

CITY OF KEIZER MISSION STATEMENT

KEEP CITY GOVERNMENT COSTS AND SERVICES TO A MINIMUM BY PROVIDING CITY SERVICES TO THE COMMUNITY IN A COORDINATED, EFFICIENT AND LEAST COST FASHION

A G E N D A

KEIZER CITY COUNCIL

Monday, September 20, 1999

7:00 p.m.

**Robert L. Simon Council Chambers
Keizer City Hall, Keizer, Oregon 97303**

1. CALL TO ORDER

2. ROLL CALL

3. PUBLIC TESTIMONY

This time is provided for citizens to address the Council on matters not scheduled for public hearing or listed on the agenda.

4. COMMITTEE REPORTS

- a. Introduction of Whiteaker Middle School Principal – Dale Kroger**
- b. PROCLAMATION – Disability Employment Awareness Month**
- c. Regional Library District Report**

5. OTHER BUSINESS

This time is provided to allow the Mayor, Council members or staff an opportunity to bring new or old matters before the Council which are not on tonight's agenda.

- a. New Business**
- b. Old Business**
 - Y2K Report**

6. ADMINISTRATIVE ACTION

- a. ORDER – Appeal of Hearings Officer Decision – Partition/Variance Case No. 99-23 (1295 Harmony Drive)**
- b. RESOLUTION – Authorizing City Manager to Enter O'Neil Sanitary Sewer Trunk Line Reimbursement Agreement – The Highlands Subdivision**

- c. **RESOLUTION** – Authorizing City Manager to Enter O’Neil Sanitary Sewer Trunk Line Reimbursement Agreement – Bahnsen Woods Subdivision

7. **CONSENT CALENDAR**

- a. Approval of September 7, 1999 Regular Session Minutes

8. **WRITTEN COMMUNICATIONS**

To inform the Council of significant written communications and petitions.

9. **AGENDA INPUT**

September 27, 1999

5:30 p.m. City Council Work Session

October 4, 1999

7:00 p.m. City Council Meeting

- Collette’s Restaurant Liquor License Change of Name/Ownership (McNary Restaurant)
- Lucky’s Deli II Liquor License Public Hearing
- City of Keizer Compensation Resolution
- Keizer Police Association Union Agreement
- Burglary Alarm Ordinance
- Adoption of 1999/2000 Council Goals

October 18, 1999

7:00 p.m. City Council Meeting

10. **ADJOURN**



September 20, 1999

AGENDA ITEM 4b

PROCLAMATION – DISABILITY EMPLOYMENT AWARENESS
MONTH



Oregon

John A. Kitzhaber, M.D., Governor

Disabilities Commission

1257 Ferry Street SE

Salem, OR 97310

(503) 378-3142 V/TTY

1-800-358-3117 V/TTY

(503) 378-3599 FAX

July 1, 1999

The Honorable Bob Newton
Mayor, City of Keizer
P O Box 21000
Keizer, OR 97307

Dear Mayor Newton:

While we are celebrating the long-awaited summer, it seems as though the autumn months are far away. Yet, plans are underway for the Oregon Disabilities Commission's annual observance of Disability Employment Awareness Month in October.

As you will recall, each year we ask mayors of Oregon cities to proclaim October as Disability Employment Awareness Month in their city. I have enclosed a sample proclamation for your use. You may choose to use it or to draft one specifically for your city. I hope you will be able to join us in observing October again this year.

This year we have much to recognize. Oregon became the only state in the nation to amend its state Medicaid Plan to facilitate persons with disabilities securing competitive employment. Here in Oregon we are working hard to help persons with disabilities to become independent taxpayers. Oregon is a model for the nation.

We would like very much for you to send us a copy of your proclamation.. In October we hold an annual recognition program for persons with disabilities, the programs that serve them and advocates. At the State Capitol, we display the proclamations of cities that are partnering with us in observing Disability Employment Awareness Month.

Thank you for your attention to my request.

Sincerely,

Eugene Organ
Executive Director

9-14-99 - Will not attend
meeting - please
mail.



CITY OF KEIZER

PROCLAMATION

DISABILITY EMPLOYMENT AWARENESS

WHEREAS, 20% of the population of the United States of America is comprised of persons with disabilities; and

WHEREAS, the current unemployment rate for adults with disabilities exceeds 70%; and

WHEREAS, the State of Oregon has demonstrated its commitment to the employment of adults with disability through an Employment Initiative being administered by the Senior and Disabled Services Division and the Vocational Rehabilitation Division; and

WHEREAS, the President has established a Task Force on the Employment of Adults with Disabilities in the nation; and

WHEREAS, Congress has declared October, 1999 Disability Employment Awareness Month and called upon all Americans to recognize efforts to employ adults with disabilities;

NOW, THEREFORE, BE IT RESOLVED that the month of October, 1999 is designated as

DISABILITY EMPLOYMENT AWARENESS MONTH

in the City of Keizer, and I call upon residents of Keizer to observe the month by learning more about people with disabilities, their strengths, abilities, and the programs which are designated to meet their needs.

PROCLAIMED this 20th day of September, 1999 by the powers vested in me as MAYOR of the City of Keizer, Oregon.

MAYOR BOB NEWTON



September 20, 1999

AGENDA ITEM 5b

OLD BUSINESS

AS OF SEPTEMBER 20, 1999

THERE ARE ONLY

101 DAYS

UNTIL

JANUARY 1, 2000

CITY OF KEIZER
Y2K UPDATE – SEPTEMBER 20, 1999
PUBLIC WORKS DEPARTMENT

Y2K READY

ITEM	YES	NO	COMMENTS
TELEMETRY SYSTEM	X		
PUMP STATIONS - AUXILIARY MOTORS & GENERATORS	X		
ITRON - METER READING	X		
SEWER SYSTEM	X		
SHOP GENERATOR	X		
P.W. VEHICLES	X		
P.W. COMPUTERS	X		
ELECTRICITY	X		
TRAFFIC LIGHTS	X		
SPEED COUNTERS	X		
SCHOOL ZONE FLASHERS	X		

CITY OF KEIZER
Y2K UPDATE – SEPTEMBER 20, 1999
PLANNING DEPARTMENT

Y2K READY

ITEM	YES	NO	COMMENTS
G.I.S. – Geographic Information System	X		
G.I.S. PLOTTER (PRINTER)	X		
SIERRA DATABASE, MARION COUNTY BUILDING PERMIT SYSTEM	X		

CITY OF KEIZER
Y2K UPDATE – SEPTEMBER 20, 1999
MUNICIPAL COURT DEPARTMENT

Y2K READY

ITEM	YES	NO	COMMENTS
FILEMAGIC – Records Management System	X		
MUNI COURT DATABASE	X		

CITY OF KEIZER
Y2K UPDATE – SEPTEMBER 20, 1999
ADMINISTRATION DEPARTMENT

Y2K READY

ITEM	YES	NO	COMMENTS
TELEPHONE SYSTEM			
• Hardware	X		
• Voice Mail	X		
COMPUTER SUMMARY			
• Administration	5	0	
• Finance	7	0	
• Municipal Court	6	0	
• Planning	3	0	
• Police	36	0	
• Public Works	6	0	

CITY OF KEIZER
Y2K UPDATE – SEPTEMBER 20, 1999
FINANCE DEPARTMENT

Y2K READY

ITEM	YES	NO	COMMENTS
UTILITY BILLING SYSTEM	X		
FINANCIAL SYSTEM	X		
FINANCIAL INSTITUTIONS: • West Coast Bank • U.S. Bank • Bank of America • MARPO • OR State Treasury	X X X X X		
COPIER	X		
POSTAGE MACHINE	X		

CITY OF KEIZER
Y2K UPDATE – SEPTEMBER 20, 1999
POLICE DEPARTMENT

Y2K READY

ITEM	YES	NO	COMMENTS
POLICE VEHICLES	X		
PHOTO IMAGE MACHINE	X		
RAIN – Regional Data Center	X		
911 - COMMUNICATIONS CENTER	X		
LEDS – State Data Center	X		
RADIOS - • Hand Held • Automobile	X X		



September 20, 1999

AGENDA ITEM 6a

**ORDER – APPEAL OF HEARINGS OFFICER DECISION –
PARTITION/VARIANCE CASE NO. 99-23 (1295 HARMONY
DRIVE – TONEY)**

CITY COUNCIL MEETING: September 20, 1999

AGENDA ITEM NUMBER: _____

TO: MAYOR NEWTON AND COUNCIL MEMBERS

THROUGH: WALLY MULL, CITY MANAGER

FROM: E. SHANNON JOHNSON, CITY ATTORNEY

SUBJECT: *PARTITION/VARIANCE CASE NO. 99-23 (JAMES TONEY)*

At its September 7, 1999 meeting, the Council directed staff to prepare an Order approving the above referenced partition/variance, as modified by the tentative agreement reached between the city attorney's office and the attorney for the applicant. That Order is attached for your review.

The language regarding the timing of the frontage improvements is set forth in Exhibit "E", Section 6.

RECOMMENDATION:

Adopt the attached Order.

Please contact me if you have any questions in this regard. Thank you.

ESJ/tmh
attachment

1 CITY COUNCIL, CITY OF KEIZER, STATE OF OREGON

2 ORDER

3 IN THE MATTER OF THE APPLICATION OF JAMES TONEY FOR A
4 PARTITION AND A VARIANCE FOR A 3.11 ACRE PARCEL
5 LOCATED AT 1295 HARMONY DRIVE NORTHEAST, KEIZER,
6 OREGON (PARTITION/VARIANCE CASE NO. 99-23)

7 The City of Keizer orders as follows:

8 Section 1. THE APPLICATION. This matter came before the Keizer City
9 Council on the appeal by the Keizer Community Development Department from the
10 Hearings Officer's decision dated July 29, 1999. The Hearings Officer had granted the
11 applicant's request for a partition of the property into three parcels and a variance to the
12 requirement that accessory structures be located within a side or rear yard. The
13 Community Development Department appealed such decision because the Hearings
14 Officer granted the request without requiring frontage improvements along Harmony
15 Drive which was listed as a condition in the staff decision. The subject property is
16 located at 1295 Harmony Drive Northeast, Keizer, Oregon.

17 Section 2. JURISDICTION. The land in question in this Order is within the city
18 limits of the City of Keizer. The City Council is the governing body for the City of
19 Keizer. As the governing body, the City Council has the authority to make final land
20 use decisions concerning land within the city limits of the City of Keizer.

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1 Section 3. PUBLIC HEARING. In addition to the public hearing held before the
2 Hearings Officer, a public hearing was held on this matter before the Keizer City
3 Council on September 7, 1999. The following persons either appeared at the City
4 Council hearing or provided written testimony on the application before the Council:

- 5 1) Amy Drought, Senior Planner
6 2) Norman Hill, Applicant's Attorney

7 Section 4. EVIDENCE. Evidence before the City Council in this matter is
8 summarized in Exhibit "A" attached.

9 Section 5. OBJECTIONS. No objections have been raised as to notice,
10 jurisdiction, alleged conflicts of interests, bias, evidence presented or testimony taken
11 at the hearing.

12 Section 6. CRITERIA AND STANDARDS. The criteria and standards relevant
13 to the decision in this matter are set forth in Exhibit "B" attached.

14 Section 7. FACTS. The facts before the City Council in this matter are set forth
15 in Exhibit "C" attached.

16 Section 8. JUSTIFICATION. Justification for the City Council's decision in this
17 matter is explained in Exhibit "D" attached.

18 Section 9. ACTION. The decision of the City Council is set forth in Exhibit "E"
19 attached.

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1 Section 10. FINAL DETERMINATION. This Order is the final determination
2 in this matter.

3 Section 11. EFFECTIVE DATE. This Order shall take effect immediately upon
4 its passage.

5 Section 12. APPEAL. A party aggrieved by the final determination in a
6 proceeding for a discretionary permit or a zone change may have it reviewed under
7 ORS 197.830 to ORS 197.834.

8 PASSED this _____ day of _____, 1999.

9 SIGNED this _____ day of _____, 1999.

10 _____
11 Mayor

12 _____
13 City Recorder

EXHIBIT "A"

Evidence

Official notice has been taken of the Planning Department files and reports in this matter, as well as the Hearings Officer's decision.

Councilor President Whalen opened the public hearing on September 7, 1999.

Mr. Johnson requested that the public attending the hearing listen to his reading of the required statement. He read the applicable criteria. Mr. Johnson requested that all testimony be directed toward these criteria and requested the Council declare any bias of interest, or any parties to declare any notice of defect to do so at this time.

Ms. Drought submitted her staff report noting the City was appealing the Hearing's Officer's final order for Partition/Variance Case No 99-23. James Toney is the applicant and the subject property is located at 1295 Harmony Drive and contains approximately 3.11 acres.

Ms. Drought noted that the applicant had requested to divide the lot into three separate parcels and a variance to allow an accessory structure to be placed within the front yard of proposed parcel one.

Ms. Drought shared that the City approved both the Partition and Variance requests. As a condition of approval, the City required that the street frontage along the subject property be improved to City Standards for $\frac{3}{4}$ width public street, including sidewalks. Ms. Drought cited 2.310.05 of the Development Code noting since the subject property has approximately 292 feet of frontage, staff placed this standard as a condition of approval. The applicant objected to the condition and appealed the staff decision to the Hearings Officer. The Hearings Officer upheld the appeal by interpreting the Development Code to exclude the subject property from having to make the street improvements. Ms. Drought noted that the staff disagreed with the Hearings Officer's decision.

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Ms. Drought noted that section 2.302 of the Development Code contains specific standards for street improvements. She noted that this section also contained an "exception" stating *"Provisions of the Section do not apply in existing developed areas of the City. Improvements in these areas shall be based on standards adopted by the Department of Public Works."* Ms. Drought went on to explain that the Hearings Officer concluded that the subject property lies within an "existing developed" area and concluded that the street standards had no bearing to the subject property.

Ms. Drought indicated that staff disagreed with the interpretation and felt that an "Existing Developed Area" implied an area that is completely built out and could not be further divided. In this situation, the applicant sought to divide an existing parcel that is 3.11 acres into three parcels. Each of the proposed parcels could be further divided in the future. Due to the development potential of the property staff felt that it does not fall under the category of existing developed area as cited by the Hearings Officer.

Ms. Drought went on to state that since it did not fall under this category, staff felt that the Applicant was compelled to complete the street improvements pursuant to Section 2.310.05 in the Development Code.

Staff recommended that Council open, conduct and close the public hearing. Staff recommended that the City Council reverse the Hearings Officer decision and approve the Partition/Variance with the conditions as outlined in the original Notice of Decision.

Ms. Drought noted that the application had gone 30-days beyond the required 120 day rule that is state law which compels the City to make a final decision on all land-use applications.

Mr. Johnson reiterated what Ms. Drought stated regarding the 120-day land use law and explained if a decision is not made within 120 days, the applicant has the right to go to court and obtain a writ of mandamus. Mr. Johnson went into an explanation of this term and how it is used. He noted that if the Council made a decision within the 120- day period and the applicant was not happy with the decision they might appeal to LUBA. At this point, based on statute and case law deference is given to the City Council's interpretation of their own ordinance.

Mr. Johnson also noted if a writ of mandamus is filed and the issue is heard in circuit court, the circuit court judge would not be bound by that deference rule. He indicated that the statute says that the City has the burden of proof to show why the application should not be approved.

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Mr. Johnson shared that the applicant and his attorney agreed not to file a writ of mandamus before the hearing as long as the City did not obtain a written order. He stressed that this was not a final agreement and the final decision was in the hands of the Council.

Before going into an explanation of the settlement proposal, Mr. Johnson stated if the Council wished to obtain more detail, the Council meeting may be recessed and moved into Executive Session. Mr. Johnson referred to the plat map marked Exhibit "A" and shared after discussions with the applicant's attorney, the City Manager and the Senior Planner, staff felt it was inappropriate for three new homes to be built on these parcels and indicated they settled with the applicant on the building of two new homes.

Mr. Johnson shared that the current proposal to solve the matter included all conditions as indicated on the staff report would apply with the addition of: 1) New homes could be built on parcel one and parcel three; 2) No other building permit, other than a replacement of the barn and the shed (out building), would be allowed; 3) No other land-use application or partitioning or sub-dividing would be allowed without the frontage improvements; and 4) A recorded improvement agreement would be recorded against the entirety of the property, in order for any future owners to understand the restrictions that applied. He felt these conditions were a good solution and noted again that this was not a binding agreement.

Responding to questions, Mr. Johnson clarified that two new houses may be built on parcels one and three and that staff did not wish to see the home on parcel two torn down and a new house built in its place. Mr. Johnson further noted that this case does not set a precedent and the only compromise would be the timing in which frontage improvements would be required.

Norm Hill, 1114 12th Street SE, Salem- Attorney for the applicant. Mr. Hill shared that Mr. Johnson's recitation of the agreement was accurate but wished to highlight a few things that he felt were different than the staff report that the Council had received. Mr. Hill shared that they felt there was a hole in the code and that the City may have intended to place a clear definition that did not come across in the code.

Mr. Hill noted as applicant's they had two choices, to go to LUBA or work with the City. He went on to explain that the code was not clear on this issue and urged the Council to seek a clarification in the code. Mr. Hill shared if this agreement was not met they would proceed to file the writ of mandamus and go through the circuit court. Mr. Hill explained that his client did not wish to build any improvements, but the agreement was something that they could work with.

Rick Weddle- Signed up but did not speak before the Council.

Mr. Hill noted that an exception to the agreement was in the event that Council adopts the final order the agreement on the applicant's part was as long as it met what was spelled out earlier they would not seek writ of mandamus. He also wished to clarify that the Council's action was not a final action to preclude the applicant from seeking a writ of mandamus and requested that this be placed on the record.

Mr. Johnson agreed with Mr. Hill's explanation.

Responding to questions, Mr. Johnson noted that the motion would be to direct staff to draft an order consistent with the recommendation, with the exception of the frontage improvements if this was what the Council wished to endorse.

Council President Whalen closed the public hearing.

EXHIBIT "B"

Criteria and Standards

The criteria and standards relevant to this application are found in the Keizer Development Code (KDC).

The following criteria have been identified as applicable:

1. KDC 3.107.05 (Partition).
2. KDC 3.105.05 (Variance).
3. KDC 2.302.03(B) (Connectivity Requirements).

No other criteria were identified as applicable.

EXHIBIT "C"

Facts

FACTS: GENERAL

1. The applicant is James Toney.
2. The 3.11 acre subject property is located at 1295 Harmony Drive Northeast, Keizer, Oregon. The Assessor's Office identifies this property as T6S, R3W, Section 35, Tax Lot 4400.
3. The subject property is zoned Single Family Residential (RS) and contains a single family dwelling with three accessory structures. The parcels have access to a public road and can be served by public sewer and water.
4. Surrounding property is zoned RS and single family homes are the dominant adjacent land use.
5. The applicant is requesting approval to divide the existing parcel to create three separate lots with the following dimensions: .45 acres (Parcel 1), 1.93 acres (Parcel 2), and .73 acres (Parcel 3). In addition, the applicant is proposing to vary the location requirement to allow an accessory structure to be located in the front yard. Section 2.313.01(A) *Accessory Structures and Uses*, requires accessory structures to be located within the rear or side yard.

FACTS: PARTITION

6. The proposal is to divide an existing 3.11 acre parcel into three parcels. Parcel 1 will contain .45 acres in area. Parcel 2 will be 1.93 acres in area. Parcel 3 will .73 acres in area. Each parcel will have direct access onto a public street.
7. The approval or denial of a partitioning is based on compliance with decision criteria found in Section 3.107.05 of the Keizer Development Code (KDC). Section 3.107.05 requires all land divisions to comply with the provisions in Section 2.310.03, as well as the dimensional and facilities requirements of Section 3.107.05(A) and (B). The criteria and related findings are listed below:
8. Minimum lot area shall conform to the requirements of the zoning district in which the parcel is located. KDC 2.310.03(A).

FINDINGS: The minimum area for a single family detached dwelling in a RS zone is 5,000 square feet with an average depth of 70 feet and an average width of 40 feet. Each parcel meets the minimum requirements.

9. Any adjustment of a lot line between two adjacent parcels shall require approval of a Lot Line Adjustment. KDC 2.310.03(B).

FINDINGS: This section does not apply as the request is for a land division, not a boundary adjustment.

10. The depth of a lot or parcel shall not be more than three times the width. KDC 2.310.03(C).

FINDINGS: Parcel 1 and Parcel 3 are rectangular in shape. Parcel 2 is rectangular in shape between Parcel 1 and Parcel 3, and contains additional area directly behind Parcels 1, 2, and 3. Therefore, Parcel 2 is "T" in shape. This design was proposed to maintain the farmland with Parcel 2. The proposed parcels do not contain a depth greater than three and a half times the average width.

11. All lots and parcels shall provide a minimum frontage, on an existing or proposed public street, equal to the minimum lot width required by the underlying zone. Residential parcels may be accessed via a partition access easement developed in accordance with the provisions of Section 2.302.08 when the City finds that a public street is not necessary to provide for the future development of adjoining property. KDC 2.310.03(D).

FINDINGS: The minimum width in the RS zone is 40 feet. Each parcel exceeds the frontage standards to public streets.

12. Flag lots shall only be permitted if it is the only reasonable method by which the rear portion of a lot being unusually deep or having an unusual configuration may be accessed. KDC 2.310.03(E).

FINDINGS: Parcel 2 is proposed to be a flag lot. Due to the existing depth of the subject property, a flag lot creates a reasonable configuration for the proposed three lots. This method allows Parcel 1 and Parcel 3 to have direct access onto Harmony Drive and comply with requirements for lot width and depth. This also allows for Parcel 2 to maintain direct access to Harmony Drive and to maintain the existing farmland with the existing dwelling on the subject property.

13. Through lots shall be avoided except where essential to overcome specific disadvantages of topography and orientation. KDC 2.310.03(F).

FINDINGS: This section does not apply as the proposed partition does not contain a through lot.

14. The side lines of lots, as far as practicable, shall run at right angles to the right-of-way line of the adjacent street. The rear lot line shall be no less than $\frac{1}{2}$ the dimension of the front lot line. KDC 2.310.03(G).

FINDINGS: The property boundaries generally run at right angles to the street. The front and rear lot lines for Parcel 1 and Parcel 3 are approximately equal in dimension. However, Parcel 2 is a flag lot in form with additional property on both the east and west sides of the stem of the property from Harmony Drive.

15. Utility easements shall be provided on lot area where necessary to accommodate public facilities. KDC 2.310.03(H).

FINDINGS: Information regarding the use of any easements must be placed on the final plat.

16. Each parcel shall satisfy the dimensional standards of the applicable zoning district, unless a variance from these standards is approved. KDC 3.107.05(B).

FINDINGS: The proposed partition will create three separate parcels in compliance with the dimensional standards of Section 2.102.05(A) of the RS zone. Each lot maintains the required minimum depth of 70 feet and minimum width of 40 feet. The proposed configuration conforms to *Section 2.310.03 Development Standards for Land Divisions*, which states, "*The depth of a lot or parcel shall not be more than 3 times the width of the parcel.*"

17. Adequate public facilities shall be available to serve the existing and newly created parcels. KDC 3.107.05(C).

FINDINGS: Public facilities such as water, sewer, and storm drainage are available to serve the proposed parcels.

18. Development proposals must provide for the continuation of, and connection to, existing streets where necessary to promote appropriate traffic circulation in the vicinity of the development. KDC 2.302.03(B).

FINDINGS: Due to the proximity of the subject property to 12th Avenue, the applicant is required to demonstrate how the development of Parcels 1, 2 and 3 will accommodate future development. Therefore, the applicant is required to provide a redevelopment plan that exhibits the location for new street extensions into the subject property to service future development. This redevelopment plan must be provided to the City before the final plat is submitted for approval. This plan will be utilized to process building permits for Parcels 1, 2 and 3.

The final partitioning plat must ensure the existing homes comply with the minimum setbacks for the RS zone.

FACTS: VARIANCE

Section 2.313.01(A) requires accessory structures to be located within the rear or side yard. Proposed Parcel 1 contains an existing accessory structure which contains approximately 1,200 square feet. This accessory structure is indicated as "shop" on the preliminary site plan. The buildable area within the proposed parcel would be located within the northern portion of the lot. Therefore, the existing accessory structure would be located in the front yard of the new dwelling. This proposal does not comply with the requirements of the Keizer Development Code, therefore a variance approval is required.

The decision criteria for a major variance are contained in Section 3.105.05 of the Keizer Development Code. The criteria and related findings are listed below:

19. The degree of variance from the standard is the minimum necessary to permit development of the property for uses allowed in the applicable zone. KDC 3.105.05(A).

FINDINGS: Section 2.313.01(A) requires accessory structures to be located within the rear or side yard. The intent and purpose of placing an accessory structure within the side or rear yard of a residence is primarily for aesthetics. The subject property contains an accessory structure approximately 1,200 square feet in area on the westerly side of the lot. The accessory structure is set back approximately 46 feet from the property line adjacent to Harmony Drive and faces the proposed east property line for Parcel 1. Whereas the standard setback for single family dwellings is ten feet from the front property line, the existing accessory structure is located more than 4.5 times the setback required for permitted structures. The development of Parcel 1 with the existing accessory structure meets the intent and purpose of the standard set forth in Section 2.102.05(B)(4) of the Keizer Development Code. Therefore, the request for a variance to this standard should be granted.

20. There has not been a previous land use action approved on the basis that variances would not be allowed. KDC 3.105.05(B).

FINDINGS: There are no prior land use actions that expressly prohibit the granting of the variance.

21. The variance will not be unreasonably detrimental to property or improvements in the neighborhood of the subject property. KDC 3.105.05(C).

FINDINGS: The standard set forth by Section 2.313.01(A) regulates neighborhood improvements for aesthetic purposes. The applicant's proposal to maintain the existing accessory structure would not be unreasonably detrimental to property or improvements in the neighborhood of the subject property.

22. The variance will not significantly affect the health or safety of persons working or residing in the vicinity. KDC 3.105.05(D).

FINDINGS: The variance request to allow the existing accessory structure to remain on Parcel 1 would not significantly affect the health or safety of persons working or residing in the vicinity.

23. The variance will be consistent with the intent and purpose of the provision being varied. KDC 3.105.05(E).

FINDINGS: The purpose and intent of requiring accessory structures to be located within the rear or side yard is primarily for aesthetics. The accessory structure is existing and sets back 4.5 times the required setback for permitted structures. The existing placement of the accessory structure in relationship to Harmony Drive meets the intent and purpose of the standard set forth in Section 2.313.01(A) of the Keizer Development Code.

EXHIBIT "D"

Justification

The applicant has the burden of proving that the application meets the applicable criteria and standards in each case.

In this case, the Community Development Department appealed the Hearings Officer's decision. The Hearings Officer did not impose frontage improvement requirements as set forth in KDC 2.302.02(A). The Hearings Officer felt that the following exception applied:

E. Exceptions. Provisions of this Section do not apply in existing developed areas of the City. Improvements in these areas shall be based on standards adopted by the Department of Public Works. KDC 2.302.02(E).

The city staff felt that the above referenced exception did not apply to situations such as this one where the property is being divided by way of a partition. By definition, this partition is "development."

After full review, the City Council finds that the proper interpretation of the above referenced exception is that it applies only to property that is not being or cannot be divided. It is not applicable in this case.

Consequently, the applicant will be required to make the frontage improvements pursuant to the conditions set forth in Exhibit "E".

The application meets the applicable criteria and standards. Properly conditioned, this proposal complies with all city regulations and will help provide needed infill housing for the City.

EXHIBIT "E"

Action

The City of Keizer ORDERS as follows:

The requested partition and variance is GRANTED, subject to the following conditions:

Prior to the recording of the partition plat, the following conditions shall be met:

1. The applicant shall submit a final partitioning plat prepared by a registered professional surveyor and which conforms with the requirements in ORS Chapter 92. The final plat shall substantially conform with the proposed partition plan. Following plat approval, the applicant shall record it with the Marion County Clerk.

2. The existing 756 square foot accessory structure, designated as "barn" on the preliminary site plan, must be removed from the subject property pursuant to Keizer Development Code Section 2.203.02(A) on that account that the barn is located on a proposed property line. In lieu of removing the 756 square foot accessory structure, the applicant may reduce the area of the structure to meet the required setbacks and requirements as stated in Section 2.313 in the Keizer Development Code.

3. The applicant is required to demonstrate how the development of Parcels 1, 2 and 3 will accommodate future development. The required redevelopment plan must exhibit the location for new street extensions into the subject property to service future development. This plan is required to be submitted to the City of Keizer Community Development Department before approval of the final plat.

4. The subject property is located within the original Keizer Sewer District and is therefore not subject to an acreage assessment.

5. An overall plan of the proposed development (including location of future water and sewer services) shall be submitted for review and approval by the Department of Public Works.

6. The applicant shall sign an Improvement Agreement to provide for the eventual three-quarter street frontage improvements (including adequate pavement from centerline, easements, curbs, gutters, storm drainage and sidewalks) across the entire frontage of the subject property pursuant to the following:

- a) New dwellings and allowed accessory structures may be constructed on Parcel 1 and Parcel 3 prior to the frontage improvements being constructed.
- b) The existing "barn" and "shed" as indicated on the preliminary plan may be altered, removed, and/or reconstructed, prior to the frontage improvements being made. Any applicant shall be required to apply for and receive building permits as appropriate, pursuant to the then current regulations.
- c) Frontage improvements will be required as a condition of approval for any additional development, building permits, or land use actions, including, but not limited to partitions, lot line adjustments, or subdivision of the property.
- d) The Improvement Agreement shall be recorded against the property prior to the recording of the plat and shall not be satisfied and removed of record until the frontage improvements have been fully constructed, approved and accepted by the City.

Prior to any development or construction of public or private utility improvements, the following conditions shall be met:

7. The partitioning will result in a total of three parcels. All newly created parcels must be provided with sanitary sewer service. The Department of Public Works will require a pre-design meeting with the City of Keizer prior to submittal of the sewer service plans to the City of Salem for approval. Sewer plans must be submitted to the Salem Permit Application Center (PAC) for review by the City of Salem.

8. No sanitary sewer construction shall begin on this property without prior notification being given to the City of Keizer Department of Public Works.

9. A street opening permit is required from the Department of Public Works prior to any construction within public right-of-ways.

10. The Keizer Fire District shall be required to approve any development on the proposed parcels regarding access and fire protection. It may be necessary for the developer of the subject property to install a fire hydrant on an appropriately sized water main to provide fire protection for the proposed new lots.

11. Location of all proposed meters shall be determined by the Department of Public Works.

12. All new dwellings shall be connected to public sanitary sewer. Separations between wells and sanitary sewer lines shall comply with all applicable regulations. All new dwellings are required to connect to public water. For any parcel which has an existing well and is connected to public water, an approved backflow device shall be installed at the City water meter. If redivision of the subject property occurs and an existing well conflicts with the location of future accessways or other required improvements, the existing well may be required to be abandoned.

13. A site grading plan shall be submitted and approved by the Department of Public Works prior to any grading operations on the site. Such plan shall describe where fill, if any, will be proposed and show that no storm water in the area will be impeded by the proposed development.

14. Construction permits are required by the Department of Public Works prior to any public facility construction.

15. A pre-design meeting will be required prior to the Developer's Engineer submitting plans to the city for review.

16. A pre-construction conference shall be required prior to commencement of any construction under permits issued by the city.

Within six (6) months after the date of the recording of the plat, the following conditions shall be met:

17. The accessory structure on Parcel 1, designated as "shop" on the preliminary site plan, is permitted to remain on the subject property if a building permit for a primary residence is applied for within six (6) months of recording the partition plat. If a building permit for a primary residence is not applied for within six (6) months of the recording of the partition plat, the accessory structure then located on Parcel 1 will be required to be removed. If a building permit for a primary residence is not applied for and the accessory structure on Parcel 1 is not removed within six (6) months of the recording of the plat, the property owner will be subject to code enforcement. Failure to resolve the situation can result in the issuance of an infraction summons in the amount of \$500.00 per day, per violation and/or an indictment from the Municipal Court.

Prior to the application for or issuance of any building permit for a structure on the subject property, the following conditions shall be met:

18. New individual water services for Parcels 1 and 3 must be installed. A new water service for Parcel 2 shall be installed when a new dwelling is constructed. Location of the

connection to an existing water main will be determined by the Department of Public Works. If redivision of the subject property is anticipated, a new main may be required to be extended.

19. Any existing water service connection from the well or house to the shop on the separate Parcel shall be disconnected prior to the issuance of any new building permits for any of the proposed Parcels.

20. Prior to submitting for a building permits on the new parcel, the builder shall indicate to the City of Keizer how the storm drainage disposal will be taken care of. If a connection to a public storm drain line is not available, onsite storm drainage will be required to be developed satisfactory to the Department of Public Works.

NOTICE TO APPLICANT:

Completion, submittal and recording of the final partitioning plat shall comply with the requirements contained in the Keizer Development Code. After the final partitioning plat has been recorded, no alteration of property lines shall be permitted without first obtaining approval from the Zoning Administrator.

Development of the individual parcels shall comply with the applicable provisions of the Keizer Development Code.

Public facility improvements shall comply with current City of Keizer Public Works Standards.

5107COK.002



September 20, 1999

AGENDA ITEM 6b

**RESOLUTION – AUTHORIZING CITY MANAGER TO ENTER
O’NEIL SANITARY SEWER TUNK LINE REIMBURSEMENT
AGREEMENT (HIGHLANDS ESTATES SUBDIVISION)**

CITY COUNCIL MEETING: _____

AGENDA ITEM NUMBER: _____

TO: MAYOR NEWTON AND CITY COUNCIL MEMBERS

**THROUGH: WALLY MULL
CITY MANAGER**

**FROM: ROB KISSLER
DIRECTOR OF PUBLIC WORKS** 

SUBJECT: SANITARY SEWER TRUNK LINE REIMBURSEMENT AGREEMENT

DATE: SEPTEMBER 16, 1999

BACKGROUND:

In order to serve the Highlands Sub-Division along Oneil Road with Sanitary Sewer, The Piculell Chimento Group Inc was required to extend a master sewer trunk as identified in the Master Sewer Plan for the Clear Lake area. This sewer line will serve not only the new Subdivision, but will also have capacity for future development and existing parcels that may wish to hook up at a later date. The City's policy has been in the past to reimburse developers for a portion of the cost to extend master sanitary sewer lines if funds are available through collection of sewer acreage fees.

FISCAL IMPACT:

The Sewer Reserve Fund currently has funds available to reimburse the Piculell Chimento Group for extension of the Oneil Sanitary Sewer Trunk Line.

RECOMMENDATION:

Staff recommends City Council adopt the attached Resolution allowing the City Manager to enter into the Oneil Sanitary Sewer Trunk Line Reimbursement Agreement known as the Highlands Estates Subdivision.

CITY COUNCIL, CITY OF KEIZER, STATE OF OREGON

Resolution R99-_____

AUTHORIZING THE CITY MANAGER TO ENTER INTO O'NEIL SANITARY SEWER

TRUNK LINE REIMBURSEMENT AGREEMENT

(HIGHLANDS ESTATES SUBDIVISION)

WHEREAS, The Piculell Chimento Group, Inc., the developer of Highlands Estates Subdivision was required to extend a master sanitary sewer trunk line as identified in the Master Sewer Plan for the Clear Lake area ;

WHEREAS, such developer has financed and constructed the extension which will not only serve Highlands Estates subdivision but will also serve future development and existing parcels that may wish to hook up;

WHEREAS, it is fair and equitable that such developers be reimbursed for those portions of the sewer construction costs that are in excess of the necessary costs to develop the individual subdivisions; NOW, THEREFORE

BE IT RESOLVED by the City Council of the City of Keizer that the City Manager is hereby authorized to enter into the Reimbursement Agreement a copy of which is attached as Exhibit "A" to provide reimbursement to The Piculell Chimento Group, Inc developers of Highlands Estates Subdivision, subject to the guidelines as set forth in the agreement.

PASSED this ____ day of _____, 1999.

SIGNED this ____ day of _____, 1999.

Mayor

City Recorder

**O'NEIL SANITARY SEWER TRUNK LINE
REIMBURSEMENT AGREEMENT
(Highlands Estates Subdivision)**

PARTIES:

CITY OF KEIZER, an Oregon
municipal corporation

(hereinafter "City")

THE PICULELL CHIMENTO
GROUP, Inc.

(hereinafter "Developer")

RECITALS:

A. Developer has developed and constructed the subdivision known as Highlands Estates located in the vicinity of O'Neil Road and Clear Lake Road in the City of Keizer.

B. Developer, in order to provide such subdivision with sanitary sewer service, has extended the sanitary sewer trunk line in the O'Neil Road right-of-way.

C. Due to the benefits to be conferred on other properties by reason of the size, location and configuration of the sanitary sewer improvements placed by the Developer, it is just and equitable to provide for a reimbursement mechanism to allow Developer to recoup costs over and above those necessary to service only the Highlands Estates subdivision.

D. Developer and City wish to enter into an agreement in which the City will reimburse amounts actually collected from sanitary sewer systems development charge, subject to prior agreements, if any.

NOW, THEREFORE, in consideration of the mutual promises and commitments undertaken herein, it is hereby agreed as follows:

AGREEMENT:

1. Construction of O'Neil Trunk Line. Developer has constructed a section of the O'Neil Road sanitary sewer trunk line as set forth in Exhibit "A" attached hereto and by this reference incorporated herein.

2. Calculation of Eligible Upgrade Costs. Developer shall be eligible for reimbursements based on the total costs of the oversized/deeper 12" trunk line **LESS** the estimated equivalent costs for 8" local sewer that would have been necessary to benefit only the Highlands Estates subdivision. Such calculation is shown below:

12" Sanitary Sewer Trunk Cost	\$127,574.10
Less: 8" Equivalent Sanitary Sewer Cost	<u>\$ 56,605.30</u>
Total Upgrade Reimbursement	\$ 70,968.80

Therefore, the total amount eligible for upgrade reimbursement to Developer is \$70,968.80, less the administrative fee described below.

3. Calculation of Eligible Front Foot Reimbursement. Developer is eligible for "front foot" reimbursement based on the estimated 8" local sanitary sewer service pursuant to the following calculation:

$$\$56,605.30 \div 1838 \text{ linear feet} = \$30.80 \text{ per front foot.}$$

If connecting to the subject sanitary sewer lines, the following properties shall pay the applicable front foot charge to be reimbursed to Developer:

- A. Those properties fronting on or within two hundred (200) feet of O'Neil Road directly opposite the Highlands Estates subdivision, EXCEPT for the Bahnsen Woods subdivision.
- B. Those properties fronting on or within two hundred (200) feet of either side of O'Neil Road opposite the remainder of the sanitary sewer line constructed by Developer.

4. Interest. Interest shall accrue on the upgrade reimbursement amounts only at the rate of seven percent (7%) per annum until this Agreement terminates or the full eligible reimbursement has been paid.

5. Collection of System Development Charges. City agrees to attempt to collect system development charges in its normal course of business according to its standard practices. Any amounts collected and owing under this Agreement shall be forwarded to the Developer within thirty (30) days of collection after deduction of the administrative fee described below.

City is not required to initiate any collection efforts of any sort or initiate legal action in order to collect system development charges. City shall only be obligated to pay to

Developer those amounts that are actually collected and owing subject to any prior agreements regarding upgrade/oversize reimbursements. Specifically, Developer agrees and understands that the acreage system development charges available for upgrade reimbursement are subject to a prior agreement with the developer of the Highlands subdivision and all amounts payable to such developer must be paid in full prior to payment to Developer hereunder.

City shall deduct and retain for its own use a sum equal to one percent (1%) of the total amount to be paid to Developer (principal and interest) to compensate the City for its administration of the reimbursement agreement described herein.

6. Indemnification. Should any third party make a claim against City regarding the imposition of any system development charges, or objecting in any form to the existence or interpretation of this Agreement, Developer agrees to defend, indemnify and hold City harmless from any and all such claims. However, nothing herein obligates the City to initiate or defend any action whatsoever.

7. Term. This Agreement shall remain in full force and effect for ten (10) years from the date hereof, after which point the Agreement shall be of no further effect, and reimbursements as set forth herein shall not be required.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as set forth below:

CITY:

DEVELOPER:

CITY OF KEIZER, an Oregon
municipal corporation

THE PICULELL CHIMENTO
GROUP, Inc.

By: _____
Wally Mull, City Manager

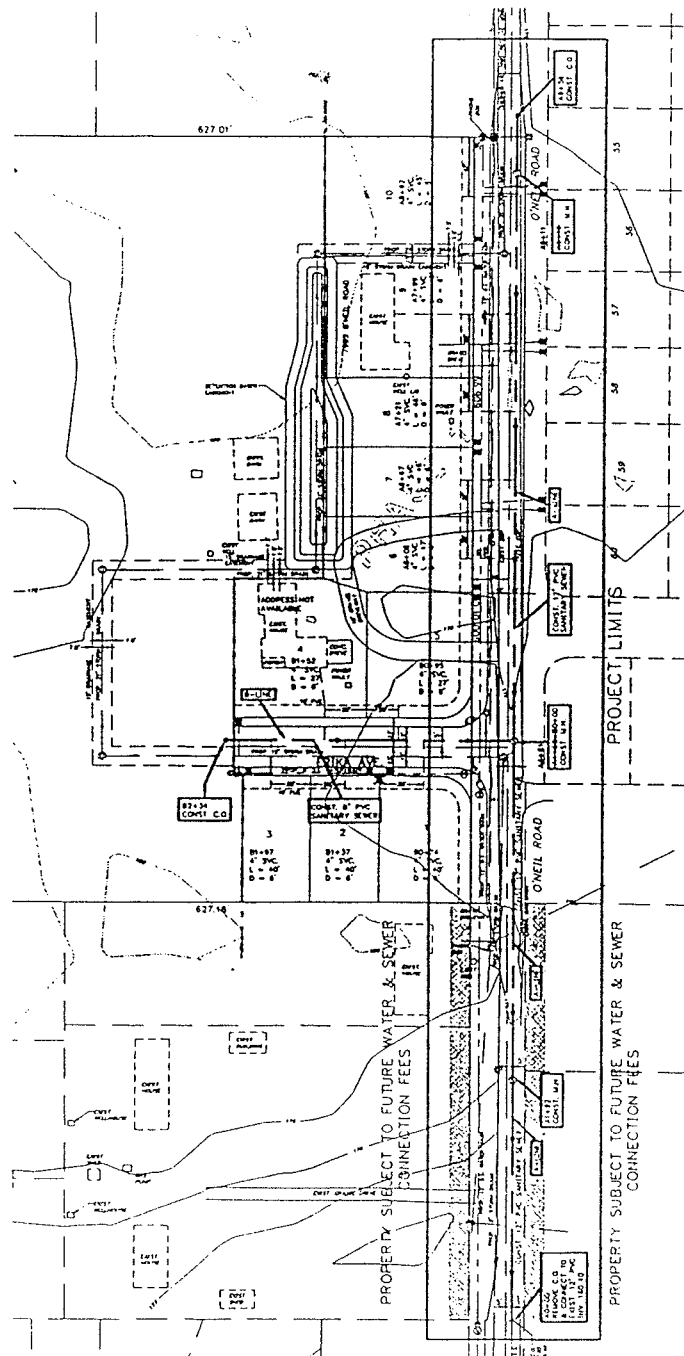
By: _____
Chuck Chimento

Dated: _____

Dated: _____

SOUTH

SCALE: 1"=100'





September 20, 1999

AGENDA ITEM 6C

**RESOLUTION – AUTHORIZING CITY MANAGER TO ENTER
O’NEIL SANITARY SEWER TUNK LINE REIMBURSEMENT
AGREEMENT (BAHNSEN WOODS SUBDIVISION)**

CITY COUNCIL MEETING: _____

AGENDA ITEM NUMBER: _____

TO: MAYOR NEWTON AND CITY COUNCIL MEMBERS

THROUGH: WALLY MULL
CITY MANAGER

FROM: ROB KISSLER
DIRECTOR OF PUBLIC WORKS



SUBJECT: SANITARY SEWER TRUNK LINE REIMBURSEMENT AGREEMENT

DATE: SEPTEMBER 16, 1999

BACKGROUND:

In order to serve the Bahnsen Woods Sub-Division along Oneil Road with Sanitary Sewer, Lydon Construction Company Inc was required to extend a master sewer trunk as identified in the Master Sewer Plan for the Clear Lake area. This sewer line will serve not only the new Subdivision, but will also have capacity for future development and existing parcels that may wish to hook up at a later date. The City's policy has been in the past to reimburse developers for a portion of the cost to extend master sanitary sewer lines if funds are available through collection of sewer acreage fees.

FISCAL IMPACT:

The Sewer Reserve Fund currently has funds available to reimburse Lydon Construction Company for extension of the Oneil Sanitary Sewer Trunk Line.

RECOMMENDATION:

Staff recommends City Council adopt the attached Resolution allowing the City Manager to enter into the Oneil Sanitary Sewer Trunk Line Reimbursement Agreement known as the Bahnsen Woods Subdivision.

1 CITY COUNCIL, CITY OF KEIZER, STATE OF OREGON

2 Resolution R99-_____

3 AUTHORIZING THE CITY MANAGER TO ENTER INTO O'NEIL SANITARY SEWER

4 TRUNK LINE REIMBURSEMENT AGREEMENT

5 (BAHNSEN WOODS SUBDIVISION)

6 WHEREAS, Lydon Construction, the developer of Bahnsen Woods
7 Subdivision was required to extend a master sanitary sewer trunk line as identified in
8 the Master Sewer Plan for the Clear Lake area ;

9 WHEREAS, such developer has financed and constructed the extension which
10 will not only serve Bahnsen Wood subdivision but will also serve future development
11 and existing parcels that may wish to hook up;

12 WHEREAS, it is fair and equitable that such developers be reimbursed for
13 those portions of the sewer construction costs that are in excess of the necessary
14 costs to develop the individual subdivisions; NOW, THEREFORE

15 BE IT RESOLVED by the City Council of the City of Keizer that the City
16 Manager is hereby authorized to enter into the Reimbursement Agreement a copy of
17 which is attached as Exhibit "A" to provide reimbursement to Lydon Construction
18 Co, developers of Bahnsen Woods Subdivision, subject to the guidelines as set forth
19 in the agreement.

20 PASSED this ____ day of _____, 1999.

21 SIGNED this ____ day of _____, 1999.

22 _____
23 Mayor

24 _____
25 City Recorder
26
27

**O'NEIL SANITARY SEWER TRUNK LINE
REIMBURSEMENT AGREEMENT
(Bahnsen Woods Subdivision)**

PARTIES:

CITY OF KEIZER, an Oregon
municipal corporation (hereinafter "City")

LYDON CONSTRUCTION, CO.
INCORPORATED (hereinafter "Developer")

RECITALS:

A. Developer has developed and constructed the subdivision known as Bahnsen Woods located in the vicinity of O'Neil Road and Clear Lake Road in the City of Keizer.

B. Developer, in order to provide such subdivision with sanitary sewer service, has extended the sanitary sewer trunk line in the O'Neil Road right-of-way.

C. Due to the benefits to be conferred on other properties by reason of the size, location and configuration of the sanitary sewer improvements placed by the Developer, it is just and equitable to provide for a reimbursement mechanism to allow Developer to recoup costs over and above those necessary to service only the Bahnsen Woods subdivision.

D. Developer and City wish to enter into an agreement in which the City will reimburse amounts actually collected from sanitary sewer systems development charge, subject to prior agreements, if any.

NOW, THEREFORE, in consideration of the mutual promises and commitments undertaken herein, it is hereby agreed as follows:

AGREEMENT:

1. Construction of O'Neil Trunk Line. Developer has constructed a section of the O'Neil Road sanitary sewer trunk line as set forth in Exhibit "A" attached hereto and by this reference incorporated herein.

2. Calculation of Eligible Upgrade Costs. Developer shall be eligible for reimbursements based on the total costs of the oversized/deeper 12" trunk line **LESS** the estimated equivalent costs for 8" local sewer that would have been necessary to benefit only the Bahnsen Woods subdivision. Such calculation is shown below:

12" Sanitary Sewer Trunk Cost	\$50,753.93
Less: 8" Equivalent Sanitary Sewer Cost	<u>\$28,506.97</u>
Total Upgrade Reimbursement	\$22,246.96

Therefore, the total amount eligible for upgrade reimbursement to Developer is \$22,246.96, less the administrative fee described below.

3. Calculation of Eligible Front Foot Reimbursement. Developer is eligible for "front foot" reimbursement based on the estimated 8" local sanitary sewer service pursuant to the following calculation:

$$\$28,506.97 \div 678 \text{ linear feet} = \$42.05 \text{ per front foot.}$$

If connecting to the subject sanitary sewer lines, the following properties shall pay the applicable front foot charge to be reimbursed to Developer:

- A. Those properties fronting on or within two hundred (200) feet of O'Neil Road directly opposite the Bahnsen Woods subdivision, EXCEPT for Highlands subdivision.
- B. Those properties fronting on or within two hundred (200) feet of Clear Lake Road opposite the Bahnsen Woods subdivision and/or any extension of the sanitary sewer line installed by Developer.

4. Interest. Interest shall accrue on the upgrade reimbursement amounts only at the rate of seven percent (7%) per annum until this Agreement terminates or the full eligible reimbursement has been paid.

5. Collection of System Development Charges. City agrees to attempt to collect system development charges in its normal course of business according to its standard practices. Any amounts collected and owing under this Agreement shall be forwarded to the Developer within thirty (30) days of collection after deduction of the administrative fee described below.

City is not required to initiate any collection efforts of any sort or initiate legal action in order to collect system development charges. City shall only be obligated to pay to

Developer those amounts that are actually collected and owing subject to any prior agreements regarding upgrade/oversize reimbursements. Specifically, Developer agrees and understands that the acreage system development charges available for upgrade reimbursement are subject to a prior agreement with the developer of the Highlands subdivision and all amounts payable to such developer must be paid in full prior to payment to Developer hereunder.

City shall deduct and retain for its own use a sum equal to one percent (1%) of the total amount to be paid to Developer (principal and interest) to compensate the City for its administration of the reimbursement agreement described herein.

6. Indemnification. Should any third party make a claim against City regarding the imposition of any system development charges, or objecting in any form to the existence or interpretation of this Agreement, Developer agrees to defend, indemnify and hold City harmless from any and all such claims. However, nothing herein obligates the City to initiate or defend any action whatsoever.

7. Term. This Agreement shall remain in full force and effect for ten (10) years from the date hereof, after which point the Agreement shall be of no further effect, and reimbursements as set forth herein shall not be required.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as set forth below:

CITY:

DEVELOPER:

CITY OF KEIZER, an Oregon
municipal corporation

LYDON CONSTRUCTION, CO.
INCORPORATED

By: _____
Wally Mull, City Manager

By: _____
Bill Lydon

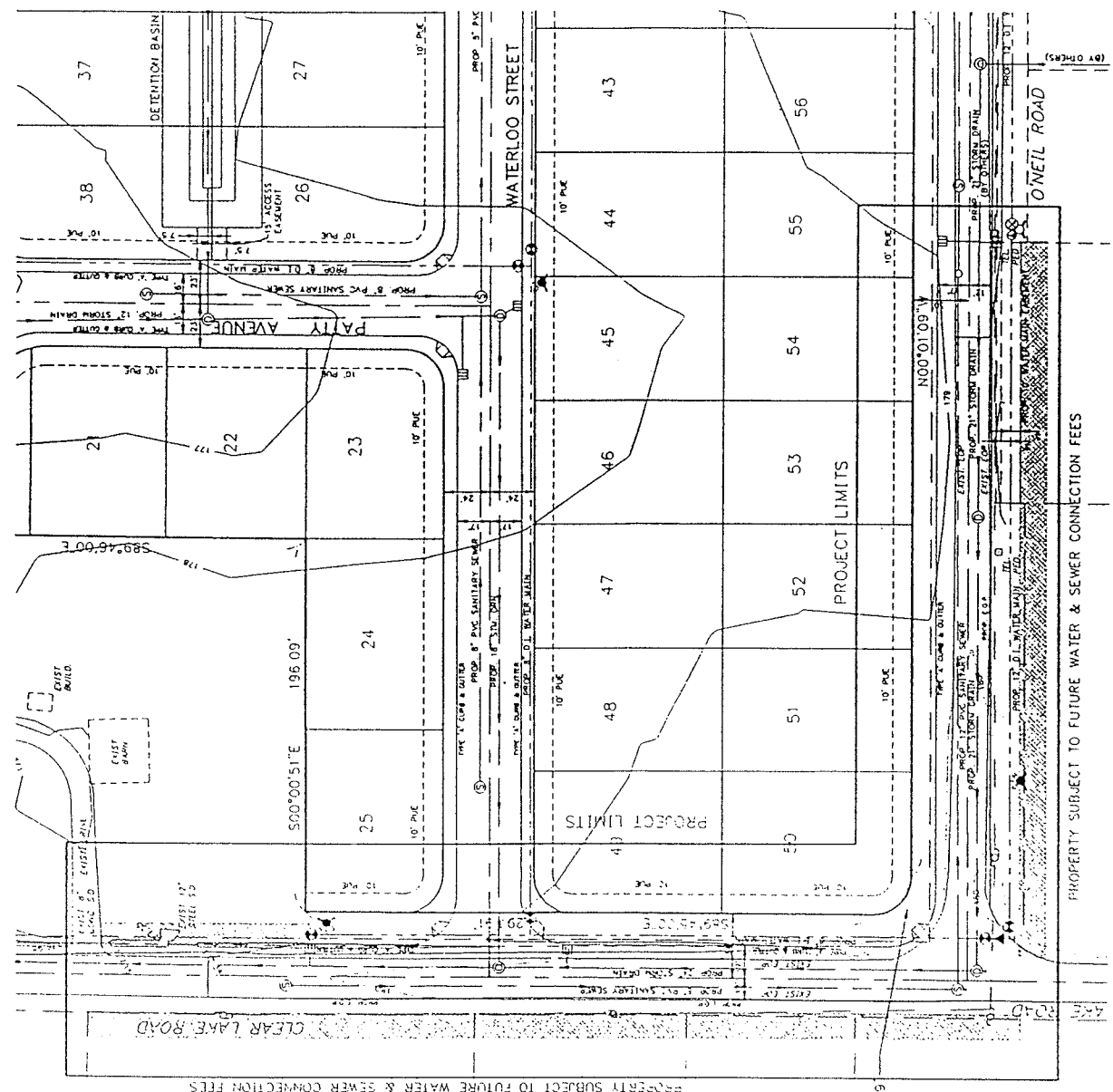
Dated: _____

Dated: _____



SCALE: 1" = 60'

BAHNSEN WOODS ESTATES



$\Delta = 90^{\circ}16'09''$
 $P = 20.00'$
 $T = 20.09'$
 $L = 21.51'$



September 20, 1999

AGENDA ITEM 7a

**APPROVAL OF SEPTEMBER 7, 1999 REGULAR SESSION
MINUTES**

MINUTES
KEIZER CITY COUNCIL
Tuesday, September 7, 1999
Keizer City Hall
Robert L. Simon Council Chambers
Keizer, Oregon

CALL TO ORDER

In Mayor Newton's absence, Council President Whalen called the regular meeting to order at 7:02 p.m.
Roll Call was taken as follows:

Present:

Garry Whalen, Council President
Craig Campbell, Councilor
Jim Keller, Councilor
Jerry McGee, Councilor
Jacque Moir, Councilor

Absent:

Bob Newton, Mayor
Lore Christopher, Councilor

Staff:

Wally Mull, City Manager
Amy Drought, Senior Planner
Dianne Hunt, Human Resources Officer
Susan Gahlsdorf, Finance Officer
Rob Kissler, Public Works Director
Marc Adams, Chief of Police
Shannon Johnson, City Attorney
Tracy Davis, City Recorder

PUBLIC TESTIMONY

Kristen White, 4999 13th Avenue North, Keizer
expressed her interest in the proposed library district for Keizer. She shared how she and her family use Salem's library and how important she felt a library in Keizer would be to the public. She requested that the Council do everything possible to bring a library to Keizer.

Marcia Bednarczyk, 77758 O'Neil Road, Keizer-
Distributed copies of a letter requesting that the Council direct staff to respond to their letter dated July 30, 1999. She indicated that the Highland Lots adjacent to their property still do not meet the grading and drainage plan and there are areas with fill up to three feet high. Ms. Bednarczyk read through the remainder of her letter and again requested a response to their letter.

Responding to questions City Manager Mull indicated he did not recall Ms. Bednarczyk's letter but would research it and would respond.

Ms. Bednarczyk announced the Clearlake Neighborhood Association would be holding their second annual barbecue at the Marion County Fire District One on September 11, 1999 from 4:30 –7:00 p.m. All proceeds would go for park benches and possibly a picnic table for Bair Park. She invited everyone to attend.

COMMITTEE REPORTS

Jim Hupy, President Keizer Heritage Foundation, 631 Chemawa Rd, Keizer reported the renovations of the old school are on time and within budget. A grand opening date has not been set but they are anticipating mid-October to December.

Council President Whalen expressed his appreciation of what had been completed so far.

Mr. Hupy noted he would be happy to give a tour to anyone wishing to come by.

OTHER BUSINESS

a. New Business

Ms. Hunt reported that three new employees had joined Keizer's work force. They included: Dina Brown working as a Permit Specialist, Michael Griffin as a Municipal Utility Worker I and Michael Alexander as a Community Services Officer. She welcomed them to the City of Keizer.

Chief Adams shared that he and City Manager Mull participated in "Operation Boss Lift" sponsored by Employee Support of National Guard and Reserve in Colorado. They were able to see what employees with the National Guard participate in and shared some of his employee's participation in the various guard programs.

Ms. Hunt noted she participated in a discussion panel at Borders Bookstore pertaining to Y2K that was very successful.

Mr. Kissler announced the improvements to Cummings Lane are almost complete. Responding to questions, Mr. Kissler noted the pavers would be completing Cummings Lane and would move to Chemawa Road at it's completion.

City Manager Mull announced Amy Drought, Senior Planner had accepted a position with the City of Vancouver and would be leaving around the 20th of this month. He expressed his appreciation for the great job she had done for the City of Keizer and wished her luck in the future.

b. Old Business

City Manager Mull reported on September 3, 1999, he and Chief Adams would be at Roth's between 5:00-6:00 bagging groceries. Roth's will match the money spent during that time and donate to the United Way.

Councilor Keller initiated discussion on the recently formed task force for the Chemawa Activity Center.

Councilor Keller moved to direct the City Manager to work with the Chairman of the Chemawa Activity Center Task Force to propose a letter which states the purpose of the Task Force, a possible agenda and a caveat at the first meeting that 80% of the property owners in area "A", or their representatives, be in attendance. Also, if there is not 80% in attendance the Task Force be disbanded. Councilor Campbell seconded the motion.

Responding to questions, Councilor Keller indicated the Council had formed the Committee and felt the assistance of the Task Force in this manner would be appropriate.

Councilor Moir expressed her concern with the desires of the task force in regards to this motion. She also indicated the participation of the property owners in this process is crucial.

Councilor McGee expressed his concern with the idea of 80% property owner attendance and the Council's involvement in dictating the process. He noted the task force was formed in order to distance the Council in the process but still offering assistance if requested.

In response to questions, Councilor Keller indicated that the Chairman of the Task Force was in favor of the 80% attendance. He also felt it was time for the Council to step forward.

Council President Whalen shared his support of Councilor Keller's motion, noting he had discussed this matter with the Task Force chair, Rick Roemer.

Mr. Johnson requested clarification of the motion noting 80% of the number of property owners or 80% of the land area.

Councilor Keller indicated 80% of the property owners in area "A".

Responding to questions, Mr. Johnson referred to the Council Procedures Review and explained there was no specific provision in the procedures to suspend the rules and noted Council would need to determine if the item was urgent or wait until the next meeting.

Councilor Keller suggested that this should be reviewed as an urgent issue for the Task Force and the property owners of area "A". He referred to a letter received from Bob Herberger which was submitted to the newspaper indicating they were anxious for the Task Force to move forward.

It was consensus of the Council to consider the request urgent.

The motion passed as follows:

AYES: Campbell, Keller, Moir and Whalen (4)

NAYS: McGee (1)

ABSTENTIONS: None (0)

ABSENT: Christopher and Newton (2)

Responding to a concern in regards to the conditions of the roads from Council President Whalen, Mr. Kissler noted he was unsure when an overlay of the roads within Berkshire Estates would take place, as it was not a public road. He offered to contact Mr. Brown for a timeline.

In regards to the completion time for this development, Ms. Drought noted she would review the prior land use approvals for conditions and would offer a report at the manager's meeting.

PUBLIC HEARINGS
a. Appeal of Hearings
Officer Decision-
Partition/Variance Case
No. 99-23(1295
Harmony Drive)

Councilor President Whalen opened the public hearing.

Shannon Johnson, City Attorney requested reviewed the applicable criteria and procedures for this hearing.

Mr. Johnson requested that all testimony be directed toward these criteria and requested the Council declare any bias of interest, or any parties to declare any notice of defect to do so at this time.

There were no response to Mr. Johnson's inquiries.

Amy Drought, Senior Planner reported the City was appealing the Hearing's Officer's final order for Partition/Variance Case No 99-23. James Toney is the applicant and the subject property is located at 1295 Harmony Drive and contains approximately 3.11 acres.

Ms. Drought noted that the applicant had requested to divide the lot into three separate parcels and a variance to allow an accessory structure to be placed within the front yard of proposed parcel one.

Ms. Drought shared that the City approved both the Partition and Variance requests. As a condition of approval, the City required that the street frontage along the subject property be improved to City Standards for $\frac{3}{4}$ width public street, including sidewalks. Ms. Drought cited 2.310.05 of the Development Code noting since the subject property has approximately 292 feet of frontage, staff placed this standard as a condition of approval. The applicant objected to the condition and appealed the staff decision to the Hearings Officer. The Hearings Officer upheld the appeal by interpreting the Development Code to exclude the subject property from having to make the street improvements. Ms. Drought noted that the staff disagreed with the Hearings Officer's decision.

Ms. Drought noted that section 2.302 of the Development Code contains specific standards for street improvements. She noted that this section also contained an "exception" stating *"Provisions of the Section do not apply in existing developed areas of the City. Improvements in these areas shall be based on standards adopted by the Department of Public Works."* Ms. Drought went on to explain that the Hearings Officer concluded that the subject property lies within an "existing developed" area and concluded that the street standards had no bearing to the subject property.

Ms. Drought indicated that staff disagreed with the interpretation and felt that an "Existing Developed Area" implied an area that is completely built out and could not be further divided. In this situation, the applicant sought to

divide an existing parcel that is 3.11 acres into three parcels. Each of the proposed parcels could be further divided in the future. Due to the development potential of the property staff felt that it does not fall under the category of existing developed area as cited by the Hearings Officer.

Ms. Drought went on to state that since it did not fall under this category, staff felt that the Applicant was compelled to complete the street improvements pursuant to Section 2.310.05 in the Development Code.

In conclusion, Ms. Drought recommended that Council open, conduct and close the public hearing. Staff recommended that the City Council reverse the Hearings Officer decision and approve the Partition/Variance with the conditions as outlined in the original Notice of Decision.

Ms. Drought noted that the application had gone 30-days beyond the required 120 day rule that is state law which compels the City to make a final decision on all land-use applications.

Mr. Johnson reiterated what Ms. Drought stated regarding the 120-day land use law and explained if a decision is not made within 120 days, the applicant has the right to go to court and obtain a writ of mandamus. Mr. Johnson went into an explanation of this term and how it is used. He noted that if the Council made a decision within the 120- day period and the applicant was not happy with the decision they might appeal to LUBA. At this point, based on statute and case law deference is given to the City Council's interpretation of their own ordinance. Mr. Johnson also, noted if a writ of mandamus is filed and the issue is heard in circuit court, the circuit court judge would not be bound by that deference rule. He indicated that the statute says that the City has the burden of proof to show why the application should not be approved.

Mr. Johnson shared that the applicant and his attorney agreed not to file a writ of mandamus before the hearing as long as the City did not obtain a written order. He stressed that this was not a final agreement and the final decision was in the hands of the Council.

Before going into an explanation of the settlement proposal, Mr. Johnson stated if the Council wished to obtain more detail, the Council meeting may be recessed

and moved into Executive Session. Mr. Johnson referred to the plat map marked Exhibit "A" and shared after discussions with the applicant's attorney, the City Manager and the Senior Planner. Staff felt it was inappropriate for three new homes to be built on these parcels and indicated they settled with the applicant on the building of two new homes.

Mr. Johnson shared that the current proposal to solve the matter included all conditions as indicated on the staff report would apply with the addition of: 1. New homes could be built on parcel one and parcel three. 2. No other building permit, other than a replacement of the barn and the shed (out building), would be allowed. 3. No other land-use application or partitioning or sub-dividing would be allowed without the frontage improvements. 4. A recorded improvement agreement would be recorded against the entirety of the property, in order for any future owners to understand the restrictions that applied. He felt these conditions were a good solution and noted again that this was not a binding agreement.

Responding to questions, Mr. Johnson clarified that two new houses may be built on parcels one and three and that staff did not wish to see the home on parcel two torn down and a new house built in it's place. Mr. Johnson further noted that this case does not set a precedent and the only compromise would be the timing in which frontage improvements would be required.

Presenting testimony was:

Norm Hill, 1114 12th Street SE, Salem- Attorney for the applicant. Mr. Hill shared that Mr. Johnson's recitation of the agreement was accurate but wished to highlight a few things that he felt were different than the staff report that the Council had received. Mr. Hill shared that they felt there was a hole in the code and that the City may have intended to place a clear definition that did not come across in the code.

Mr. Hill noted as applicant's they had two choices, to go to LUBA or work with the City. He went on to explain that the code was not clear on this issue and urged the Council to seek a clarification in the code. Mr. Hill shared if this agreement was not met they would proceed to file the writ of mandamus and go through the circuit court. Mr. Hill explained that his client did not wish to build any

improvements, but the agreement was something that they could work with.

Rick Weddle- Signed up but did not speak before the Council.

Mr. Hill noted that an exception to the agreement was in the event that Council adopts the final order the agreement on the applicant's part was as long as it met what was spelled out earlier they would not seek writ of mandamus. He also wished to clarify that the Council's action was not a final action to preclude the applicant from seeking a writ of mandamus and requested that this be placed on the record.

Mr. Johnson agreed with Mr. Hill's explanation.

Responding to questions, Mr. Johnson noted that the motion would be to direct staff to draft an order consistent with the recommendation, with the exception of the frontage improvements if this was what the Council wished to endorse.

Council President Whalen closed the public hearing.

Council members reiterated some of the highlights that the City and the applicant's attorney stated regarding the agreement.

Councilor Campbell shared his support of the agreement but hoped there would be some narrowing of the term "existing developed areas of the city" in the City's code.

Councilor Moir noted that neighbors in the area were also in support of the agreement.

Councilor Keller moved a motion to direct staff to prepare and order reversing the Hearings Officer's decision, pursuant to the staff's recommendation with the exception of the issue of street frontage which would be dealt with per the tentative agreement between the Council. Councilor Campbell seconded the motion.

The motion passed unanimously as follows:

AYES: Campbell, Keller, McGee, Moir and Whalen (5)

NAYS: None (0)

ABSTENTIONS: None (0)

ABSENT: Christopher and Newton (2)

ADMINISTRATIVE ACTION

a. RESOLUTION- Fund Exchange Agreement- Cherry Avenue

City Manager Mull reported the State of Oregon has previously assisted the City with the funding on the Cherry Avenue projects and requested that the City enter into a fund exchange agreement.

Mr. Mull noted that the City had requested the State to exchange 1999 Federal Funds that had been allocated to the City for State funds based on the ratio listed in the staff report. He also noted that this would be in the City's best interest because the estimated paperwork and procedural steps necessary to acquire the federal funds would reduce the allocation 12 to 15 percent.

Mr. Mull stated that staff recommended that the Council adopt the resolution authorizing the City Manager and the City Recorder to enter into the 1999 Fund Exchange Agreement with the State of Oregon.

Responding to questions, Mr. Mull noted that Federal Funds are as reliable as State Funds pertaining to the allocation process, and the City would continue to do Fund Exchanges, but would also review any State Funding if it became available.

Councilor Keller moved a motion Authorizing the City Manager and City Recorder to Enter into the 1999 Fund Exchange Agreement with the State of Oregon. Council Moir seconded the motion.

The motion passed unanimously as follows:

AYES: Campbell, Keller, McGee, Moir and Whalen (5)

NAYS: None (0)

ABSTENTIONS: None (0)

ABSENT: Christopher and Newton (2)

CONSENT CALENDAR

The consent calendar consisted of the following items:

- a. RESOLUTION- Approving Engineer Report for Jordan Run Street Lighting District
- b. RESOLUTION- Approving Engineer Report for Prairie Clover Street Lighting District

c. Approval of August 16, 1999 Regular Session Minutes

Councilor Keller moved for approval of the Consent Calendar. Councilor Campbell seconded the motion.

The motion passed unanimously as follows:

AYES: Campbell, Keller, McGee, Moir and Whalen (5)

NAYS: None (0)

ABSTENTIONS: None (0)

ABSENT: Christopher and Newton (2)

WRITTEN COMMUNICATIONS

Council President Whalen indicated a letter was received from Ken Sherman, Jr. regarding the library district. There are no firm details at this point, however a report should be made in the near future.

AGENDA INPUT

September 20, 1999

7:00 p.m. City Council Meeting

- Y2K Report
- Burglary Alarm Ordinance

October 4, 1999

7:00 p.m. City Council Meeting

RECESS TO URBAN RENEWAL AGENCY MEETING

The City Council meeting recessed at 8:10 p.m.

EXECUTIVE SESSION

Pursuant to ORS 192.660 (1)(d)- Labor Negotiations

ADJOURNMENT

Council President Whalen reconvened the City Council Meeting at 8:55 p.m. and announced that no formal action was necessary from the Executive Session.

The meeting was adjourned at 8:57 p.m.

Tracy L. Davis, CMC
City Recorder

APPROVED:

MAYOR:

_____(absent)_____
Mayor Bob Newton

COUNCIL MEMBERS:

Council President - Garry Whalen

Councilor #4 - Jacque Moir

_____(absent)_____
Councilor #2 - Lore Christopher

Councilor #5 - Craig Campbell

Councilor #3 - Jim Keller

Councilor #6 - Jerry McGee

Minutes approved:

CITY OF KEIZER MISSION STATEMENT
KEEP CITY GOVERNMENT COSTS AND SERVICES TO A MINIMUM BY PROVIDING CITY
SERVICES TO THE COMMUNITY IN A COORDINATED, EFFICIENT AND LEAST COST FASHION

A G E N D A

URBAN RENEWAL AGENCY OF THE CITY OF KEIZER

Monday, September 20, 1999

Immediately Following City Council Meeting

Robert L. Simon Council Chambers

Keizer, Oregon 97303

1. **CALL TO ORDER**
2. **ROLL CALL**
3. **PUBLIC HEARING**
4. **ADMINISTRATIVE ACTION**
 - a. **RESOLUTION** – Authorizing City Manager to Enter Agreement for Reconstruction and Overlay of City Hall Parking Lot
5. **CONSENT CALENDAR**
 - a. Approval of the September 7, 1999 Agency Minutes
6. **OTHER BUSINESS**

This time is provided to allow Urban Renewal Agency members the opportunity to bring matters before the Agency which are not on tonight's agenda.
6. **ADJOURN**

Upon request, auxiliary aids and/or special services will be provided to participants with disabilities. To request services, please contact us at 390-3700 at least two working days (48 hours) in advance.



URBAN RENEWAL AGENCY BOARD
September 20, 1999

AGENDA ITEM 4a

**RESOLUTION - AUTHORIZING CITY MANAGER TO
ENTER AGREEMENT FOR RECONSTRUCTION AND
OVERLAY OF CITY HALL PARKING LOT**

CITY URBAN RENEWAL AGENCY MEETING:_____

AGENDA ITEM NUMBER:_____

TO: CHAIR NEWTON AND AGENCY MEMBERS

**FROM: WALLY MULL
CITY MANAGER**

SUBJECT: BID AWARD (CITY HALL PARKINGS LOTS)

BACKGROUND:

In the 1999-00 Urban Renewal Budget funding was approved to reconstruct and overlay the parking lots at City Hall. Three bids were received and opened. The low bidder was Salem Road & Driveway with a bid of \$58,083.69.

RECOMMENDATION:

Council adopt a resolution authorizing the City Manager to enter into an agreement with Salem Road & Driveway to reconstruct and overlay the parking lots at City Hall at a price of \$58,083.69

URBAN RENEWAL AGENCY, CITY OF KEIZER, STATE OF OREGON

Resolution R99-_____

**AUTHORIZING THE CITY MANAGER TO ENTER INTO AGREEMENT FOR
RECONSTRUCTION AND OVERLAY OF CITY HALL PARKING LOT**

WHEREAS, the City of Keizer advertised for submission of bids for the reconstruction and overlay of the City Hall parking lot located at 930 Chemawa Road N, Keizer, Oregon;

WHEREAS, three bids were received and opened. The low bidder on the project was Salem Road and Driveway with a bid of \$58,083.69;

WHEREAS, funds were budgeted in the 1999-2000 Urban Renewal budget for this project. NOW, THEREFORE

BE IT RESOLVED by the Urban Renewal Agency of the City of Keizer that the City Manager is hereby authorized to award the bid and enter into an agreement with Salem Road and Driveway to reconstruct and overlay the parking lots at City Hall at a cost of \$58,083.69.

PASSED this _____ day of _____, 1999.

SIGNED this _____ day of _____, 1999.

Chair

City Recorder



URBAN RENEWAL AGENCY BOARD
September 20, 1999

AGENDA ITEM 5a

APPROVAL OF SEPTEMBER 7, 1999 MINUTES

MINUTES
KEIZER URBAN RENEWAL AGENCY
Tuesday, September 7, 1999
Keizer City Hall
Robert L. Simon Council Chambers
Keizer, Oregon

CALL TO ORDER

Chair Pro-Tem Whalen called the meeting to order at 8:10 p.m.

Present:

Craig Campbell
Jim Keller
Jerry McGee
Jacque Moir
Garry Whalen

Absent:

Bob Newton, Chair
Lore Christopher

Staff:

Wally Mull, City Manager
Amy Drought, Senior Planner
Dianne Hunt, Human Resources Officer
Susan Gahlsdorf, Finance Officer
Rob Kissler, Public Works Director
Marc Adams, Chief of Police
Shannon Johnson, City Attorney
Tracy Davis, City Recorder

PUBLIC HEARING

No public hearing took place.

**ADMINISTRATIVE
ACTION**

a. RESOLUTION-

**Authorizing City
Manager to Enter
Agreement for
Chemawa Activity
Center Sewer Line
Construction**

City Manager Mull submitted his staff report noting a bid to construct a sewer line from the Chemawa Activity Center to the west until it ties into an existing sewer line behind Stonehedge Subdivision.

Mr. Mull noted that bids were received two weeks ago and Kerr Contractors were the low bid at \$377,439.00. Based on this information staff recommended that the project be awarded to Kerr Contractors for the contractual amount of \$377,439.00.

Responding to questions Mr. Mull answered that this was a budgeted item in the amount of \$500,000.00.

Mr. Keller moved a motion Authorizing the City Manager to Enter Agreement with Kerr Contractors for Chemawa Activity Center Sanitary Sewer Trunk Line. Mr. McGee seconded the motion.

The motion passed unanimously as follows:

AYES: Campbell, Keller, McGee, Moir, Whalen (5)

NAYS: None (0)

ABSTENTIONS: None (0)

ABSENT: Christopher and Newton (2)

CONSENT CALENDAR

a. Approval of the July 19, 1999 Agency Minutes

Mr. Keller moved for approval of the Consent Calendar.

Mr. McGee seconded the motion.

Mr. Campbell abstained from the vote due to his absence at the meeting.

The motion passed unanimously as follows:

AYES: Keller, McGee, Moir, Whalen (4)

NAYS: None (0)

ABSTENTIONS: Campbell (1)

ABSENT: Christopher and Newton (2)

OTHER BUSINESS

No other business was brought before the Agency.

ADJOURNMENT

Chair Pro-Tem Whalen adjourned the meeting at 8:15 p.m.

Bob Newton-Chair

Tracy L. Davis, CMC, City Recorder

AGENCY MEMBERS:

Garry Whalen

Jacque Moir

Lore Christopher

Craig Campbell

Jim Keller

Jerry McGee

Minutes approved:
