MINUTES

KEIZER CITY COUNCIL
Monday, September 3, 1991
Robert L. Simon Council Chambers
Keizer City Hall

CALL TO ORDER

Mayor Orcutt called the regular session to order at 7:38 p.m. Roll call was taken as follows:

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

Absent
Mike Hart, Councilor
Bob Newton, Councilor

Staff
Donald H. Otterman, City Manager
John Morgan, Community Development Director
Wally Mull, Public Works Director
Kevin Wickman, Parks Director
Shannon Johnson, City Attorney
Susan Darby, City Recorder

PUBLIC TESTIMONY

Mark Grenz, 1374 Rivercrest Drive N., Keizer, Multi/Tech Engineering, encouraged the Council to bring the City's planning services in-house as will be proposed by Mr. Morgan later tonight. Mr. Grenz cited difficulties in the present system of utilizing Marion County Planning Department staff in that it results in delays and frustration for citizens as well as local developers. He indicated that because of Planner Skip Wendolowski's busy schedule, he is not always available when a citizen or developer needs assistance. This sometimes results in substantial delay of projects. Responding to a question from Councilor Koho, Mr. Grenz clarified that the delays are in no way the fault of Mr. Wendolowski but instead of the system.

Councilor Miller read into the record a letter from Larry Epping which also urges that the Council approve the in-house planning services. Mr. Grenz

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indicated that he essentially agreed with Mr. Epping's comments, especially with respect to the overall improvement on efficiency. Mr. Grenz indicated that he understands Mr. Epping to state that the costs would be the same as now charged by Marion County for planning services.

John Schafer, 6505 Windsor Island Road, Keizer, brought to the Council's attention a problem which is developing north of the city limits. He stated that Marion County will be holding a public hearing on September 4 at 4:30 p.m. regarding the approval of a gravel operation on Naples Road. Mr. Schafer indicated that some of the neighbors will be meeting with an attorney to oppose the approval of the operation because of the noise, odor and dust that may be created. He urged that the City of Keizer also become involved in the situation for several reasons. These include the fact that the designated route out of the operation is down Windsor Island Road to Lockhaven and then out to the freeway. This would require the trucks to pass three schools and pass through a great deal of the City of Keizer. In addition, he is aware that a great deal of odor is associated with an asphalt batching plant. The proposed location of the plant is within one-half of a mile from McNary Estates and about a mile from downtown Keizer.

Mr. Schafer stated that a 1989 Oregon law prohibits the operation of an asphalt batching plant within two miles of a vineyard. He could not explain why this is prohibited near a vineyard, however, the law is silent on the effects an asphalt batching plant would have near schools, hospitals, city centers or other areas of importance.

Mr. Schafer indicated that the Marion County staff report indicates that a number of affected agencies were contacted, however, the City of Keizer was not listed as one who was contacted for their comments. This surprised Mr. Schafer because he believed it would be Keizer who may provide fire and police protection to the site because of its proximity to Keizer. Mr. Schafer indicated that Keizer has a vested interest in this property and should be aware of this action.

Mr. Morgan indicated that he just found out about the situation last Friday when an individual from the area contacted him and wanted to discuss the matter. He contacted Marion County and asked them to forward the materials to him. Mr. Morgan stated that the planning action involves a comprehensive plan amendment as well as a conditional use permit. He noted that Marion County is in the process of inventorying aggregate resources as they are required to do. The county must inventory and protect such resources unless there is a compelling reason not to do so. He indicated that Keizer may be able to object on the basis that an asphalt batching plant may affect the ground water since Keizer gets its water from that aquifir. In addition, the planned route of Windsor Island Road to Lockhaven to the freeway has not been thoroughly analyzed. He stated that Keizer may also raise the question of whether Keizer should have been notified. The options include appearing at the hearing and offering some specific testimony, asking for a postponement on the hearing for a week or two, or letting the matter rest and hoping the county will handle it well. He stressed that there are some significant issues in the matter.

Councilor Van Meter asked about the area of influence around the Willow Lake Treatment Plant. Mr. Morgan responded that this property is outside that area of influence.

Councilor Van Meter also asked about the amount of truck traffic that would be generated by the plant. Mr. Schafer responded that he lives on Windsor Island Road and that there are sometimes five to six trucks an hour passing by. Mr. Schafer added that the conditional use permit could allow the operation to begin as early as 4:30 a.m. and run until 9:30 p.m.

Councilor Koho stressed the need for the City of Keizer to be involved in the decision making in this planning action. He suggested that the county be asked to delay the issue until Keizer has had the opportunity for input.

Councilor Van Meter agreed, adding that if Keizer must go along with this action, Keizer may wish to develop some sort of a fee for heavy truck traffic using its streets.

There being no objection from the Council, Mayor Orcutt directed Mr. Morgan to appear at the public hearing on Wednesday, September 4 and to ask for a postponement of the hearing, or to hold the record open until Keizer has had the opportunity for input.

Councilor Miller suggested that if the county is not amenable to this request, the City go on record as opposing the action. Mr. Morgan indicated that he could let the county know that if the record is not held open, that the City of Keizer will oppose the action.

Councilor McGee indicated that he just received this information tonight and that he would prefer to have more time to study the issue rather than to state that the City will oppose it. He suggested abstaining until further information is available. Mr. Morgan indicated that by appearing and possibly opposing the action, the City reserves its right to file an appeal.

PUBLIC HEARING - MCNARY ACTIVITY CENTER PLAN

Mayor Orcutt reopened the public hearing on the McNary Activity Center Plan. Mr. Morgan noted that there are two issues to this matter. He met with City Attorney Shannon Johnson, Sandy Staats and members of her group to attempt to resolve the items of concern. He indicated that there still remains a couple of points which have not been resolved, and he hopes to return to Council in September or October to address the issues. The second issue involves the turnaround at the extension of McClure Street. The Council originally approved the location to be on the north side of McNary Estates Drive in the event the access is ever gated off. There is before the Council tonight a proposal from McNary Estates to place the turnaround on the Staats' property. Hillman Properties is discussing the matter with Staats' representatives. Mr. Morgan believed the matter to be a private issue between those two parties. Responding to a question from Councilor Koho, Mr. Morgan stated that if the access will eventually be gated off, the turnaround should be located on McNary Estates property. If the land that was set aside for the turnaround is no longer needed for that purpose, then Hillman would like to use that property for another lot. If this occurs, then the city would have some procedural involvement.

Mark Grenz of Multi/Tech Engineering, representing Hillman Properties, stated that they have met with representatives of the homeowners at McNary Estates last week and presented them with an alternative location for the turnaround. He believes they were in agreement that the alternative was preferable to the original location on the north. Hillman Properties is proposing that they reimburse the City or Staats for the right-of-way if they would be allowed to use the property originally reserved for the turnaround as a lot. He indicated Hillman's disagreement that the decision to do so would be private as stated by Mr. Morgan. Mr. Grenz noted that the McNary Activity Center Plan can easily incorporate the change for the turnaround on the south side. In private negotiations, all of the burden will be on Hillman Properties. He reiterated that Hillman Properties is willing to reimburse the City or Staats for the right-of-way. Hillman Properties would prefer to have the City force the parties to agree on a plan.

In response to a question from Councilor Koho, Mr. Grenz agreed that this issue would not be before the Council if McNary Estates Drive was a public street, and that establishment of the gates have created some havoc within the area. Mr. Grenz noted that until the gates are in place, there will be no need for a turnaround.

Councilor McGee asked if this discussion is regarding condemnation should the negotiations break down. Mr. Grenz indicated that he does not wish to imply condemnation, but that if the turnaround is on the south side, there would be a significant incentive for Staats to negotiate with Hillman to come to a fair agreement.

Mr. Morgan indicated that he will continue with negotiations and will return to the Council as soon as possible.

There being no further testimony to come before the Council, Mayor Orcutt continued the public hearing to a later date.

ANNEXATION - REECE, BLACKMAN, CROTEAU, WHEATLAND AUTOMOTIVE, INC.

Mr. Morgan reviewed the staff report regarding Annexation No. 91-1. He noted that this is a unique process for Keizer in that it is the first time an annexation has come before the City. This case involves a 38 acre parcel located west of Wheatland Road in a long, narrow strip encompassing Claggett Creek, land on top of the bank above the creek, and the bank itself. The property is designated for low density residential use which would eventually be rezoned to single family residential property. He noted that the petition includes 100% of the property owners in favor of the annexation. Therefore, the City could simply waive the public hearing and approve the annexation. Mr. Morgan stated that he learned last Friday that the Marion County Planning Director may oppose the annexation on the basis that there needs to be a bigger buffer and, for that reason, the property should remain in county governance to ensure that it stays that way. One issue is the lack of a legal description for this portion of the urban growth boundary and the exact location of the potential annexation. He suggested that staff be directed to prepare the ordinance and come back to the Council on September 16 for first reading and to determine the exact location of the annexation boundary.

Mr. Morgan discussed with the Council the possibility of leaving an enclave depending on the final boundary of the annexation. He noted that State law allows a city to annex an enclave without agreement of the property owners. Councilor Koho suggested that the Council hear from the affected property owners and whether they have a compelling reason to annex to the top of the bank.

Jim Reimann, 5309 River Road North, Keizer, stated that if the urban growth boundary is at the top of the bank, seven to eight acres would be above the bank line. Only two people in the area did not support the annexation, and he did not believe they had any compelling reason one way or the other. He encouraged the Council to move ahead based on staff's recommendations.

<u>Councilor Koho moved for staff to work with Marion County to determine the actual line to be annexed and to work with the two property owners who withheld support. Councilor Miller seconded the motion. The motion passed unanimously by the following vote:</u>

AYES: Orcutt, Koho, McGee, Miller, Van Meter (5)
NAYS: None (0)
ABSENT: Hart, Newton (2)

JOB DESCRIPTIONS

Mr. Otterman explained that there are still some issues to resolve with respect to the job descriptions. Therefore, he asked that this item be pulled off tonight's agenda for further consideration by staff. He expected to return to the Council on September 16 for action.

Councilor Koho indicated that it should be made clear that the City Council not be the personnel manager for the City. If the City Council approves the position descriptions, it will be micro-managing. The City Manager has the authority as well as the responsibility to write, revise and approve the job descriptions.

Councilor McGee indicated that he generally agrees with Councilor Koho's statement. However, he questioned why it has taken 19 months for this assignment to be completed. He objected to contracting out the writing of the job descriptions if staff is willing and able to prepare them. If staff is not able to do so, then the job done by contracting out was not satisfactory to staff if changes need to be made. He questioned why Mr. Otterman's report indicates that all descriptions are included with the exception of those employees in the Police Association. Councilor McGee indicated that, for example, the City Manager's job description is missing, as well as the Public Works Manager and two others in the Public Works Department. He also asked why there is no job description for the Police Chief's Secretary. Mr. Otterman explained that the Police Chief's Secretary and the Administrative Secretary share the same classification.

Councilor McGee indicated that some job descriptions do not show that employees report to anyone, and there is no organizational chart. Mr. Otterman said he could provide a copy of the organizational chart in the morning.

Councilor McGee expressed concern with not receiving information that is requested. He cited an example of the Budget Committee request for salary information. Mr. Otterman explained that this information went to the compensation committee first and will then go to the City Council. Councilor McGee stated that the Budget Committee also asked for a copy of the organizational chart which was never provided. He also asked for it during goal setting.

With respect to the job descriptions, Councilor McGee indicated that John Morgan, the Community Development Director, does not report to anyone. He offered to assist Mr. Otterman in writing job descriptions, and asked whether Mr. Otterman has a description for his position. Mr. Otterman indicated there is one in his contract.

Councilor McGee believed it would be necessary to review the job descriptions line by line and to make some improvements before he could approve them. Councilor Koho stated that he would prefer to delegate the drafting of job descriptions to the City Manager, and that he does not believe it is the City Council's job to review staff job descriptions line by line.

Councilor Miller moved to table this issue to the next meeting. Councilor McGee seconded the motion. The motion was put to a vote and failed by the following vote:

AYES: McGee, Miller (2)
NAYS: Orcutt, Koho, Van Meter (5)
ABSENT: Hart, Newton (2)

Councilor Koho moved to delegate and authorize the City Manager to develop the job descriptions, with the exception of the City Manager's job description, and to report back to the City Council. Councilor Van Meter seconded the motion.

Responding to a question from Councilor McGee, Councilor Koho indicated that he would agree that this should be accomplished within 30 days. Councilor Van Meter concurred in this clarification of the motion.

The motion was put to a vote and carried unanimously by the following vote:

AYES: Orcutt, Koho, McGee, Miller, Van Meter (5)
NAYS: None (0)
ABSENT: Hart, Newton (2)

SOLID WASTE, RECYCLING, NUISANCE ABATEMENT ORDINANCE

Mr. Otterman reviewed the staff report regarding adoption of a resolution and approval of an agreement for regulation of solid waste, recycling and nuisance abatement.

Councilor Koho moved for adoption of a resolution regarding regulation of solid waste, recycling and nuisance abatement. Councilor Van Meter seconded the motion.

Councilor McGee asked about the references to the Marion County Ordinances which were contained in the proposed resolution. Mr. Otterman explained that these ordinances have been enforced by the County on the City's behalf since incorporation. They involve the enforcement action available to the County to gain compliance with the nuisance abatement ordinance. Specifically, they deal with such issues as auto parts in residential areas, and other public nuisances. The solid waste ordinance has been updated by the City Attorney and it continues to implement those regulations that had been enforced by Marion County. It should be the first meeting in October when that ordinance is brought before the Council for adoption.

The motion was put to a vote and carried unanimously by the following vote:

AYES: Orcutt, Koho, McGee, Miller, Van Meter (5)
NAYS: None (0)
ABSENT: Hart, Newton (2)

PLANNING SERVICES STAFFING ANALYSIS

Mr. Morgan reviewed the staff report regarding the staffing analysis with respect to planning services. He noted that Mr. Grenz pointed out some of the perceptions of the development community earlier this evening. In addition, Mr. Morgan noted to philosophical image of "going downtown" to get Keizer planning information. Typically, a citizen walks into City Hall and is directed to go to Salem. He reviewed the proposed budget for the Associate Planner versus a Code Enforcement Officer. Mr. Morgan stated that in the past 9-1/2 years, the City has outgrown its planning contract with Marion County and that the community could be better served by an in-house planner.

Responding to a question from Councilor Koho, Mr. Otterman stated that according to the County staff, the clerical staff spends about six hours each month on City of Keizer work. Much of that work is preparatory, i.e., notices, decisions, etc. Much of the planning clerical work is now done in-house. Mr. Otterman indicated that the existing clerical staff will need to be expanded. Part of this may be through a student worker to do filing, filling in for vacations, etc. Councilor Koho indicated that the need may already be there.

In response to a question from Councilor McGee, Mr. Morgan stated that resources will be available from planning fees, franchise fees and from other areas of the General Fund. This is a step towards program budgeting. He hopes to lower the General Fund contribution by increasing planning fees in the future.

Councilor McGee indicated that he does not believe this change would violate the intent of the budget approval by the citizens.

Mayor Orcutt read into the record a portion of a letter from Lillian Walston, 513 Linda Avenue N.E., regarding her objection to the planner's position. Councilor McGee noted that the change has to be very carefully explained to the people.

<u>Councilor McGee moved to approve the staff recommendation for an Associate Planner but not to include the job description as proposed. Councilor Koho seconded the motion.</u>

Councilor McGee indicated that the job description does not address the code enforcement responsibilities of the planner. In addition, he would not agree to some of the wording in the description with respect to human resource planning, etc.

The motion was put to a vote and passed unanimously by the following vote:

AYES: Orcutt, Koho, McGee, Miller, Van Meter (5)
NAYS: None (0)
ABSENT: Hart, Newton (2)

Mayor Orcutt directed the City Manager to bring the revised Associate Planner job description back with the other job descriptions.

NORTHRIDGE PARK UPDATE

Mr. Wickman reviewed the staff report regarding Northridge Park. He reported that the Parks Advisory Board wishes to pursue an easement to connect the two park parcels. He will be working with Mr. Johnson on this matter. Councilor Koho agreed with the approach staff is taking.

In response to a question from Councilor Van Meter, Mr. Wickman indicated that the City also has the option of condemning the property to allow an access, however, it will be necessary to pay the fair market value.

FERNWOOD PARK

Mr. Morgan reviewed the staff report regarding the status of Fernwood Park. He cited four issues involved in this matter: park development, day care development, Keizer Heritage and park ownership. He outlined each of these issues.

With respect to park development, Mr. Morgan indicated that no funds have been earmarked for improvements to Fernwood. Therefore, unless non-traditional funding is identified, no development is planned.

With respect to the day care development, a fenced outdoor play area is required and the tenant would like to lease the necessary playground area. However, the City is not able to lease the property because the property actually belongs to the public.

With respect to the Keizer Heritage Foundation, there is a deadline of November 15 for the school house to be essentially completed and occupied. There is the likelihood that this will not be accomplished. Keizer Heritage has asked the City to vacate the park so they can use it as collateral for financing to finish the project. If the day care is able to use the property, and it eventually vacates, the land and equipment would revert to the City's ownership. Mr. Ray Clark was to talk with the surrounding neighbors about this issue. If land owners representing 50% of the area remonstrate against the vacation, the vacation would fail.

Councilor Miller asked about water and hose bibs for the sprinkler system. Mr. Morgan responded that there would be an underground line with a "stab-in" irrigation system. He stressed that this is not a permanent underground sprinkler system. Mr. Wickman added that this is the same type of system in use at Wilark Park. Mr. Morgan stated that the grounds maintenance would be the responsibility of Keizer Heritage. Councilor Miller asked what would happen if Keizer Heritage does not properly maintain the grounds. Mr. Morgan explained that Keizer Heritage could loose the school.

Mr. Morgan stated that Keizer Heritage is confident that it will have the first floor of the school occupied within six months. Keizer Heritage should be reporting periodically to the City Council but it has not been doing so in the past. Councilor Miller suggested that the City get feedback from Keizer Heritage on its sources of funding and to spell out in the agreement what happens if Keizer Heritage fails to fulfill their obligations. Mr. Wickman indicated that a similar agreement exists with the Keizer Little League in that if that organization does not fulfill its obligations in grounds maintenance for the park, the City can bill the organization for the costs. However, he noted that the arrangement has worked out well with Keizer Little League. Responding to a question from Councilor McGee, Mr. Morgan indicated that the plans are for Keizer Heritage to maintain the entire park property. Councilor Koho stated that the park property is used by some of the neighborhood kids. To remove the fence may be a mistake because it provides a necessary separation. Mr. Morgan indicated that the developer is anxious to get the day care business in as a tenant. However, the day care would not be able to locate there unless the work is accomplished. Staff is exploring the alternative of moving the fence in order to channelize the traffic to a north-south route.

Responding to a question from Ray Clark, Mr. Morgan clarified that the question of the vacation could be opposed if property owners representing 50% of the land area remonstrate against the action.

<u>Councilor Van Meter moved to direct staff to initiate the vacation of the public park and to draft an agreement with all involved parties. Councilor Koho seconded the motion.</u>

Councilor Van Meter encouraged the neighbors to meet with Mr. Morgan to discuss the issue. Mr. Clark indicated that the meetings have been held during the day when many of the neighbors are unavailable. Mr. Morgan offered to schedule an evening meeting.

<u>The motion was put to a vote and passed unanimously by the following vote:</u>

AYES: Orcutt, Koho, McGee, Miller, Van Meter (5)
NAYS: None (0)
ABSENT: Hart, Newton (2)

CONSENT CALENDAR

The Consent Calendar consisted of the following items:

- August 5, 1991 Regular Session Minutes
- Resurfacing of Lockhaven Drive N.E., River Road North to McLeod

Councilor McGee asked that the August 5 minutes reflect his attendance on the first page. Councilor Miller asked for a change on page 8, fourth line, from the word "order" to "ordering".

Councilor Koho moved for approval of the Consent Calendar. Councilor Van Meter seconded the motion. The motion was put to a vote and carried unanimously by the following vote:

AYES: Orcutt, Koho, McGee, Miller, Van Meter (5)
NAYS: None (0)
ABSENT: Hart, Newton (2)

OTHER BUSINESS

LaBrisa Restaurant

Staff discussed the issue involving LaBrisa Restaurant and Lounge and a report to OLCC. OLCC decided to approve LaBrisa's liquor license with the condition that the owner control her own premises. Responding to a question from Councilor Van Meter, Mr. Otterman stated that OLCC is not requiring LaBrisa to implement the Keizer's suggestions for improvements to the establishment. Mr. Otterman indicated that he will follow up to determine if LaBrisa will follow these recommendations voluntarily. Councilor Van Meter offered to participate in a meeting with the LaBrisa owner to obtain her compliance with these conditions.

Councilor Miller asked for clarification on whether these conditions can be enforced. Councilor Van Meter indicated that he was not talking about enforcing the conditions, but rather if LaBrisa would voluntarily comply with them. If they do voluntarily comply, he may be in a position to support their next liquor license renewal request.

Councilor Miller expressed his concern that of the 14 DUII arrests made between June 2 and August 4, 8 were attributed to LaBrisa. Five out of 5 were attributed to LaBrisa in July.

Councilor Koho indicated that LaBrisa does not appear to have an acceptable safety record. Mr. Otterman distributed copies of the updated report to the Council and asked them to call him with any questions they may have.

Marion County BOC

Mr. Otterman indicated that the Marion County Board of Commissioners has requested that jurisdictions appoint a key communicator to discuss the Governor's upcoming visit and to discuss collective concerns. Mr. Otterman asked the Council members to keep their calendars open for September 21 for the Governor's visit to Salem at 1 p.m. He indicated he would confirm the details with the Council later.

City Hall Painting

Councilor McGee indicated that he will be organizing a painting party for the week of September 16 during the hours of 5:30 and 7:30 p.m. He invited the Council members to participate in painting the City Hall exterior. Mr. Otterman added that there will be a small charge for workers compensation coverage for the volunteers, as well as costs for items such as paint brushes, etc.

WRITTEN COMMUNICATIONS

There were no written communications to come before the Council.

AGENDA INPUT

Mr. Morgan asked whether the City Council wishes to call up the case for Roth's sign variance. The application was denied at the staff level. The Council consensus was to allow it to proceed through the normal route. Mayor Orcutt indicated there was a similar situation involving George Goesch's sign variance which the Council did not call up.

The agenda included one other item for the September 16 meeting which was a public hearing on the Salem Area Comprehensive Plan Periodic Review Order.

EXECUTIVE SESSION

Mr. Otterman indicated he wanted to call a brief Executive Session to discuss personnel matters. The Council concluded that it would not hold the Executive Session.

ADJOURNMENT

There being no further business, the meeting adjourned.

Susan Biasi Darby, City Recorder

APPROVED:

MAYOR

(COUNCILOR HART ABSENT)

(COUNCILOR NEWTON ABSENT)