

MINUTES
KEIZER CITY COUNCIL
Tuesday, September 3, 1996
Keizer City Hall
Robert L. Simon Council Chambers
Keizer, Oregon

CALL TO ORDER

Mayor Koho called the regular meeting to order at 7:08 p.m.
Roll call was taken as follows:

Present:

Dennis Koho, Mayor
Carl Beach, Councilor
Jim Keller, Councilor
Jerry McGee, Councilor
Al Miller, Councilor
Bob Newton, Councilor
Jerry Watson, Councilor

Staff:

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

**PUBLIC
TESTIMONY**

Addressing the Council were:

Larry Haddon, 1038 Ventura Street N, Keizer states he put a lot of thought into an article he wrote and doesn't want to offend anyone but Keizer citizens need to know what's going on. He talked to many residents and still hasn't found anyone excited about the baseball stadium.

He read the letter referring to the stadium requesting the citizens vote on the issue.

Mayor Koho added if it happens the property will remain on tax roll at an increased valuation creating much higher tax revenues for Keizer. A hearing is scheduled for Thursday, September 12 for general public comment. Only after further public input will council move forward.

Eric Leadley, 920 Cade Street, Keizer informed the Council he has found that Cade Street is not a dedicated street. The residents of the area want it left the way it is.

Mayor Koho asks John Morgan, Community Development Director if he received copies of the documentation. Mr. Morgan responds that he hasn't seen the deeds at this time. The City Engineer disagreed with the findings and believed the right-of-way does exist. The property divisions are very old and somewhat unclear. Mayor Koho added that if the City has the right to make improvements, it doesn't necessarily mean that we should or will.

Mr. Leadley explained that the Marion County Surveyor's office shows half the street at 60 feet and the other half is 20 feet. His deed says the street is a public access and only 10 feet is set aside for right of way.

Mayor Koho asks that he share his documentation with staff.

John Morgan reported there will be a public forum on September 18 at Salem Mennonite Church on Candlewood to gather input from Cherry Avenue residents. The plan will go to the Planning Commission prior to coming before the Council. Mr. Morgan estimates the first of the year before adoption of a final document.

Responding to an inquiry from Councilor McGee, Mr. Morgan notes that there was 100% participation two weeks ago in a neighborhood meeting and he expects the same for this one. Notice will be distributed to all property owner using an updated list from Marion County.

Councilor McGee says some of those citizens felt that there was a good turnout but it was due to citizen communication, not the city notifying them. John agrees they communicated effectively.

Mr. Leadley also informed the Council LaBrisa Restaurant is putting up an AT&T tower.

Mr. Morgan stated it is allowed by the zoning ordinance under the commercial zone. Towers and antennas are excluded from the 50' height limitation in the Commercial Retail zone. The City Planner had advised AT&T of the possibility of the Cade Avenue extension suggesting they wait, however there is nothing to stop this construction.

Councilor Keller assures Mr. Leadley that though the process may seem lengthy, it is a good process and it does work.

Mr. Leadley points out that the lady that wrote the article in the Keizer Times is a senior citizen and all the seniors want Plymouth Ave improved. He suggests they go there and leave them alone.

There was no further public testimony to come before the Council.

COMMITTEE REPORTS

Dotty Tryk, City Manager reported at the August 19th meeting, the appointments to the Planning Commission were tabled until tonight.

PLANNING COMMISSION APPOINTMENTS

Mayor Koho informed the Council he spoke with Manny Martinez and emphasized nobody would not be re-appointed to a committee simply because they disagreed. He suggested reappointing Mr. Martinez and also appoint Mr. Alan Youse to fill the other vacant position on the Planning Commission.

Mayor Koho Moved to reappoint Mr. Martinez and Allen Youse to the planning commission. Councilor Keller seconded the Motion.

The Motion passed as follows:

AYES: Beach, Keller, Koho, McGee, Miller, Newton and Watson (7)

NAYS: None (0)

ABSTENTIONS: None (0)

ABSENT: None (0)

VOLUNTEER COORDINATING COMMITTEE APPOINTMENTS

Dotty Tryk, City Manager reported this committee is composed of appointments made by each Council member. There are two vacancies as of the end of August. The terms of Ruth Schrag Gilbert and Mike Gaynor expired on August 31, 1996. These individuals served in Councilors Newton and Kellers positions.

Councilor Keller nominated Kim Carter for a three year term and Councilor Newton nominated Leslie Hendrickson for a three year term on the Volunteer coordinating Committee.

Councilor McGee moved that the names of Leslie Hendrickson and Kim Carter be approved as appointments to the Volunteer coordinating Committee. Mayor Koho seconded the motion.

The Motion passed as follows:

AYES: Beach, Keller, Koho, McGee, Miller, Newton and Watson (7)

NAYS: None (0)

ABSTENTIONS: None (0)

ABSENT: None (0)

COUNCIL LIAISON REPORTS

Councilor Beach announced he was not present at the last **River Road Redevelopment Board** meeting and was therefore unavailable to give a report at this time.

Councilor Keller reported the **Community Policing Committee** had a meeting on August 28. They are reviewing a prostitution ordinance, prostitution-free zone and a drug-free zone for the City. Jim Warner, chairman of the committee, is reviewing a speed deterrent program used by Salem. The citizens patrol is on hold until January when the program will start. Councilor Keller is concerned with the lack of reporting the positive things that happen in the community. He suggests a monthly report to the Council on the successes of the Police Department.

Councilor McGee supported providing a balanced report to the community.

Councilor Watson agrees with Councilor McGee adding that more information is always valuable and it should be shared with the public. Statistical data should be routinely collected and then citizens should be allowed to interpret the data.

Councilor Keller pointed out the crime statistics are already collected. He added this information could be shared with the audience viewing the Council meetings.

Mayor Koho suggests a report be prepared for a few months and council keep notes for goal-setting/team-building that he hopes will be available in November. At that point Council can establish which reports they want in the future.

Responding to an inquiry by Councilor McGee, City Manager Tryk indicated when the staff was increased and duties rotated, these reports were discontinued.

Councilor Newton states that goals were set with the city manager for community policing and other police activities. He states that they have already designated the information they want because they set the goals, now they just need the reports.

Mayor Koho mentioned candidates for Council should give some input on the types of information they wish to relay to the citizens.

PUBLIC HEARINGS

ORDER - HIDDEN CREEK SUBDIVISION AMENDMENT

Mayor Koho pointed out the Hidden Creek Planned Unit Development and the issue of cleaning Labish Ditch are very similar. Therefore, a decision on one is probably a decision on both. He adds that this council is very open-minded and interested in public input for a solution.

Mayor Koho opened the public hearing.

Shannon Johnson, City Attorney reviewed the applicable criteria and procedure for this hearing. He asks if there are any questions or if any councilor has a conflict of interest on this issue.

Councilor Watson reported he lives along Labish ditch although his property is not in the area near the Hidden Creek Planned Unit Development. He believes this does not prohibit him from participating in this hearing.

Shannon Johnson explained this amendment proposes to amend condition number eight of the Hidden Creek approval which has to do with a 30 foot buffer of the southeast side of the subdivision next to Labish Ditch. That buffer is not to be disturbed except under certain circumstances.

John Morgan, Community Development Director reports there are two hearings this evening; one is whether the ditch should be cleaned and if permission can be given to access the ditch within the thirty foot buffer zone. This is moot if council chooses not to proceed with the ditch cleaning because the land-use issue is then irrelevant. In 1993 the development was approved by Council and treatment of the ditch was controversial at that time. The condition of approval specifically says that restrictions placed on the property must be within the easterly 30 foot' of the property and no living trees, brush, or other vegetation shall be removed or cut except those that are dead or dying, poison oak/ivy, public safety purposes, blackberries controlled, other as certified by Fish and Wildlife or other state agency. Condition B says any trees or plants removed shall be replaced with vegetation appropriate for area wildlife determined by Oregon Department of Fish and Wildlife.

Mr. Morgan continues saying the focus tonight is to address the issues raised from the February, 1996 flood. The new 100-year flood plain map was released a few weeks ago and

with accumulation of debris in the ditch, this is a factor in additional potential flooding. To allow cleaning of the ditch, access must be obtained. The proposed change adds a 5th reason to remove debris or vegetation. Mr. Morgan pointed out the cleaning cannot be done without intrusion in the thirty foot buffer. Furthermore, he indicated the amendments require the replacement of any trees or vegetation removed.

Councilor Beach asks Mr. Morgan about vegetation removal and whether replacement also requires leaving access points without vegetation.

Councilor McGee states it sounds good except where access is needed today may not be the same site as in the future. He also challenges anyone to find where the backhoe went into the ditch during the flood in February. It's covered with vegetation/brush already.

Wally Mull, Public Works Director pointed out a backhoe was used in the ditch in February. However, if this is approved he will conduct an inventory to determine the necessary access points. FEMA established the February flood as a 50-year flood. Staff is awaiting a final report from FEMA on any major improvements necessary to lower the flood plain. One known improvement is to clean Labish Ditch. Our engineers believe that a cleaner ditch increases water velocity to manage smaller floods better thus reducing the size of the larger floods. The intent is to clean the ditch of debris and dangerous trees.

Mr. Mull indicated the developers have offered to pay for cleaning the ditch adjacent to their subdivisions. Furthermore, there is a section the City may be obligated to clean. Mr. Mull recommends Public Works coordinate the cleaning if approved and include state lands, fish and wildlife, a councilor and possibly someone from the Gubser Neighborhood Association. This committee would oversee the cleaning.

Councilor Watson requests clarification of what the developer will maintain. He understood the developer was willing to pay the full costs of cleaning up to River Road. Mr. Mull noted this was not the understanding.

Responding to additional questions by Councilor Watson, Mr. Mull stated it may not be necessary to get down in the bottom of the ditch for all of the cleaning since it is very steep at some points. Problem areas can be accessed with a trackhoe which can operate from along the edge. Furthermore, Mr. Mull pointed out they will not be removing grass or vegetation from the creek itself, only debris which restrict the flow of water.

Shannon Johnson, City Attorney explained the his understanding of the definition a ditch and a ditch bank. He indicated the flood mitigation plan should show this in detail.

Councilor McGee is intrigued by the concept. His concern is more about the level of distrust from the community toward staff and council. A committee may help this. He believes a committee may be effective in this process.

Councilor Newton hoped minimal equipment would be used in this clean up process.

Presenting testimony to the Council were:

Ken Sherman, Jr., 687 Court St., Salem (PO Box 2247, Salem 97308 reported he is representing three separate clients on this issue. The first is West Labish Drainage and Water Control Improvement District which was formed in 1980 to keep this ditch clean. The members are 30-40 farmers in the Lake Labish area. He also represents the two developers which developed the subdivisions along Labish Ditch. Reimann and Associations with (Hidden Creek subdivision and Larry Epping of the Country Glenn subdivision) Each of his three clients strongly support this proposal. Mr. Sherman pointed out the ditch was created and exists to provide drainage. regardless of how clean the upper portion of the ditch is, it doesn't work if the lower portion is full of debris.

Mr. Sherman indicates his research shows the farmers have a prescriptive easement or that they have the right to go in and keep it clean. However, it makes more sense to work with the City to provide maintenance for that portion of the ditch. Mr. Sherman hopes this can be a cooperative effort by all parties involved. Mr. Sherman notes they are a bit troubled by the language in the new proposed; sub (b) which states any material removed must be replaced with vegetation appropriate to the area, however he is encouraged by Mr. Morgan's comments on reasonable flexibility. Mr. Sherman also stated the ditch must be kept clean in order to work properly. If a committee is assembled the farmers should be considered on this committee. However, if this does not work, the farmers have a right to exercise their prescriptive rights.

Mr. Sherman requested his testimony be made part of the record of this hearing and the hearing on the cleaning of Labish Ditch.

Mayor Koho voiced his concern with the comments made by Mr. Sherman regarding the farmers right to move in and take care of any problems with the ditch.

Mr. Sherman remarked the farmers had very significant problems and damage due to the water being plugged downstream. However, since so many property owners are impacted, it's entirely appropriate that the City be part of the solution. Mr. Sherman indicated it is only necessary to remove the debris to facilitate drainage. A ditch is designed to convey moving water and aesthetics are nice, but of secondary importance.

Councilor Beach added he visited the ditch today and was surprised to find the access during the flood was already covered with new vegetation. He indicated the professional engineers should make the final decision on the level of removal.

Responding to an inquiry by Councilor Watson, Mr. Sherman noted his prior memo states the property owners abutting Labish Ditch should be responsible to keep their portion of the ditch clean, however at this time he is focusing on the City's role in this problem. Furthermore, the prescriptive easement of the farmers is wide enough to accomplish the purpose of cleaning out the ditch. The prescriptive easement is for maintenance purposes only. Mr. Sherman also replied Mr. Epping and Mr. Reimann would be willing to work with the City to create a permanent easement near their developments for cleaning purposes. He noted the developers are willing to contribute to the costs of the cleaning now but there is no future commitment.

Mayor Koho voiced his concern that the farmers upstream could have a right to come in and do what they want but the City can't do what it feels necessary. He hoped a cooperative agreement could be reached on this matter.

In closing, Mr. Sherman stated the maintenance of the Parkersville dam is the East Labish District not the West Labish Ditch District.

Dan Kaplan, 6607 14th Ave. NE, Keizer reported he has lived at his residence for 16 years and is one of those who distrusts the City. He believes a balance must be reached. He wants to know where the farmers were all the other years and why did it suddenly become an issue. He added that his deed marks the property line at the center of the ditch, not just to the banks. regarding conditions set in 1993, he states no vegetation was

ever replaced after that. His son fishes in the creek every year and cutthroat trout are becoming very scarce.

Mr. Kaplan read a letter from Sam Friesen (also a 14th Avenue resident). He's in 6th grade and really enjoys the creek. Mr. Kaplan stated these are the issues that must be considered prior to making any decisions.

Dave Guile, 6717 14th Ave. NE, Keizer noted he would like his comments considered for both issues. He remembers talking to neighbors about the importance of forming the City of Keizer to avoid big city politics. Everyone wants to participate in decisions and when council asked for input regarding the flooding, he requested the Gubser Association be involved before any proposal was developed. He checked and reported there has been no contact as of August 21. However, the developers indicate they have had numerous contacts with the city so he is concerned about their relationship with council.

Mr. Guile presented four proposals developed for the Council to consider:

- First, they believe the flooding should be prevented if possible. Parkersville Dam work should proceed as fast as possible and the culvert under the back path behind Swingwood Court should be examined, it may be too small.
- The amount of water going into and out of the ditch should help eliminate flooding. Therefore, they do not support the use of machinery to clean out the ditch. It is not easy to replace a 30-year old tree and the current language allows removal of dead/dying trees right now if that's part of the problem.
- They believe that some ditch cleaning is needed. He has cleaned it by hand twice and the neighbors are also willing to help do this. Except if there are huge trees with roots in which case equipment may be needed.
- Since this is about public safety the whole Council must approve the plan.

Mr. Guile requests a seat at the table in this decision. He asks members of the Gubser Association to stand as he is speaking for them. (Several members of the audience stand in support)

Councilor McGee says that some areas of the ditch would be very difficult to do by hand but that he has no doubt that these neighbors could do it. He would like to see the committee assembled and operational to develop the plan with full consensus. He feels that equipment will be needed in some places.

Councilor Miller agrees with Councilor McGee adding that if Mr. Guile is looking at a limited area and is there another group for another limited, it must be coordinated.

Responding to a concern voiced by Councilor Miller, Mr. Mull indicated an inventory of the debris to be removed could be completed within the next few weeks.

Councilor Miller confirms that Mr. Guile and his group would be ready by that time. He is concerned about the October 28 date because it's very close to bad weather and if it doesn't happen there's not much time.

Responding to an inquiry by Councilor Beach, Mr. Guile responds that it is time to work together to prevent future flooding. Also, much of the vegetation provides habitat to local wildlife and hopes most of it to remain. He doesn't feel anyone will do any more damage than necessary.

Mr. Guile agreed the proposed wording should be changed to require the City to do as much as possible by hand and choose the least intrusive methods.

Wayne Dixon, 1290 Hidden Creek Dr, Keizer stated he is new to the area and doesn't have all the previous background, however after the February flood there has to be a consideration for drainage versus aesthetics.

Ronnie Dixon, 1290 Hidden Creek Dr, Keizer reported there is no control over the fire and water and it could be a shorter time than fifty years before another flood. With the upcoming rainy season quickly approaching, the sooner this area is cleaned the better. She noted it is essential the residents and the City work together on this important issue.

Ruth Jacobs, 1349 Hidden Creek Dr., Keizer recently moved into the Hidden Creek subdivision. She says it sounds like headway is being made as a cooperative effort to clean the ditch.

Al Allen, 1380 Lazy Creek Dr, Keizer is concerned that this will be studied too long. It's been a year now since the flood and he dumped all his sandbags. He urged the Council to move forward on this proposal.

CL and Jan Johnson, 1371 Stonehedge Court, Keizer both concur with Dave Guile.

Beth Daniell, 6772 Amy Lane NE, Keizer thanked the Council for coming to the Gubser Neighborhood Association meeting and talking to people along the ditch about the situation. At that time it was mentioned that they may clean the ditch, possibly working on a grant to supplement the dam, and finally adding culverts. There were plans to have maps available to show results of the three proposals.

Dotty Tryk, City Manager responded the engineering firm is working on them and it will be about 4-5 weeks before they are complete. City Manager Tryk indicated there will be several meetings over the course of the fall and winter to discuss these maps.

Ms. Daniell is pleased to hear about the plan to move ahead with a committee and the full inventory.

Frank Dake, 1267 Manzanita Way, Keizer abuts the footbridge next door to Councilor Watson. He was at the Gubser meeting and believes he is the oldest resident at the creek anywhere, he's been there over 30 years. The developer told him that his property did not flood in 1964. Mr. Dake hasn't heard from anyone about the 1969 flood and he was flooded at that time. However, he was flooded this past February in the 50-year flood.

Mr. Dake believes the bottleneck is not at River Road, but at the culvert in his back yard. The upstream side was 1.5' higher than the downstream side. The water flowed over the bike path (footbridge). This flood was much worse with greater force. He first moved there when it was Brooks Fire District and every time it was needed they did clean the ditch. They used a backhoe and cleaned it out completely. He has also been in the ditch to clean it out. He adds that by cleaning out the ditch it allows the minor flows to flow faster so that when the next flood comes the creek will flow freely and will not back up.

Responding to an inquiry by Councilor McGee, Mr. Dake believes Marion County installed the culvert. It was mapped incorrectly and cuts through part of his yard. He added the culvert is definitely too small. Mr. Dake believes the culvert should be increased in size.

Councilor Watson noted he has lived there eleven years and no one has ever cleaned the ditch out. He believes the last time the ditch was cleaned was in the 1960's.

Responding to a question from Councilor Watson, Mr. Dake indicated he would hate to lose the Ash tree because its roots are holding his bank. He has probably lost 8-10 feet due to erosion all along the length of the creek. Losing the tree would probably cost him about another 10 feet of property.

Councilor Watson pointed out some form of stability may need to be installed to maintain the bank in this area.

Susan Olson, 6814 Arborwood Court, Keizer made the decision to evacuate on her own in the February flood and feels the ditch cleanup needs to happen. She doesn't feel the city wants people down there taking pictures in preparation for litigation. She feels a neutral party needs to mediate the committee so owners aren't deciding which ones they like because of aesthetics. Ms. Olson pointed out that nobody invited the people in the Hidden Creek or County Glen subdivisions to participate along with the Gubser people. She feels they should all be included in the process.

Mayor Koho agrees that those on both sides must be involved.

George Sarsfield, 1174 Springwood Court, Keizer stated he feels Keizer is doing a good job formulating this plan. He suggests the City encourage as many homeowners as possible to move out of the flood plain. He has a fence down close to the ditch and kids which play in the back yard but is willing to move the fence and grapes and anything else to help the flood situation.

Ches Tretheway, 460 McNary Height Dr, Keizer has lived at his residence for approximately one year. He listened carefully to the testimony of Mr. Sherman who made a veiled threat that the farmers upstream have a common law prescriptive right to clean the ditch. He explains that a prescriptive right exists only by virtue of the use. The same history that Mr. Sherman gave, (the farmers upstream pretty much ignored the ditch for many years) shows that by abandoning that use they also abandon that prescriptive right.

Mr. Tretheway noted if nothing is done on the other side of River Road, it will create a serious problem. If the channel is cleared upstream but nothing is done about the area where Labish Ditch drives right into Claggett Creek and increases that flow then either a huge volume of water will be squeezed into a small area creating an even greater risk of flooding. He asks any plan include the people on the other side of River Road. He also suggests this committee include the people along Claggett Creek.

Councilor Miller stated he appreciated the comments. However, he remembers information from the engineers was that there was no problem below River Road at Claggett Creek regarding flows. It was mainly a backup of the Willamette River. There was no blockage that caused a problem. The main focus now is the River Road culvert on up, contributing to flooding like there were from River Road up.

Mr. Tretheway said he hasn't seen that study. He knows the sediment level in the creek since the last flood has raised considerably. He lives at the point where the house just west of him is the last house on McNary Heights Road and there's a bend around there with all kinds of debris. He never got the sense during the flood that there was any backup from the Willamette River. Most of the damage was done on the second day of the flood which was the result of Labish Ditch.

Councilor McGee mentioned the significant blockages on the other side of River Road learned during the meeting at Gubser Elementary School. He assures Mr. Tretheway that it is a section that will be looked at seriously.

Councilor Watson feels one of the dilemmas is that there are many factors and many potential impacts. He asks if they should be looking at the development around the ditch and how that affects existing property. He adds that if the flow is slowed that that also is a potential solution. Mr. Tretheway agrees and emphasizes that any solution simply include the other side of River Road.

Mike Zielaskowski, 1505 Rockledge, Keizer moved into Keizer two years ago. He says his first winter (1995) he observed flooding in what he perceived to be a wetland area behind his house with one to two feet of standing water among weeds and waterfowl. When it dried out he studied where the water came from and saw stakes for further development. Mr. Zielaskowski indicated he teaches biology and physical science and has an interest in river hydrology. He has kayaked creeks the size of Labish Ditch and was also a logger who specialized in cleaning creeks by hand and with equipment. He adds that if something looks like a wetland and has plant life like a wetland and wildlife like a wetland, it's probably a wetland.

Mr. Zielaskowski feels the ditch does need to be cleaned but with minimal impact so it doesn't cause a bigger problem. He has seen in the past one and one-half years bulldozers enter the 30' buffer zone right next to the ditch, work and leave a flattened area, and back out leaving nothing but dirt and mud.

The west bank is lower than the east bank and the equipment contributed to that. Mr. Zielaskowski noted it can be cleaned by hand and with equipment without impacting the banks. He also feels the culverts need to be enlarged. The community must consider the big picture that the water was slowed because much of the soft ground that used to absorb water was eliminated. There used to be acres of soft, spongy soil to slow the flow down and now it's houses and streets. Mr. Zielaskowski pointed out we must preserve as much of the remaining spongy ground as possible. He says there was a lack of consideration of aesthetics by the developers and the Council that caused the problem because they disregarded the fact that by developing this land they destroy land that could hold/absorb some of this water. He further stated the more land and vegetation that is left the more it will help with future floods.

Responding to an inquiry by Councilor Watson, John Morgan, Community Development Director looked to the developer for confirmation that about half of the creek lots were platted and the southern half are mostly unplatted. The majority are potentially available.

Ann Timble, 6826 Jakewood Court NE, Keizer understands everyone's conflict and how the Gubser area wants to clean the ditch. She really had a tragedy and learned that their lives are the most important issue. It isn't worth endangering someone's safety and she is concerned about citizens safety working in the ditch.

Jerry Martin, 1186 Horizon Ridge Court NE, Keizer has some experience in organizing manpower intensive volunteer efforts. He adds that it's nearly fall and to properly organize this it won't happen before these rains come this year. He says there's a tendency to be very conservative or do nothing. On the west side it would be appropriate to remove the blackberries and he encourages Council to approve with flexibility the plan to clean the ditch. Public Works should organize it now with well-equipped volunteers and the right resources. He says the effectiveness of the Parkersville Dam must also be considered. He feels the immediate plan should be a short-term solution and there's not enough time to safely organize, through volunteers, the work.

Frank Dake commented the other side of River Road should be included and considered because of the height above sea level compared to the Willamette River and the outfall of the combined creeks.

Mayor Koho closed the public hearings

Councilor Keller voiced his support for Dave Guile's comments, however he would like to see the neighbors involved in deciding where the ditch actually needs to be cleaned out but is concerned about the volunteer labor efforts.

Councilor Watson supports the idea of cleaning the ditch but would like changes in the language. He suggests that at the end of the 1st sentence of paragraph 5 that a clause be added that says: 'plan approved by the city manager that provides for cleaning the ditch and the immediate adjacent ditch bank by the least intrusive means possible with cleaning to be done by hand and without heavy equipment to the fullest extent possible'. Further, a sentence at the end that says 'it is not the intention of this provision to authorize any cleaning or removal of trees or vegetation outside of the ditch and the immediate ditch bank'. He clarifies that if you can't walk on it you're in the ditch bank and if you can you're outside of it. He further suggests similar language Regarding the second issue scheduled this evening on the agenda.

Councilor Newton would like a brief report on the west side of River Road or the initiative with Parkersville Dam.

Dotty Tryk, City Manager states that they have received the initial flood plain map from FEMA indicating much of this property was inundated. She says the engineers believe some things could have been done that would have mitigated the problem. One issue considered was the Parkersville Dam. In a meeting with Marion County and other public agencies it was decided to put together a mitigation grant request to fund improvements of the dam.

City Manager Tryk also noted considering the flow and flood plain as it developed it appeared as though River Road itself created a dam so she asked FEMA engineers to do a model showing how the flood plain would be reduced if the culvert were enlarged and what the optimum size of the culvert would be. That work has been contracted for and were informed it would be ready in the next 4-5 weeks. This should give a good indication of the kind of impact a fair-size culvert would have and an idea of the cost. These are both capital items and affect the flood plain map which FEMA will review.

Furthermore, the City Engineer agrees cleaning the ditch will reduce the smaller floods and will allow the water velocity to go through to somewhat mitigate the bigger floods. A new flood plain map will go through an entire public process.

Councilor Newton pointed out he visited the McNary Heights area and the water came through fast, but there was no backup from the river at that time. He says the water flows at the River Road is about as great as we will experience, unless it goes over the road. He confirmed that if the water can be moved through there quicker it will tend to keep the level down.

Mayor Koho clarified there will be two separate decisions on Labish Ditch; one that will only affect the area near Hidden Creek subdivision and the other applies to the entire length from end to end.

Councilor McGee moved a bill for an Ordinance in the matter of the amendment of the condition number eight of the approval for Hidden Creek properties' Partitioning, Zone Change, Planned Unit Development approval and variance case no. KP/ZC/PUD/V 92-4 amending Ordinance No. 93-251 and declaring an emergency as recommended by staff with the following language addition in Exhibit D-8a-5... flood mitigation plan developed by the City Manager and approved by the City Council. The motion was seconded by Councilor Beach.

Councilor Miller supports the motion though he is concerned about involving the people in the area allowing them input and an opportunity to remove debris. He believes time is short and therefore the process should be expedited. Councilor Miller suggested directing staff to work with these citizens and do the inventory.

Wally Mull, Public Works Director indicated he believes the work can be started within two to three weeks including the involvement of citizens.

Councilor Beach also supports the motion but thinks it should move ahead without delay. It must be done as soon as possible and doesn't feel volunteer effort will have an affect on the Ordinance.

Mayor Koho is concerned the proposal might unduly delay the work. He adds if the city manager completes a plan about the middle of September, it will be October before the council can approve it. Mayor Koho believes the input of folks during the drafting of the plan is more important than the volunteer work. He suggested allowing the city manager to approve the plan.

Councilor McGee questioned if there may be a possibility of some disagreement among the committee members. He stated he is proposing a plan, not just to clean, but a long-term plan that may include broad representation of the community.

He suggested starting off with walking the bank and agree on what goes and what doesn't. A lot has been said about the 100 year flood. All here realize there is not another 44 years to wait. He says there is a 2% chance of the same thing happening next year. He supports Councilor Miller saying that if the volunteers can't do it then the City must and we include that into the plan.

After a discussion of the community involvement in this plan, City Manager Tryk noted that if the Council didn't feel that the community involvement was sufficient they wouldn't approve the plan.

Councilor Watson thinks Councilor McGee is correct to the extent that this is a long-term provision and it seems that there will be a long-term full flood mitigation plan that considers Parkersville Dam, culverts, and cleaning the ditch. He recommends to add language 'developed by the city manager in consultation with affected members of the community or through a public process and approved by the council'. He further proposes the additional clause be added as a sentence following that or doing it by the least intrusive means possible and concluding with a sentence re-emphasizing that they don't go outside the bank to do work.

Councilor Newton agrees with Councilor McGee's motion and likes the idea of council approving the final plan. He also wants to see it done this year.

Councilor Keller also supports Councilor McGee's motion. He is worried they are getting too hung up on 'least intrusive'. They will do what it takes to get it done. Neighbor input is an important element but he wants to get it started and let Wally do his job.

Councilor McGee does not accept Councilor Watson's proposal as a friendly amendment to his motion.

Mayor Koho affirms that now we are talking about the flood mitigation plan being a large document living for a long time and before we can do anything in this area, that has to be in place.

Councilor McGee stated he is not looking for the total flood mitigation plan to be completed that soon, he is only looking for the process to begin. He wants an immediate work-plan for cleaning the ditch.

Mayor Koho confirms that as long as they understand conceptually he is supportive. He did like Councilor Watson's

suggested language 'developed by the city manager in consultation with affected interest groups'.

Mayor Koho will withdraw his issue on that in the narrow sense of this amendment but in the larger sense of the community flood mitigation plan he wants that language in.

The Motion passed as follows:

AYES: Beach, Keller, Koho, McGee, Miller, Newton and Watson (7)

NAYS: None (0)

ABSTENTIONS: None (0)

ABSENT: None (0)

**RESOLUTION -
AUTHORIZING THE
CITY MANAGER TO
CONTRACT TO
CLEAN LABISH DITCH**

Mayor Koho opens the public hearing.

Mayor Koho announced all testimony from the previous hearing will be entered into the record.

There was no further testimony to come before the Council.

Mayor Koho closed the public hearing.

Councilor Keller moved a Resolution authorizing the city manager to enter into a contract to clean Labish Ditch. The Motion was seconded by Councilor Miller.

Mayor Koho adds that this was all in context of the discussion they had this evening.

Councilor Watson reiterated he lives along the ditch however he doesn't believe there's a conflict of interest and therefore he expects to deliberate and vote on this matter.

Councilor McGee suggests changing the language to state the city manager to 'cause' the cleaning of the ditch rather than specifically say contracting. This implies that contracting is the only way she can get it done.

Mayor Koho believed the City Manager understood the direction of the discussions on this issue.

Councilor Watson says the proposed resolution is brief therefore allows considerable discretion. He feels the same wording in the scope of the activity and believes it is appropriate where there is no broad existing land use decision governing the total development. Also, the City has not

established ownership rights or easements so they should be very restrictive in what the city intends to do.

Councilor Watson moves to amend that they authorize the city manager to enter into a contract to clean Labish Ditch by cutting or removing trees or vegetation in accordance with a flood mitigation plan, developed by the city manager, and approved by the council that provides for cleaning the ditch and bank by the least intrusive means possible with cleaning done by hand and without heavy equipment to the fullest extent possible and such a plan shall allow only the minimum necessary removal of trees and vegetation to allow equipment to get to the bank of the ditch to carry out ditch cleaning and the removal of trees with exposed roots that may contribute to the flooding. It's not the intention of this provision to authorize any cleaning or removal outside of the immediate ditch and bank and further requiring that the city obtain permission or get an easement as necessary if it does have to come out on private property. Mayor Koho seconded the amendment.

Councilor Miller feels it's too wordy. The other side of what Councilor Watson suggests is that if people want to clean the ditch, they will. Further, if the City of Keizer wants to clean the ditch, it doesn't need an easement or a prescriptive right, it can call it a nuisance and use the nuisance abatement procedure and charge the cost to the property owner. However, the discussion tonight has been cooperative, not confrontation. He emphasizes that the City does have nuisance abatement procedures if needed. He feels the wording simply clouds the issue and that it should just move forward and do it.

Councilor Keller also won't support the amendment and agrees with Councilor Miller feeling it's just time to get it done.

Councilor Beach thinks it's time to make a decision noting that they could add that 'authorize city manager to enter into a contract to clean Labish Ditch in the least intrusive manner'.

Councilor Watson states that he didn't intend to be confrontation but did intend to be clear. He is concerned that numerous legal issues are not resolved involving what the city's rights are and land-use issues. He says he can accept a limitation that says in the least intrusive manner possible as a compromise.

Councilor Miller does not think it's clear to say 'least intrusive method' suggesting they say 'in accordance with the resolution that was passed...in accordance with the same standards as outlined in the least intrusive method

The Motion to amend failed as follows:

AYES: Watson (1)

NAYS: Beach, Keller, Koho, McGee, Miller and Newton (6)

ABSTENTIONS: None (0)

ABSENT: None (0)

The main Motion passed as follows:

AYES: Beach, Keller, Koho, McGee, Miller, Newton and Watson (7)

NAYS: None (0)

ABSTENTIONS: None (0)

ABSENT: None (0)

AUTOMOTIVE RELATED USES

Mayor Koho opened the public hearing.

John Morgan, Community Development reported the prohibition on automotive related uses sunsets on July 1, 1996. The Planning Commission discussed and recommend it be reestablished and carried until February 1, 1997. The River Road Redevelopment Board, by consensus concurred unanimously but recommended it be July 1, 1997. Mr. Morgan noted the legal notice was published accordingly, however mailed notice was not completed. He recommended the hearing be opened, testimony given and hold it over to the September 16th meeting. Notice will be mailed for this date.

Mayor Koho recesses the hearing to September 16, 1996.

O'NEIL ROAD (EDGEMOORE ESTATES) STREET LIGHTING LOCAL IMPROVEMENT DISTRICT

Mayor Koho opened the public hearing.

Dotty Tryk, City Manager reported the developer has requested street lighting district be formed for the Edgemoore Estates area. She adds the engineers report has been received and approved and notice has been mailed for this hearing.

There was no testimony to come before the Council.

Mayor Koho closed the public hearing.

Councilor Keller moved the Resolution forming the O'Neill Road (Edgemoore Estates) local improvement district.
The Motion was seconded by Councilor Miller.

The Motion passed as follows:

AYES: Beach, Keller, Koho, McGee, Miller, Newton and Watson (7)

NAYS: None (0)

ABSTENTIONS: None (0)

ABSENT: None (0)

Councilor Keller moved a bill for an Ordinance spreading assessments to O'Neill Road (Edgemore Estates) Street lighting local improvement district. The Motion was seconded by Councilor Miller.

The Motion passed as follows:

AYES: Beach, Keller, Koho, McGee, Miller, Newton and Watson (7)

NAYS: None (0)

ABSTENTIONS: None (0)

ABSENT: None (0)

ADMINISTRATIVE ACTION

RESOLUTION - PLACING TAX BASE REQUEST ON THE NOVEMBER 5, 1996 BALLOT

Dotty Tryk, City Manager reported at the last meeting the Council voted to place an updated tax base on the November 5th ballot. The language of that ballot needs to be submitted to the Marion County Clerk by September 5. The Council subcommittee and staff developed the language that would be put into the ballot and the voters pamphlet.

Councilor Keller moved a Resolution providing for placing a tax base on the November 5, 1996 ballot. The Motion was seconded by Councilor Beach.

The Motion passed as follows:

AYES: Beach, Keller, Koho, McGee, Miller, Newton and Watson (7)

NAYS: None (0)

ABSTENTIONS: None (0)

ABSENT: None (0)

MOTION TO APPROVE A GRANT APPLICATION FOR COMMUNITY POLICING

Charles Stull, Chief of Police introduced Jodi Sherwood, Community Policing Coordinator who presented the grant proposal.

Jodi Sherwood, Community Policing coordinator explained several grant applications for different grants are received,

however this grant does not require matching funds. The purpose of the grant is to offer opportunities for police departments to work together with community groups to creatively tackle community problems in new ways. She explained requirements of the grant are that they focus on one crime or disorder problem, collect information regarding achievements and successes as well as obstacles. At least 5% of the award amount be used to evaluate the impact of the problem-solving effort as well as involvement with the community groups. The Keizer Police Department selected larceny as the topic to cover in the district one area which had generated 47% of the larceny related calls in the first 6 months of the year. She continued to explain that they work with the neighborhood watch groups increasing participation with existing groups and create new groups. Further they are enhancing their volunteer groups in the district one area.

Ms. Sherwood indicated part of the grant requires hiring a temporary, full-time community policing crime analysis assistant for the one-year that the grant covers. Part of the funds also cover a community-oriented policing conference. Supplies and equipment bought from the grant can be kept after the period. Supplies include a computer and printer, computer mapping and analyzing software, display stand, coursebook, and other miscellaneous supplies. Also, the consultants/contracts budget includes a survey before and after the project. It is hoped that survey will be city-wide. It is expected to be a very competitive grant and our request is \$58,000. This information has been reviewed by the main community policing group and they unanimously approved requesting this grant.

Councilor McGee pointed out the things that are mentioned are all things our current community policing effort are doing now. He asked if the temporary crime analyst is an assistant to the Community Policing Coordinator.

Ms. Sherwood explained that in the background it shows a full-time community policing crime analyst assistant on the staff report. Also, several program examples are very similar to ours.

Councilor McGee is not satisfied with the answer feeling it is actually an assistant community policing person. He is concerned with the evaluation that the requirements call for 5% of the grant. He adds that only 4 of the 20+ questions on page 10-11 can be answered by a survey adding that the survey is grossly overpriced.

Ms. Sherwood stated she did not have the time or opportunity to find out how much an analysis would be. She researched it over two years ago and it was \$1,700 for a mailout survey but hasn't looked into the cost of other types of surveys today. She adds that if we do not spend all of the money we do not need to return the balance.

Councilor McGee says that it is very competitive so perhaps we can do it for less. He suggests that the survey isn't very useful or effective.

Mayor Koho states that page 19 clearly states it is a community policing assistant, crime analyst (budget detail worksheet).

Councilor Watson shared some of Councilor McGee's concerns. He says he remembers when the policy was adopted requiring grant proposals go to council that they wanted to monitor expenses resulting from getting the grant. The other was to keep a handle on costs in preparing a grant application. He feels considerable time was spent preparing this application and talking with the community groups..

Mayor Koho clarifies that the policy is not violated with the possible exception of hiring a person.

Ms. Sherwood noted this is the first application she's seen that does not require a city match, therefore, she worked on it quickly. She suggested maybe some of the anticipated outcomes of the project may help identify what the federal government is looking for.

Charles Stull, Chief of Police explained the grant is designed to address a specific issue in district one which is to research and analyze larceny and develop an action plan for correction. This area generates a large amount of calls for service. This grant was applied for based on the cost the City nothing to apply, nothing to receive it, nothing to implement it for one year. He believes it will generate a tremendous amount of valuable information to the community and the Council to make future decisions regarding policing. If approved as is it will still be brought back to Council prior to receiving or agreeing to the money.

Councilor Keller added the police probably have volumes of information that isn't available to them so it's hard for council to make sense of it. He feels they don't have enough information to make an informed decision but thinks that could be forthcoming.

Councilor Newton likes the application and thinks this collected information would be very helpful.

Mayor Koho moved approval of submission of the grant application. The Motion was seconded by Councilor Miller.

Councilor Beach asks about the timing of the request and if it has been submitted already.

Ms. Sherwood responded it was previously mailed in due to time constraints. City Manager Tryk indicated she authorized the submission due to the filing deadline.

Councilor Beach says it's after the fact so there's no point in much more discussion.

Councilor McGee appreciates and praises Ms. Sherwood's initiative and his comments were intended to improve the grant adding that the survey has so much work to do it doesn't merit keeping in. He also noted the indirect costs must be monitored and established. He indicated that if there are no indirect costs it shows it wasn't considered and may be dismissed for that reason.

Councilor Watson agrees the City must put in the best application possible and if it comes back approved then the survey can be done in other ways.

The Motion passed as follows:

AYES: Beach, Keller, Koho, McGee, Miller, Newton and Watson (7)

NAYS: None (0)

ABSTENTIONS: None (0)

ABSENT: None (0)

CONSENT CALENDAR

The consent calendar consisted of the following:

- a. RESOLUTION - Certification of Delinquent Sewer Accounts
- b. RESOLUTION - Certification of 1995-96 Street Lighting Districts
- c. Approval of August 19, 1996 Regular Session Minutes

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

The Motion passed as follows:

AYES: Beach, Keller, Koho, McGee, Miller, Newton and Watson (7)

NAYS: None (0)

ABSTENTIONS: None (0)

ABSENT: None (0)

OTHER BUSINESS

*Councilor Beach is disturbed by the poor landscaping around the city sign at the south end and feels it's an eyesore.

Mayor Koho believes the maintenance is the responsibility of the City of Salem.

Dotty Tryk, City Manager disagrees adding that the gas company agreed to maintain the property permanently and Salem agreed to repair damage if someone ran into it and if it was excessive Keizer will negotiate and consider contributing.

Mayor Koho thinks one of the local garden (or similar) clubs may be interested in accepting it as a project, he's sure the gas company won't mind the help.

*Councilor McGee mentioned the noise variance asking if it needs to be brought forward as an agenda item. Councilor McGee explained he is getting some pressure, so he would like it handled.

*Councilor McGee also expressed his appreciation to Public Works Director, Wally Mull for his commitment to get the Lockhaven project done by opening of school. However, he then got phone calls that a boy was almost hit by a car because he swung out around construction equipment that is still there. He requested construction be ceased during the busy school traffic times.

Wally Mull, Public Works Director responds that it is possible and that's what they did this morning until after school started. They have been asked to be extremely careful when the kids are coming and keep their equipment off the road.

*Charles Stull, Chief of Police states that school opens tomorrow and they thanked Mr. Mull for doing a fantastic job on the Lockhaven improvements. He added t there are 1,200 kids starting school tomorrow and mostly delivered by their parents so there will be some congestion, but there is adequate staff to address the issue.

*Also Chief Stull noted today marks the twenty-year anniversary of the Keizer Police Department building and hopes another coat of paint will be forthcoming.

WRITTEN COMMUNICATION

Mayor Koho noted the receipt of a letter from the Gubser Neighborhood Association regarding the proposed ball park. He discussed this matter with President Jim Lander and will also be speaking at their September 19, 1996 meeting.

There was no further written communication to come before the Council.

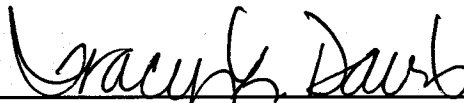
AGENDA INPUT

Mayor Koho noted the printed items under agenda input are incorrect. The Council will meet in executive session on September 9, 1996 at 5:30 p.m. to discuss potential land acquisition and then a public meeting will be held on Thursday, September 12, 1996 at 7:00 p.m. to gather input on the proposed ball park.

In addition, Mayor Koho noted he will be out of town for the September 16, 1996 City Council meeting and therefore Council President McGee will be presiding.

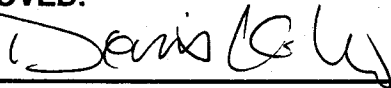
ADJOURNMENT

The meeting was adjourned at 11:31 p.m.



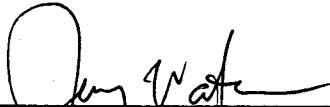
Tracy L. Davis
City recorder

APPROVED:



Dennis Koho-Mayor

COUNCIL MEMBERS:



Councilor #1 - Jerry Watson

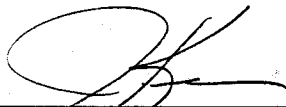


Councilor #4 - Carl Beach



Councilor #2 - Bob Newton

Councilor #5 - Al Miller



Councilor #3 - Jim Keller



Councilor #6 - Jerry McGee

approved
10-14-96