

MINUTES

KEIZER CITY COUNCIL
Tuesday, September 6, 1994
Robert L. Simon Council Chambers
Keizer City Hall
Keizer, Oregon

CALL TO ORDER

Mayor Dennis Koho called the regular meeting to Order at 7:00 p.m. Roll call was taken as follows:

Present:

Dennis Koho, Mayor
Jim Keller, Councilor
Jerry McGee, Councilor
Al Miller, Councilor (arrived 7:03 p.m.)
Chet Patterson, Councilor
Jerry Watson, Councilor (arrived 7:08 p.m.)

Absent:

Marlene Wellin, Councilor

Staff:

Dotty Tryk, City Manager
John Morgan, Community Development Director
Charles R. Stull, Chief of Police
Wally Mull, Public Works Director
Shannon Johnson, City Attorney
Tracy L. Davis, City Recorder

PUBLIC TESTIMONY

There was no public testimony to come before the Council.

COMMITTEE REPORTS

Volunteer of the Quarter Award

Chief of Police, Charles Stull introduced Chalmers Jones as the recipient of the Volunteer of the Quarter award. Mayor Koho presented Mr. Jones with a clock in recognition of the volunteer contributions Mr. Jones has provided over the many years as a resident of Keizer.

Mr. Jones thanked Mayor Koho, the Council and staff for the honor of receiving this award.

Housing Advisory Committee Report

Bob French, the City's liaison to the Housing Advisory Committee provided the Council with a report on the activities and issues being addressed by the Committee.

Mr. French distributed information to the Council regarding the Salem Housing Authority program, the history of the program and the assistance provided to Keizer residents through their programs.

Mayor Koho and the Council thanked Mr. French for his report and representation to the board on behalf of the City of Keizer.

**Planning
Commission
Appointments**

Dotty Tryk, City Manager announced the Volunteer Coordinating Committee is recommending the reappointment of Sam Goesch and Elaine Smith for three-year terms on the Planning Commission.

Councilor Patterson moved to appoint Sam Goesch and Elaine Smith for three-year terms on the Keizer Planning Commission. Councilor Keller seconded the Motion.

The Motion passed unanimously as follows:

AYES: Keller, Koho, McGee, Miller, Patterson and Watson (6)

NAYS: None (0)

ABSTENTIONS: None (0)

ABSENT: Wellin (1)

**PUBLIC
HEARINGS**

Mayor Koho reopened the public hearing which was continued from August 1, 1994.

**ORDINANCE -
Manufactured Home
Standards (continued
from 8-1-94)**

Shannon Johnson, City Attorney noted this is a legislative amendment to the zone code which involves proposed changes to the roofing and siding requirements for manufactured homes in residential zones. Mr. Johnson noted the testimony received during the August 1st hearing focused on siding types rather than roofing types. As a result of this testimony, Mr. Johnson recommended the following list in the Ordinance:

- Horizontal lap siding composed of wood, or other materials giving the appearance of wood;
- Vertical or horizontal grooved siding composed of wood or wood composites;
- Board and batten siding composed of wood or wood composites; and
- Brick, brick veneer, stucco or other masonry materials.

Mr. Johnson also clarified the word predominant; majority, if there is a majority, of houses using the same materials, or the greatest plurality, if there is no majority of houses using the same materials. However, the surrounding comparison would only be used if the applicant did not have siding material that complied with the list. Mr. Johnson noted if a list is adopted, it will clearly outline the accepted materials for the applicant and staff.

In response to a question from Councilor Keller, Mr. Johnson noted the wording is verbatim from the statute with the exception of the listed materials.

Councilor Watson noted the applicant will forfeit his ability to determine the community standard in this process. He also suggested including language which states these materials were determined to be commonly used in the community.

Mr. Johnson stated the review area would be the five closest houses within 250 feet on the same street. Councilor Watson noted the Ordinance should also include a definition of surrounding dwellings for both the garage and the dwelling.

Providing testimony was:

Don Miner, Oregon Manufactured Housing Association, 2255 State Street, Salem complimented the staff on the revisions to the Ordinance. He asked that the definition of composite be listed in the Ordinance. Mr. Miner also suggested the inclusion of diagonal to the horizontal and vertical siding section.

There was no other testimony to come before the Council.

Councilor Patterson moved to have staff prepare an Ordinance for the Council's consideration on September 19, 1994. Councilor Watson seconded the Motion.

Councilor McGee questioned the inclusion of horizontal and vertical as long as the materials being used meet the defined criteria.

Councilor Keller noted the statute was created by special interest groups compromising in order to gain passage of this bill which resulted in not being well written. He suggested charging the City Manager with the task to take this back to the legislature to have it rewritten. Councilor Watson agreed this is a defective statute.

The Motion passed with the following votes:

AYES: Koho, McGee, Miller, Patterson and Watson (5)

NAYS: Keller (1)

ABSTENTIONS: None (0)

ABSENT: Wellin (1)

**Conditional Use Case
No. 93-9 (Brewster)**

Mayor Koho reopened the public hearing which was continued on August 1, 1994.

Shannon Johnson, City Attorney outlined the procedure and applicable criteria for this hearing.

John Morgan, Community Development Director noted that during the testimony on August 1, there were several points raised that required clarification. He noted Mr. Brewster intends to place a 1989 double-wide manufactured home on the specified lot. Mr. Morgan reported the staff decision and the hearings officer decision stated Mr. Brewster will be required to show the specific conditions have been met at the time a Manufactured Home Set-Up Permit is considered. In addition, Mr. Brewster and several neighbors have met to resolve their difference with the assistance of a mediator.

Mr. Morgan noted the receipt of a letter from Bill Sanders citing concerns about the failing septic tank of Mrs. Watson, the applicant, and the possible inclusion of a requirement to hook up to public sewer. In response to this concern, Mr. Morgan noted the partitioning was approved in January 1994 which should have included this condition of approval if so desired. However, this matter has been reviewed by the Public Works Department at the time the staff decision was issued.

Mr. Morgan recommended the Council reopen the hearing, take testimony, close the hearing and direct staff to prepare an order approving the conditional use permit in this matter.

Providing testimony to the Council was:

Ron Brewster, 3246 Turner Road SE, Salem advised the Council he will be placing the 1989 manufactured home as originally stated on the application. He also noted he intends to meet all the conditions as outlined in the Keizer Zoning Ordinance.

Mayor Koho noted the Hearings Officer Order specifies a 1991 manufactured home rather than the intended 1989 home. In response to a question from Mayor Koho, City Attorney Johnson stated the variation in the year of the home as stated by Mr. Brewster does not require a new application. Mayor Koho stated Mr. Brewster misrepresented the actual year of the home in his previous testimony. Mr. Brewster noted the home was built in 1989, however he purchased it new in 1991.

Councilor Watson shared his concerns with the misrepresentation by Mr. Brewster, however he regards it as a miscommunication rather than an intentional misrepresentation.

Councilor McGee noted the year of the home is irrelevant as long as it meets the standards outlined in the zoning ordinance.

Bill Sanders, 399 Hazelbrook Drive, Keizer stated he was unaware the conditional use and partitioning, which has been approved previously were separate issues. However, he recited his concerns with the septic issue he raised in the letter. Mr. Sanders noted in his work for Clackamas County, it is mandatory in similar cases for the party to hook up to the public sewer system. He requested the suggestions outlined in his letter be included in the conditions of approval in this matter. Mr. Sanders suggested the City of Keizer adopt an overall policy to require connection to the sewer system in each partitioning case.

In response to a question from Councilor Watson, Public Works Director Wally Mull stated at the time of partitioning, the sewer system was at full capacity, and was not required to hook up to the system since an adequate system was in place.

In conclusion, Mr. Sanders urged the City to develop a policy regarding this issue.

Pat Radtke, 328 Hazelbrook Drive, Keizer agreed with Councilor Keller's assessment the state statute has created a problem for the City of Keizer. By allowing Mr. Brewster to place the manufactured home adjacent to Orchard Crest subdivision, the residents will be considered losers and this should not be the intent of the law. Ms. Radtke noted Mr. Brewster is only trying to manipulate the City Council on this issue.

There was no further testimony to come before the Council.

In response to a question from Councilor Patterson, Mr. Morgan noted the application is to place a single-family home on a lot in a urban transitional zone, it does not specify the type of the home. City Attorney Johnson stated the standards should be listed as specific conditions of approval for the actual placement of the home.

Mr. Morgan confirmed Mr. Brewster testified he would place lap siding on the side which faces the street. This condition would be listed in the Order for approval.

Councilor Keller noted the neighbors would like some certainty as to what type of home will be placed on that lot. Mr. Morgan noted specific standards for placement of a manufactured home are included in the zoning ordinance.

Mayor Koho relayed his concern with the misrepresentation by Mr. Brewster of the specific home he intends to place on the property in question.

In response to a question from Councilor Keller, Mr. Johnson stated the Hearing Officer's decision, which specifies a 1991 model home, would not be adopted in this case.

Councilor Patterson stated the previous decision made by the Council was correct and the Department of Land Conservation and Development erred.

Councilor Watson noted the house either meets the criteria in the Ordinance or it meets the community standard. This is the issue which needs to be decided.

Mayor Koho closed the public hearing.

Councilor McGee moved to accept the staff recommendation to have staff prepare an Order for approval for the manufactured home which meets the standards and the conditions referred to in the staff recommendation, i.e. siding. Councilor Miller seconded the Motion.

Councilor McGee stated the law is less than perfect and should be addressed at a future date, however, the manufactured home in question meets the standards. He also sympathized with the neighbors with their unhappiness in this situation.

Councilor Miller stated the City needs to abide by the state statute and believes the misrepresentation of the year is not a reason to deny the conditional use. He also cautioned the Council of the possible expense of defending this issue if appealed.

Councilor Keller stated the Council has an obligation to the established neighborhood to provide a sense of certainty of what type of home is being placed on the lot.

Councilor Keller moved to amend the Motion to add the identity of the manufactured home as a 1989 Silvercrest double-wide as stated by Mr. Brewster this evening. Councilor Patterson seconded the Motion.

Mayor Koho stated he cannot support the motion due to Mr. Brewster's credibility on this issue.

Councilor Watson moved to amend the Motion to state Council should approve the Conditional Use subject to all of the conditions set forth in Section 12.03, 17.19(a) and all of the conditions Mr. Brewster agreed to during the course of the hearings before the Council and make a determination the year of the manufactured home, 1989 or 1991, is irrelevant and all of the other descriptive of the home, model etc., as put forward in the testimony or that are part of the record of the hearings officer be listed as conditions of approval. Councilor McGee seconded the Motion.

The amendment to the Motion passed as follows: (Watson amendment)

AYES: McGee, Miller, Patterson and Watson (4)
NAYS: Keller and Koho (2)
ABSTENTIONS: None (0)
ABSENT: Wellin (1)

The amendment to the Motion passed as follows: (Keller amendment)

AYES: McGee, Miller, Patterson and Watson (4)
NAYS: Keller and Koho (2)
ABSTENTIONS: None (0)
ABSENT: Wellin (1)

The Main Motion as amended passed as follows:

AYES: McGee, Miller, Patterson and Watson (4)
NAYS: Keller and Koho (2)
ABSTENTIONS: None (0)
ABSENT: Wellin (1)

Councilor Watson moved to adopt a Resolution requesting the League of Oregon Cities to add to its' legislative agenda for next year consideration of amendments to the manufactured housing state law particularly the ambiguities the City has encountered throughout this process. Councilor Miller seconded the Motion.

Councilor Keller cited his opposition to this motion stating the City of Keizer should pursue this matter rather than the League of Oregon Cities. Councilor Miller cited the lack of resources for the City to pursue this issue.

The Motion passed with the following votes:

AYES: Koho, McGee, Miller, Patterson and Watson (5)

NAYS: Keller (1)

ABSTENTIONS: None (0)

ABSENT: Wellin (1)

ADMINISTRATIVE ACTION

Resolution - Planning Fees

Dotty Tryk, City Manager reported the current planning fee schedule was adopted in 1992 when the City established its' own planning program. Based upon two years of experience and the recommendation of the planning task force, staff has revised the fee schedule.

John Morgan, Community Development Director noted these minor adjustments have been developed based upon the amount of time the department spends with developers and individuals on specific issues. Mr. Morgan noted a major change will occur with the charge for multiple applications.

City Manager Tryk added these proposed changes have been sent to the Home Builders Association for review.

Mayor Koho stated he was contacted by the Home Builders Association with their concerns regarding these changes.

Councilor McGee also voiced his concern with the recommended changes in the proposed fee schedule and wording in the Resolution.

The Council agreed by consensus to hold this matter over until September 19, 1994 to allow staff to discuss the concerns with the Home Builders Association.

ORDINANCE

School District Zone Change for New Clearlake School

Dotty Tryk, City Manager noted the zone change was approved by the City Hearings Officer in late 1992. Since an appeal was not filed on this change, she recommended adoption of the Ordinance.

Mayor Koho moved a bill for an Ordinance in the matter of the application of Salem-Keizer School District 24-J for a Zone Change from UT (Urban Transitional) to RS (Single Family Residential) and a Conditional Use to Establish an Elementary School on Approximately 14.99 acres of property in which the City grants approval in accordance with the Keizer Hearing Officer's Recommendation/Order dated December 7, 1992. Councilor Miller seconded the Motion.

The Motion passed with the following votes:

AYES: Keller, Koho, McGee, Miller and Watson (5)

NAYS: None (0)

ABSTENTIONS: Patterson (1)

ABSENT: Wellin (1)

CONSENT CALENDAR

The Consent Calendar consisted of the following:

- a. RESOLUTION - 1993-94 Street Light Certification
- b. RESOLUTION - Certification of Delinquent Sewer Accounts
- c. Approval of August 10, 1994 Special Session Minutes
- d. Approval of August 15, 1994 Regular Session Minutes

Councilor McGee removed item "c" from the consent calendar.

Councilor Keller moved for approval of the remaining items on the consent calendar. Mayor Koho seconded the Motion.

The Motion passed as follows:

AYES: Keller, Koho, McGee, Miller, Patterson and Watson (6)

NAYS: None (0)

ABSTENTIONS: None (0)

ABSENT: Wellin (1)

Item "c"

Due to his absence at the meeting, Councilor McGee abstained from voting for the approval of the minutes of August 10th.

Councilor Keller moved for approval of the August 10, 1994 Special Session Minutes. Mayor Koho seconded the Motion.

The Motion passed with the following votes:

AYES: Keller, Koho, Miller, Patterson and Watson (5)

NAYS: None (0)

ABSTENTIONS: McGee (1)

ABSENT: Wellin (1)

OTHER BUSINESS

City Manager Tryk announced Sgt. Dave Kominek had suffered a heart attack and was in the hospital.

City Manager Tryk advised the Council a letter had been received from the school district requesting the removal of the fence on Sandy Drive based on results of a recent evaluation. She noted the new access road being constructed will be open in three weeks, which may change the results of this evaluation.

The Council agreed by consensus to continue to pursue the closure of Sandy Drive and have the City Manager meet with school district representatives to discuss their concerns.

There was no other business to come before the Council.

WRITTEN

COMMUNICATION

There was no written communication to come before the Council.

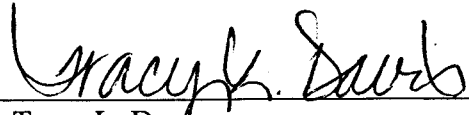
AGENDA INPUT

Mayor Koho noted the agenda input items listed.

Councilor McGee announced the backyard burning season is scheduled to begin on October 1st. In June, 1994 the Council approved a motion to with several issues regarding backyard burning in Keizer. Councilor McGee requested the Council and staff discuss three of these issues at upcoming Council meetings; coordinate a community informational campaign, develop a list of burning etiquette and adoption of state statutes for enforcement within Keizer.

ADJOURNMENT

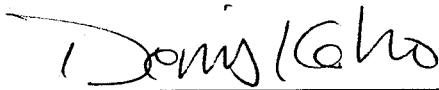
The Meeting was adjourned at 9:15 p.m.



Tracy L. Davis
City Recorder

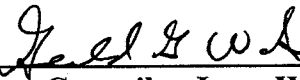
APPROVED:

MAYOR:



Dennis Koho

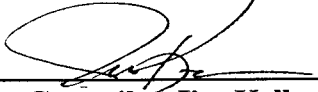
COUNCIL MEMBERS:



Councilor Jerry Watson



Councilor Chet Patterson



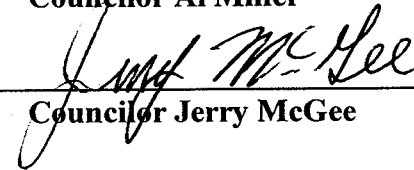
Councilor Jim Keller

(absent)

Councilor Marlene Wellin



Councilor Al Miller



Councilor Jerry McGee

Minutes approved:

