

MINUTES
KEIZER CITY COUNCIL
Monday, September 18, 2000
Keizer City Hall
Robert L. Simon Council Chambers
Keizer, Oregon

CALL TO ORDER

Mayor Newton called the regular meeting to order at 7:02 p.m. Roll Call was taken as follows:

Present:

Bob Newton, Mayor
Jim Keller, Councilor
Jerry McGee, Councilor
Jacque Moir, Councilor
Richard Walsh, Councilor
J. L. Wilson, Councilor

Absent:

Lore Christopher, Council President

Staff:

Chris Eppley, City Manager
Maria Meier, Senior Planner
Kent Barker, Lieutenant
Dianne Hunt, Human Resources Director
Shannon Johnson, City Attorney
Tracy L. Davis, City Recorder

PUBLIC TESTIMONY

No public testimony was brought before the Council.

**COMMITTEE
REPORTS**

a. Proclamation-Disability Employment Awareness Month

Mayor Newton announced the Proclamation noting that October 2000 is Disability Employment Awareness Month.

b. Swearing In of Keizer Police Department Reserve
Lieutenant Kent Barker introduced Reserve Police Officer Ian Wilson and provided his background.

City Attorney, Shannon Johnson supplied the oath of office to Officer Wilson.

OTHER BUSINESS

a. New Business

Councilor Moir shared that the Keizer Parks and

FMAGIC

Recreation Department would be sponsoring the NFL Gatorade Punt, Pass and Kick Competition on Saturday, September 23rd from 9:00 a.m.- noon at the Volcanoes Stadium.

Mayor Newton shared a letter he received from Oregon Emergency Management expressing appreciation to Bob Emmerich and Ted Plumb commending them regarding their presentation at the Emergency Management presentation in Eugene. He requested that a letter of appreciation be submitted from the Council to Mr. Emmerich and Mr. Plumb.

Mayor Newton supplied the names of the candidates filing for council and mayor's position in the November election.

Mayor's position: Lore Christopher

Council Position #1: Roy Duncan and Judy Smith

Council Position #2: Ray Kelly

Council Position #3: Dee Lane and Charles E. Lee

Mayor Newton shared that he attended a meeting in Silverton regarding passenger train service. He noted this effort dealt with rail service from Woodburn through Mt. Angel to Silverton.

Mayor Newton provided information regarding some of the ballot measures that would be on the November ballot. He indicated that at the recent Mayor's Conference, which he attended, and noted the group would be submitting a letter endorsing Measure's 84 and 87. They would also be opposing Measures 7,8, 91 and 93. He requested that the Council review the information that he submitted to allow the Council to make a determination regarding these measures, as some of them would have an adverse affect in limiting the local taxing authority.

b. Old Business

Responding to questions, City Manager Eppley reported how the striping and widths of the lanes would be placed along River Road. He also noted at this time there would not be bike lanes placed on River Road due to the lack of right-of-way currently available. Right of way could be obtained in the future if bike lanes along River Road were deemed necessary.

PUBLIC HEARINGS

a. ORDINANCE- Comp

City Attorney, Shannon Johnson reviewed the applicable criteria and requested a waiving of the reading of the criteria.

**Plan/Zone Change Case
No. 00-51 (Monterey
Development)**

Senior Planner, Maria Meier reported that the density for low density residential comprehensive plan designation gives a maximum density of eight units per acre with a minimum of four units per acre.

Ms. Meier reported that the subject properties are located at the west end of McNary Estates Drive North and combined contain approximately 40.41 acres. She indicated that the Special Policy Area covered approximately 31.49 acres within the 40.41 acres and she provided a breakdown of the zoning for the remaining acreage. It was noted that studies done in the area indicated that odor emitted from the treatment plant would not effect the area being requested for development. She supplied the remainder of the staff report recommending that the public hearing be conducted and the application be reviewed and approved with the conditions listed within the staff report.

Mayor Newton opened the public hearing.

Ken Sherman, 475 Cottage Street, Salem- spoke representing Monterey Development Company (applicant). He noted highlights from Ms. Meier's staff report and noted the statewide goals in which the applicant was meeting. Mr. Sherman also stated that the SPA was not considered to be a permanent designation and allowed for studies that had been completed to permit the ground to be developed. Mr. Sherman indicated that the applicant does not have a development plan for the acreage and that this information would be brought back at a later date. He stressed the developer's proposition to be consistent with the current development at McNary Estates.

Mr. Sherman reiterated that the hearing was for a Comprehensive Plan/Zone Change and not a hearing to cover specific details of the development. He noted when that issue was brought forward that the developers would be happy to meet with the neighborhood to address their concerns.

Responding to questions, Mr. Sherman indicated that the proposed land was annexed into McNary Estates approximately two to three years ago. He also noted he was not aware of any roadway discussed to be developed from the latest development onto Windsor Island Road.

Jim Reimann, Monterey Development- responded to the Council's questions. He supplied a history of the McNary Estates development and some of the issues that had been covered regarding the SPA. Mr. Reimann shared that in December 1998 the Council reduced the minimum number of units in McNary Estates from 626 to 543 with Ordinance 98-01 with the understanding that the SPA issue would be resolved. He reiterated Mr. Sherman's comments that they would be happy to meet with homeowners to discuss the plans for the area and indicated that there were no plans currently to build a secondary road onto Windsor Island Road but this road would be used as a temporary road during construction.

Responding to questions, Mr. Reimann noted that the new development would fall under the same CCR's as the current development.

Mayor Newton called names from the public hearing sign up sheet and the following citizens offered testimony

Ted Goobic, 6049 Crampton Drive- Vice President of McNary Home Owners Association, although he was not speaking for the Association. He addressed the staff report noting that he felt the inconsistencies noted in the report pertaining to the population. He asked if the study was adequate in view of the growth of Keizer above and beyond the expectations.

City Attorney, Shannon Johnson noted that this report was submitted by the applicant and was not part of the staff report and offered to have the applicant respond.

George Abel, 230 Snead Drive North, Keizer- expressed his opposition of the proposed development due to reasons of sanitary sewers and traffic issues. He felt the current facilities would not be adequate to take on the additional impact of further development and stressed that McNary Estates roads were privately maintained and that the homeowners did not wish to have the traffic from the development using the private streets.

Mr. Abel indicated that he felt the City must have significant concerns to request easement waivers releasing the City of Salem and the City of Keizer from the liability of noise and odor impacts. He stressed that they did not want McNary Estates associated with any

litigation or negative publicity as it would reduce their property values. Mr. Able requested that the city performs and review comprehensive studies on all adjoining communities associated with the development of the property prior to any zone change being approved. Mr. Able polled the audience with a show of hands as to agreed with his assessment.

Bud Heaman, 6423 Casper Drive- felt there was a problem with ingress and egress and drainage issues in the proposed subdivision and he urged the Council to consider this before taking action.

Ken Ewert, 799 McNary Estates Drive- felt information that he had received regarding the development that had taken place on McClure and the condominiums across from Crampton Drive had been misrepresented to him prior to the purchase of his home. He was told that this development would not take place in that area and he expressed he felt deceived that the developments did take place.

Steve Johnston, 660 Snead Drive- stressed that he felt a new study should be done at the treatment plant based on the amount of volume advancing from the plant at this date. He stressed that the Council consider the public involvement and note that McNary Estates is not interested in additional development taking place connected with McNary Estates. He felt the land within the SPA would be more suitable as farmland.

Jamie Gossett, 924 Irwin Court North- noted that the smell from the treatment plant had become worse and felt that additional development would increase this problem as well as, cause additional traffic problems to the area.

Dave Silverman, 6088 Crampton Drive- expressed concerns with who would be required to sign the easement and waiver releasing the Cities of Salem, Keizer and Marion County from possible litigation in the future.

City Attorney, Shannon Johnson indicated that the condition would be set forth in the ordinance and would be the developer prior to any platting. Also, those future purchasers of the property would understand that the property is subject to odor.

Myron Emery, 755 Castle Pines Drive- addressed the

CCR's for McNary Estates. He felt that it has become difficult for the homeowners association to maintain the CCR's as they are written and stressed with the addition of more development would stretch them beyond their limits to seek compliance.

Marcia Bednarczyk, 7775 O'Neil Road- referred to the report and requested that staff review the potential problems with homes being developed this close to the treatment plant.

Fred Lynn, 885 Crenshaw Loop- hoped that with the amount of turnout and resistance from McNary Estates that the Council would consider this prior to making any decision.

Roger McClain, 628 Palmer Drive- requested the legal status of McNary Estates pertaining to the rights of private property being required to allow public infrastructure to be attached to it.

City Attorney, Shannon Johnson indicated that this matter was between the homeowners and the developer. He noted that the city was not in a position to decide the McNary Estates privacy issues.

Councilor Keller shared Mr. McClain's interest in addressing whether this development was part of the original PUD.

Ed Heiman, 609 McNary Estates Drive-addressed the access issues along McNary Estates Drive. He felt Windsor Island Road should be considered as the access and egress for the new development.

Ted Goobic, 6049 Crampton Drive- indicated that he did not receive an answer to his question and did not feel the proponent should respond since the information he was addressing was in the staff report.

Responding to Mr. Goobic's concerns, City Attorney Shannon Johnson noted that it would be up to the Council to determine if the word "recent" in the report submitted by the applicant was an error. Mr. Johnson noted that the report Mr. Goobic was referring to did not indicate that the study was done in 1995 but that the plan "predicted by" 1995. Mr. Johnson also noted that the references to McNary Estates as part of the development was due to the fact that the applicant had referred to the development

as part of McNary Estates.

Donna Jongsma, 948 McNary Estates Drive- addressed problems with the drinking water. She indicated when the water table drops they draw from water from a pool that contains heavy iron, which causes staining and sometimes emits an odor.

Responding to questions, City Manager Eppley indicated that since the water is ground water it contains minerals, which can cause the discoloration and smell. He also noted that this situation does not strictly pertain to McNary Estates.

Councilor McGee indicated that the city's aqua fir was supplied west of Mount Hood and that rain and storm water weres not impacting the aqua fir.

Ms. Jongsma stressed that this should be researched as she had information which showed that wells were also being fed into the aqua fir.

Councilor Walsh requested that any written information that Ms. Jongsma could supply he would be interested in reading.

Steve Johnston, 660 Snead Drive- indicated that he felt the legal issue regarding McNary Estates property rights should be something that the city is interested in if the city is issuing permits to cut into private property.

Ken Sherman- supplied a rebuttal to the information supplied stressing that the developer had worked with the community and had strove to develop a less dense housing style and footprint than was originally planned.

Mr. Sherman addressed concerns regarding the odor from the treatment plan. He indicated that technology had improved and would continue to improve thus the city's confidence to reduce the footprint of the SPA. Mr. Sherman also addressed homeowner's concerns regarding issues of traffic, water and sewer stressing that once the once the Comprehensive Plan/Zone Change was approved the homeowner's issues would be addressed.

Mr. Sherman reviewed the suggested Indemnity Agreement and also stated that none of the proposed development was within the 1/2- mile radius and the

agreement would restore the original 1/2- mile radius. He also argued that he felt it would be in the best interest to keep this development as part of McNary Estates to allow the upkeep of the CCR's and for the new homeowners to pay for their share of improvements to the facility. He urged homeowners in McNary Estates to review their CCR's that state the right of the declarant to annex additional property into McNary Estates.

Jim Reimann- reiterated that the property they are asking to develop is outside of the 1/2- mile radius of the SPA and restated the comments that were made by Mr. Sherman pertaining to the easement situation.

Responding to questions from Council, Mr. Reimann indicated that the streets within McNary Estates were considered private and that the property in which they were attempting to develop had been annexed into McNary Estates approximately three years ago. He stressed that there was less development planned for this piece of property as originally shown in the PUD 20 years ago. Mr. Reimann also noted that his group had owned the property since the early 1970's with the understanding that the area would be developed once the issue of the treatment plant were resolved and that the infrastructure for the development was constructed primarily to handle 900 units. He stressed the wish to work with the homeowners in McNary Estates to address some of their concerns.

In response to Councilor Wilson's questions, City Attorney Shannon Johnson stated that the access question of a new subdivision through McNary Estates would be a question that would take place during the subdivision application. He again stressed that this hearing was for a Comprehensive Plan Map Change/Zone Change to change the property from its current designation to residential.

With further citizens wishing to testify the applicant indicated receiving further testimony was acceptable to him with his reserved right for rebuttal.

Janet Sides, 855 Crenshaw Loop- shared a copy of a letter dated September 6th to Stan Studerford, General Manager of McNary Estates. Ms. Sides read from the letter submitted by Marty Townsend and indicated that the letter read that the go ahead for the development had already been determined.

Mayor Newton indicated that was not the case.

Ken Sherman provided rebuttal to the letter stating that the development of the subdivision was subject to the approval of Council and they would continue to make a reasonable attempt to work with the property owners in McNary Estates.

Mayor Newton closed the public hearing and called a recess at 9:12 p.m.

The meeting was called back to order at 9:25 p.m.

Councilor Keller requested that the Ordinance contain the option for another access to the subdivision onto Windsor Island Road.

City Attorney, Shannon Johnson noted that this could be done, but normally was addressed during the subdivision approval process. He indicated if Council wished to add this information to the ordinance that it should be placed as part of Exhibit E Condition Number seven.

Mr. Johnson went on to state that all the conditions written in Exhibit E should be amended as mandatory requirements and not recommendations by the Public Works Department.

To clarify Councilor Keller's request for the optional access he indicated that this request would be to allow the Council and the developer to prepare for the possibility of another access at the time of the subdivision application.

Responding to questions, City Engineer Bill Peterson noted that the water system was comprised of 14 wells, a reservoir that was recently built with plans of one being built near the Activity Center. He indicated that the city's water source comes from 250 feet below the surface and noted the requirements from the state for this. Mr. Peterson went on to state that McNary Estates water source is fed from three sources noting the closest being near McNary High School. He shared that some of the discoloration and odor some residents experienced in their water was due to the water not circulating enough through the water lines and this is the reason for the public works department flushing the lines in an attempt

to minimize this effect. Mr. Peterson indicated that with the addition of new homes in McNary Estates that this additional development would not make any difference in the water quality in the area.

Councilor Keller moved a Bill for an Ordinance in the Application of Monterey Development Company for a Comprehensive Plan Map Change and Zone Change for Approximate 12.41 Acre Parcel Containing Portions of Tax Lots 700 and 900 Located West of McNary Estates PUD (Case No 00-51); Declaring an Emergency and Amending Exhibit E after Number Six, adding Number Seven to Read, " That the Developer Show an Optional Access to Windsor Island Road at the Time the Subdivision Plan is Submitted for Approval". Councilor Moir seconded the Motion.

Responding to questions, Mr. Johnson indicated that on the title report for the new homes being built in the area would indicate the plume area and easement for fumes.

Mayor Newton thanked the citizens for their input and noted the history of the SPA. He shared how the Council had continued to work this issue and stressed how they have successfully made progress with this topic and were looking forward to a resolution with the litigation with the City of Salem pertaining to the SPA area.

Councilor McGee concurred with Mayor Newton's comments and indicated that a great deal of the information brought out during the public hearing would be addressed during the public hearing of the subdivision. He went on to state that it was not appropriate land management to have this property remain as exclusive farm use within the UGB.

Councilor Walsh re-noted the many issues that were brought up by the public. He felt the issues addressed were important and would be further addressed at the time of the subdivision hearing.

The motion passed unanimously as follows:

AYES: Keller, McGee, Moir, Newton, Walsh and Wilson

(6)

NAYS: None (0)

ABSTENTIONS: None (0)

ABSENT: Christopher (1)

ADMINISTRATIVE ACTION

a. Radiant Drive Improvements

City Manager Eppley reported that Council had requested that staff investigate options available to improve access from the Lockhaven Drive/ Radiant Drive intersection to the Tepper Lane/Radiant Drive intersection and he introduced City Engineer Bill Peterson to provide additional information.

Mr. Peterson provided visual aids indicating Radiant Drive current alignment and three options for upgrade. He indicated that by off setting Radiant Drive to the east would be less expensive since they would be dealing with less property owners and the need to purchase right-of-way.

Responding to questions, Mr. Peterson indicated that these options also included estimates for infrastructure.

Mr. Peterson reviewed the options below as listed in the staff report and answered questions from the Council.

Option 1-A

Widening Radiant Drive on both sides that would result in negotiations with approximately 26 property owners. Some of the property acquisitions would involve compensation for existing improvements as well as property acquisition.

Option 1-B

Widening Radiant Drive on the easterly side only would result in negotiations with approximately 15 property owners. Additionally, development would also involve compensation for existing improvements, as well as, property acquisition.

Option 1-C

Widening Radiant Drive on the westerly side only would result in negotiations with approximately 12 property owners. Additionally, development would also involve compensation for existing improvements as well as property acquisition.

Option 2

This option involves widening the present Chemawa Road right of way along Lockhaven Drive to 68 feet and extending the improvement northerly along the I-5 right of way to a point that intersects with a southerly extension of Radiant Drive from it's intersection with Tepper Lane. Approximately 19 parcels are involved in Option 2.

Option 3

This option involves widening the present Radiant Drive right of way from Lockhaven Drive northerly to a point where a new roadway could be developed that would bypass much of the existing Radiant Drive improvement and also align with a southerly extension of Radiant Drive from it's intersection with Tepper Lane. Approximately 14 parcels are involved with Option 3.

The estimated costs for the options based without utility, sewer, water, legal, engineering surveying costs and contingencies are: Option 1(a)- \$1.4 million Option 1(b)- \$1.4 million and Option 1(c)- \$1.5 million. Option 2- \$1.8 million and Option 3- \$1.5 million. Mr. Peterson indicated by adding 25% to these totals would address the costs for legal, engineering and contingency costs.

Responding to questions Mr. Peterson indicated total costs for the options would be: Option 1(a) \$2.4 million, Option 1(b)- \$2.4 million, Option 1(c)- \$2.5 million, Option 2- \$2.5 million and Option 3- \$2.3 million. He noted that this did not include the 25% factor for contingencies.

The Council discussed the various options and felt public input was important. The Council also requested that Mr. Eppley contact the Walkers with Volcanoes Stadium to address the possibility of an extension of the lease pertaining to Radiant Drive improvements.

It was the consensus of the Council to receive public input during a work session on Monday, October 9th at 5:30 p.m.

b. Driveway Permit Process Transfer from Marion County

City Manager Eppley reported that Marion County currently issues driveway access permits for the City of Keizer. It was noted that County inspectors were not aware of all potential issues regarding driveway permits, such as access locations, Public Improvements required or not required drainage control issues and private drive versus public right of way.

Staff proposed to take over this inspection duty under the Public Works Department and recommended that Council direct staff to prepare an ordinance establishing a driveway access permit system effective October 2, 2000 with the current fee of \$50.00.

Councilor McGee requested the appropriate fee be designated opposed to using the \$50.00 since this is what

was charged when the County reviewed the permits.

Councilor Keller moved to direct staff to prepare a City Ordinance Establishing a Driveway Access Permit System Effective October 2, 2000, administered by the Keizer Public Works Department with the Current Fee of \$50.00 to be Review annually for the CPI. Councilor Moir seconded the Motion.

Councilor McGee requested an amendment of the Motion directing staff to review the costs related to the fee and bring the information back to the Council for Review. Mayor Newton seconded the amendment to the Motion.

Councilor Keller suggested keeping the fee at \$50.00 and reviewing again in one year.

Councilor Walsh added a friendly amendment that the fee would be re-evaluated in one year. Councilor Keller accepted the amendment.

The amendment to the Motion failed as follows:

AYES: None (0)

NAYS: Keller, McGee, Moir, Newton, Walsh and Wilson (6)

ABSTENTIONS: None (0)

ABSENT: Christopher (1)

The Main Motion containing the friendly amendment passed as follows:

AYES: Keller, McGee, Moir, Newton, Walsh and Wilson (6)

NAYS: None (0)

ABSTENTIONS: None (0)

ABSENT: Christopher (1)

c. City of Keizer Legal Services Requests for Qualifications

Human Resources Director, Dianne Hunt reported that Council requested that staff prepare a Request for Qualification for Legal Services.

Ms. Hunt noted how the position was advertised and the responses received. She also outlined the timeline and based on the receipt on one RFQ she recommended that the process be shortened and requested direction from the Council.

Responding to questions, City Manager Eppley indicated

that candidates that did not respond by returning the RFQ were contacted and that the response time was not an issue only the amount of workload in which they currently held.

Councilor Keller recommended that Council initiate discussions and negotiations with Lien and Johnson. He felt the Mayor and one senior Councilor attend these discussions.

Councilor McGee requested that a formal practice be outlined regarding the Council's authority to retain or remove legal counsel.

Mr. Eppley indicated language could be draw up pertaining to this.

Councilor Keller moved to recommend that Councilor McGee and Mayor Newton initiate discussions and negotiations for a Contract with Lien and Johnson. Councilor Moir seconded the Motion.

The motion passed unanimously as follows:

AYES: Keller, McGee, Moir, Newton, Walsh and Wilson
(6)

NAYS: None (0)

ABSTENTIONS: None (0)

ABSENT: Christopher (1)

**d. Special Policy Area
Action**

See Staff Report.

**e. Salem Stormwater
Management
Agreement**

City Attorney Shannon Johnson supplied a copy of a Resolution noting that instead of referring directly to "Statewide Goal 2", the exact language did not rise to the level of a land use decision although the language contained in the Resolution met the goals and interests.

Responding to questions, Mr. Eppley indicated that the Resolution would be incorporated into Salem's Storm Water Master Plan and policy within their organization.

Councilor Keller moved a Resolution Authorizing the City Manager to Sign the Stormwater Management Agreement Between the City of Keizer, the City of Salem and Marion County, (Repealing Resolution R2000-1202). Councilor Moir seconded the Motion.

CONSENT CALENDAR

The motion passed unanimously as follows:

AYES: Keller, McGee, Moir, Newton, Walsh and Wilson
(6)

NAYS: None (0)

ABSTENTIONS: None (0)

ABSENT: Christopher (1)

a. Approval of September 5, 2000 Regular Session Minutes

Councilor Moir moved for Approval of the Consent
Calendar. Councilor Wilson seconded the Motion.

The motion passed unanimously as follows:

AYES: Keller, McGee, Moir, Newton, Walsh and Wilson
(6)

NAYS: None (0)

ABSTENTIONS: None (0)

ABSENT: Christopher (1)

WRITTEN COMMUNICATIONS AGENDA INPUT

City Manager Eppley supplied a copy of a letter pertaining
to possible legal action on the Chemawa Activity Center.

September 25, 2000

5:30 p.m. Keizer City Council Special Session

- City Council Goal Setting

October 2, 2000

6:00 p.m. Reception for Salem-Keizer School District
Superintendent-Kay Baker

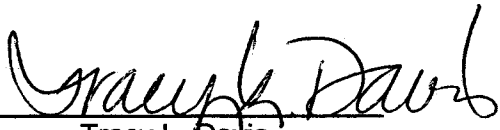
7:00 p.m. Keizer City Council Meeting

- Caruso's Italian Café' Liquor License Public
Hearing

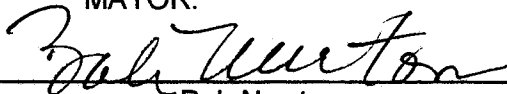
Mayor Newton noted the agenda items.

ADJOURNMENT

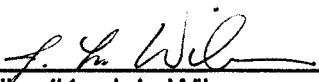
Mayor Newton adjourned the meeting at 10:45 p.m.


Tracy L. Davis
City Recorder

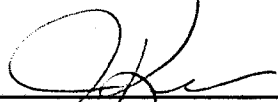
APPROVED:
MAYOR:

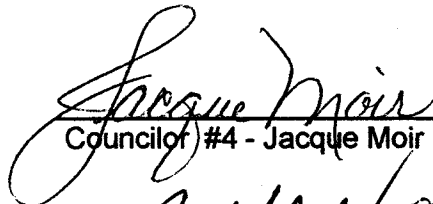

Bob Newton

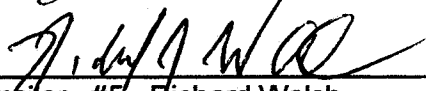
COUNCIL MEMBERS:

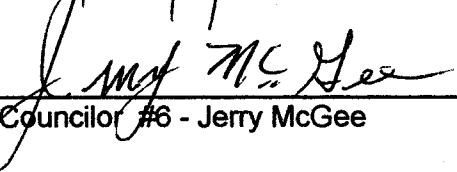

Councilor #1 - J. L. Wilson


Councilor #2 - Lore Christopher

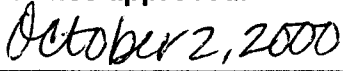

Councilor #3 - Jim Keller


Councilor #4 - Jacquie Moir


Councilor #5 - Richard Walsh


Councilor #6 - Jerry McGee

Minutes approved:


October 2, 2000