring Public Necessity and Purpose for Acquiring Clear Lake Sector Sewer Easements

Mayor Orcutt stated that a., b., and c., would not be considered tonight. Councilor McGee asked that f. also be pulled for more discussion.

Councilor Koho moved the approval of the Consent Calendar. Councilor Van Meter seconded the motion.

The motion passed unanimously with the following votes:

AYES: Hart, Newton, Van Meter, Koho, Miller, McGee, Orcutt (7)
NAYS: None
ABSTENTIONS: None
ABSENT: None

Councilor McGee asked if the Personnel Analyst's salary and benefits needed to be split out among all the departments that use the services. Mr. Otterman suggested that after the City audit is received a supplemental budget will be needed. The costs can be split out on that budget based on the number of employees for each department. Councilor McGee also asked a question regarding whether the Municipal Code Codification was a Materials and Services line item or a Capital Outlay. Mr. Otterman stated it belonged under Materials and Services.

Councilor Hart moved the approval of Item f. of the Consent Calendar. The motion was seconded by Councilor Newton.

The motion passed unanimously:
AYES: Hart, Newton, Van Meter, Koho, Miller, McGee Orcutt (7)
NAYS: None
ABSTENTIONS: None
ABSENT: None

Councilor Van Meter asked if the other three items could not be considered since the City Employees are looking to the Council for a decision. Mr. Otterman stated questions have arisen from the Compensation Committee regarding the Personnel Analyst and the recommendation on holidays. He also stated more work needs to be done on the decision regarding the Reclassification until the decision is made on the responsibilities of the City Recorder. He suggested bringing back Items a. and b. next time and waiting on

Item c. until the outcome is known on the charter revisions.

OTHER BUSINESS

Councilor McGee stated that he had seen nothing in writing concerning the Council's changing their mind on the range of the salary of the City Manager. He would have voted against it but he wanted to have the minutes include a record of the change. Mayor Orcutt stated it was his impression that the range passed by the Council was the starting range. Councilor Koho commented that the same words were used but there were differing perceptions. Mr. Otterman said the action took place at the August 24th Council meeting and the Minutes of that meeting should include the discussion. Councilor McGee was satisfied since it was a matter of record.

Councilor Miller stated he might be out of town on the next meeting. Councilor Newton reported he will be updating the emergency operations plan for the city.

Councilor McGee wished Mr. Otterman well on his new career. Mr. Otterman stated he was looking forward to making the change.

Councilor Koho noted he filed an annual Statement of Economic Interest with the Ethics Commission voluntarily. He hoped the matter of requesting Councilors to file would be discussed in the next few months.

WRITTEN COMMUNICATIONS

There were no written communications to come before the Council.

AGENDA INPUT

There were no additional items added to the agenda.

ADJOURNMENT

The meeting was adjourned at 9:55 p.m.

Linda S. Sanders

Linda S. Sanders,
Recording Secretary

APPROVED:

MAYOR