

MINUTES
KEIZER CITY COUNCIL
Tuesday, September 2, 1997
Keizer City Hall
Robert L. Simon Council Chambers
Keizer, Oregon

CALL TO ORDER

Council President Keller called the regular meeting to order at 7:01 p.m. Roll call was taken as follows:

Present:

Dennis Koho, Mayor (arrived 7:11 p.m.)
Carl Beach, Councilor
Jim Keller, Councilor
Jerry McGee, Councilor
Dawn Meier, Councilor
Al Miller, Councilor
Garry Whalen, Councilor

Staff:

John Morgan, Community Development Director
Wally Mull, Public Works Director
Dianne Suek, Personnel Manager
Shannon Johnson, City Attorney
Pat Bowe, Lieutenant, Keizer Police Department
Tracy L. Davis, City Recorder

**PUBLIC
TESTIMONY**

There was no public testimony to come before the Council.

**COMMITTEE
REPORTS**

Council President Keller introduced a request for a proclamation to celebrate United Nations Day on October 24, 1997.

Councilor Meier moved the City Council proclaim October 24, 1997 as United Nations Day in Keizer. Council President Keller seconded the Motion.

The Motion passed:

AYES: Beach, Keller, McGee, Meier, Miller and Whalen (6)
NAYS: None (0)
ABSTENTIONS: None (0)
ABSENT: Koho (1)

A second request for proclaiming October 1997 as Disability Employment Awareness Month in Keizer was introduced by Council President Keller.

Councilor Meier moved October 1997 be proclaimed Disability Employment Awareness month. Councilor McGee seconded the Motion.

The Motion passed:

AYES: Beach, Keller, McGee, Meier, Miller and Whalen (6)

NAYS: None (0)

ABSTENTIONS: None (0)

ABSENT: Koho (1)

COUNCIL LIAISON REPORTS

Councilor Miller reported on the recent meeting of the **Parks Advisory Board**. He said staff reported on the newly planted trees at Pleasantview Park, along with the new benches and the table being installed at Sunset park. A new play structure has been installed at Willamette Manor park with improvements completed around the area.

Councilor Miller introduced the suggestion of a City contribution to the proposed Skateboard park to the Park Board. After discussion, the group recommended unanimously that no contribution be made at this time to the proposed facility, but the item be re-examined next year.

Although Councilor Beach was unable to attend the **River Road Redevelopment** meeting, he reported the response to a lunchtime meeting was positive. **John Morgan**, Community Development Director, gave an update on development projects throughout the City. The Unocal site is part of a larger area being assessed by a team of local developers and realtors who will report in the future.

In the Chemawa Activity Center, one large developer has pulled out due to being unable to work out financing for the infrastructure. Councilor Beach noted the City may have to take an active part in getting the work done. Plans for development near Iris Lane have been proceeding, including work to establish bus pullouts and a driveway. Councilor Beach summarized additional items discussed by the Board.

The Board did approve repair for financing the South gateway entrance to Keizer. Mayor Koho stated the traffic circle has now been repaired and the business donor will begin work on the area by the 15th of the month if the agreement is finalized. The donor would like to add grass, with seasonal flowers, along with some type of barrier to keep out traffic. Mr. Morgan said no agreement had been made with Salem as of last week. The Salem Traffic engineer is opposed to the addition of any barrier but he agreed to meet for resolution this week. Mayor Koho offered his assistance, if needed, in getting resolution.

The **Traffic Safety Commission** has two new members stated Mayor Koho. Their web page is also connected to the City of Keizer's page and appears professionally done.

Councilor Keller reported on the most recent **Council Management Committee** meeting. Discussion included Neighborhood Association updates, improving the exterior of the Keizer Heritage Foundation building, and Iris Lane. He said a Request for Proposal for recovering delinquent court fines will be returning to the City Council. Another issue discussed was storage for city property, including the need for fire safes.

Councilor Keller also mentioned Sandy Drive will be open for four days while work is completed at McNary Field. Councilor Meier clarified the plans for work being completed there and confirmed work is ahead of schedule.

OTHER BUSINESS NEW BUSINESS

There was no new business from the Council.

Lieutenant Bowe, Keizer Police Department reported a drug bust resulting in an ongoing investigation with the assistance of the Salem Narcotics Team. August 23 was the first annual Kid's Day which was a tremendous success with 325 to 400 children attending. Fourteen volunteers assisted, agencies had displays and the cost was only \$300.00. The Lieutenant related a new patrol car would be available for viewing during a Council break.

Wally Mull, Public Works Director, reported a response had been received from Mr. Stull's attorney, stating his termination appeal will be withdrawn in exchange for no exhaustion of remedies claim being raised by the City or defense for any future suits by the City.

Mr. Mull said Lockhaven construction was completed but he did not know how traffic worked on the first school day. Lieutenant Bowe responded that some congestion was present at McNary but since only sixth graders attended Whiteaker, the second day would be the test.

The Claggett Creek Task Force is planning a Creek clean up for Saturday, September 13 and publicity will be distributed. Mr. Mull met with members of the Traffic Safety Commission to put together an ordinance regarding vision hazards which will return to the Council for action.

Mr. Morgan reported on his meetings with the School Facility Planning Committee. He said the group has been working on a Master plan to identify projects that could be recommended to the Board for inclusion in a possible bond issue. He has been advocating for Keizer projects and they have been given priority. An additional Council briefing is tentatively planned for the October workshop.

OLD BUSINESS

Concerning the issue of Hotel and Motel tax, Councilor McGee questioned whether the wording requested the Fire District to analyze all the safety needs. He thought the Police Department should also analyze some needs. Mr. Morgan said the requests directly applied to the areas of expertise for the Departments. He clarified the intent behind the wording.

Councilor McGee also asked the public be informed of the decision made by the Council, in a workshop, regarding CCTV.

Councilor Whalen stated the CCTV contract was extended through the month of September, so the meetings will be televised for this month. The motion also required CCTV to provide a proposed contract, including full disclosure on all costs and the opportunities available for the community. Discussion will take place prior to the end of September. He said CCTV staff has indicated that will be possible.

Mayor Koho noted the proposal comes from the Cable Regulatory Commission and if the City is interested in the buy in, approval will also be needed from Marion County and the City of Salem.

Finally, Councilor McGee asked staff for a plan for matching fund provisions needed to accept the Federal grant for flood control projects. Mr. Mull said when the grant application was made, the staff knew the maximum award amount and budgeted the necessary matching funds in the Street improvement fund this fiscal year. He will also produce a report. Mr. Mull related the Council will accept the grant first and clarify technical questions.

On the same topic, Councilor Keller believed a study relating the impact to Claggett Creek must be clear. Mr. Mull said a need for an impact study regarding the effect of the downstream flow has been emphasized to the engineer.

Councilor Keller asked that staff begin to include expected dates for the return of issues to the Council.

Councilor Meier noted the baseball stadium revenue looks higher than budgeted. Mr. Morgan explained the methods used to budget and said the budget should be met. A newspaper estimate has placed the revenue even higher than anticipated.

Regarding Neighborhood Associations, Councilor Meier noted two are not in compliance with reports. She asked if a deadline was included. Mr. Morgan said one group has been told that their recognition may be dropped because of delinquency, but the other group is working to finish their responsibilities. He suggested action should be taken within 30 days.

Councilor Whalen requested a deadline for the Hotel/Motel tax issue be established so developers viewing Keizer can build the tax into

their projections. Regarding a new water reservoir, Councilor Whalen related a conversation with Fire Chief Frank who explained the small water margin excess available in Keizer. He believed the issue needs to be addressed so that Keizer citizens are not at risk.

Councilor McGee asked if the Heritage Foundation annual report had been received. Mr. Morgan said a letter had been received and distributed two weeks ago.

Councilor McGee asked that City expenditures be included, along with income for the Keizer Baseball Stadium report. Mr. Morgan said that could be done now that the season is completed.

PUBLIC HEARINGS

**CLEAR LAKE ROAD
SUBDIVISION APPEAL
- CASE NO. 97-07
(PICULELL-
CHIMENTO)**

Mayor Koho reopened the Public Hearing continued from August 4, 1997.

Shannon Johnson, City Attorney, read the applicable criteria as set forth in the zoning and subdivision ordinance. There were no questions or objections about the procedures. In the previous hearing, Councilor Meier reported minor contact with one of the applicants.

Mr. Morgan reminded the Council the appeal related to property just west of the intersection of Clearlake and O'Neil Roads. The application was to create 16 lots in a single family zone. Since the appellant only presented written material in the previous hearing, the hearing was continued to allow a verbal presentation.

Speaking were:

Robert Ohrn and Pamela Kingsbury, 7950 Timothy Lane NE, Keizer, appeared before the Council as the appellants. Mr. Ohrn apologized for not being able to attend the previous meeting due to a prior scheduled professional conference. As a general comment, he said they did realize the area was zoned Urban Transitional and will become a subdivision but their desire was to influence the outcome of that subdivision.

Ms. Kingsbury noted they listened to the tapes of the previous hearing and attempted to address the questions raised there. Their list of issues was distributed and reviewed.

In opposition to the decision by the Hearings officer, Mr. Ohrn believed the proposal conflicted with the Comprehensive Plan section requiring subdivisions to be compatible with new and existing uses. He noted Urban Transition zone does exist for the placement of subdivisions near rural properties with the idea of those properties becoming compatible future subdivisions.

He said in their case, special circumstances exist. Exclusive farm use zoning lies 100 feet north of Clearlake Road which he believed was a conflict in compatibility. He mentioned Marion County's

procedure for dealing with the same type of situation and suggested Keizer could deal with the conflict by reducing the density of housing.

Mr. Ohrn stated a second incompatibility to present residences related to the master sewer plan. He pointed out proposed deviations from the Plan, stating it is not being followed correctly. The result is that Timothy Lane residents will not have access to inexpensive sewer development, making development of their properties less economically feasible. Mr. Ohrn believed those properties would remain acre lots in the future, which would be incompatible with the proposed subdivision.

Mayor Koho asked if they were advocating Timothy Lane being developed more densely. Mr. Ohrn said no, they were merely pointing out that development on Timothy would be economically difficult. Those properties would retain their rural character in the future.

Finally, Mr. Ohrn asked for compliance with the tree ordinance by the developer. He also desired clarification of significant trees as defined by the tree ordinance.

Ms. Kingsbury highlighted the third item on the list, referring to drainage. She referred to the previous hearing confusion, explaining their appeal letter. An unexplained issue, relating to drainage, was still a question in her mind. From a review of all the documents on the issue of runoff alternatives, she was only able to find a condition that a master drainage plan would be developed. Ms. Kingsbury did not believe that was acceptable. She believed assurance should be provided that development for other properties would not be impacted by this subdivision. Her request, for the subdivision approval, was inclusion of a master drainage plan subject to review by the public.

Councilor Meier questioned why the issue of the conflict between Exclusive Farm Use zoning and the subdivision zoning was not addressed in the hearing. Ms. Kingsbury stated the packet included written testimony. Mr. Ohrn said he also submitted oral testimony at the hearing, but the Hearings officer did not address that concern.

Adding to the drainage issue, Mr. Ohrn said a flooding problem results from high winter water tables. The water builds up because the permeability of the soil. He said basement and septic problems are an issue. The final issue related to water availability for the subdivisions. He believed that water sources needed to be confirmed.

Mr. Ohrn reviewed their requests. They desire reduced housing density, a tree site plan including replacement trees, and adequate findings for drainage and perhaps, also water.

Mark Grenz, Multi-Tech Engineering, 1155 13th Street SE, Salem representing the applicants, spoke to the issues raised. On the drainage question, he said they are not deviating from the Master Sewer Plan on how the area should be serviced. He said the project developer will participate with other developers in seeing the sewer reaches Clearlake. The developer will also provide funds to the City for the equivalent of an 8 inch trunk line. Mr. Grenz believed service could be made available for Timothy Lane. The development community has used a significant amount of funds to get services to their properties and he did think future development would probably also be expensive.

Regarding drainage, Mr. Grenz said they are complying with the provisions city staff determined necessary for the property to develop. He said the Master facilities plan designate how the area is to be broken into quadrants and drained. As a part of that, developers are required to design detailed drainage facilities for the subdivision after approval.

Mr. Grenz said the hearing included a clear statement from the City planning staff that no water would be allowed to run on other properties. The low portion, which drains water into the Timothy Lane area, is to the south of the property being considered. Provisions are made to be certain adequate drainage is in place.

In regard to the water issue, Mr. Grenz stated he had been assured adequate water was available or can be made available. He gave examples of water supplies being assisted by developers. The City staff is working on locating a reservoir site in the area and developers are willing to make sure lines are located in the proper place to facilitate use of the reservoir.

Responding to the final issue, loss of significant trees, Mr. Grenz said the existing trees on the property are orchard trees, which he believed were excluded from the significant tree definition. He said staff will be provided with a landscape and tree plan. The intention is to replace the orchard trees with residential compatible trees at a ratio of two to one. He gave examples of other properties where the same plan was being used.

Councilor Beach asked a clarifying question on the significant tree definition of 12 inches or 50 feet. Mr. Grenz explained his understanding was that a tree 8 inches in diameter but 50 feet tall would be considered significant. He thought either the diameter or the height could be considered. He did not previously believe orchard trees were included but had understood the Council's goal was to deal with oaks, evergreens and other trees which remain in residence environments.

Councilor Beach clarified the trees on that site are cherry trees. Mr. Grenz did say some of the trees are older and at least 12 inches in diameter.

Stating he wrote the tree ordinance, Councilor Miller confirmed significant trees may be 12 inches in diameter or 50 feet in height. There is no exclusion of orchard trees. Mr. Grenz said he understood that after rereading the ordinance.

Mayor Koho asked if the drainage plan, to be completed, would address the concerns of the appellants. Mr. Grenz explained the same process is being used in the northwest quadrant of the area. He said the master facility plan is refined to create a master drainage plan noting which other sites are also being serviced. An analysis is required to show the service capability is available and how service will be provided to the proposed development.

Once a boundary is established, the Council reviews an agreement stating which properties are part of the proposed drainage district. Costs are shared among developers as development occurs. He gave an example of cooperation used to provide adequate drainage.

Mayor Koho suggested the addition of language, to the order, which would state already planned actions to give reassurance to neighbors. Mr. Grenz noted the subdivision ordinance might not require the detail and findings which surrounding property owners would desire. Most issues have been a result of agreements established between City departments and developers.

Councilor Keller questioned who would be responsible once drainage is completed. He questioned whether normal weather conditions are considered. Mr. Grenz said the Public Works Department requires an analysis of drainage systems, beginning with an undeveloped state and considering future run offs from the site. This particular development requires storm water retention plans and he explained how that plan is created. Detention is included but overflow issues are considered.

Councilor Keller asked if any building permits are approved before plans for the tree replacement or drainage are received. Mr. Grenz answered that an improvement agreement is filled out, stating no building permits will be issued on any of the lots until all the required improvements are completed.

Councilor McGee about the testimony regarding a reduction in the ability for the area in Timothy Lane to development in the future. Mr. Grenz commented that might not necessarily be true. He said the Ohrn property, which might not be readily available to the facilities, still could be developed although cost might be an issue. He noted City Engineer, Mr. Peterson, had offered sewer service from the development to the east with the only requirement being cooperation with that developer.

Mayor Koho wanted the Council to take a break, allowing time for the staff to put together an order which could be passed in the

present meeting. He did not want additional requirements but would like to have the tree and drainage issues addressed.

Councilor Meier asked why the housing density issue was not discussed in the hearing's officer findings. Mr. Morgan said the policy was a loose and ambiguous one which has not historically been used with single family developments. He said the policy is utilized when totally different land uses are next to each other. He did not know of any jurisdictions offering buffers for single family developments from single family developments, not even with transitional density on the urban areas. He noted the property is not adjacent to the urban growth boundary.

In answer to the issue of rural homes being incompatible with the upcoming development, Mr. Morgan believed there are merely rural homes in future transition to higher density. Following the incompatibility logic would result in a fence between each new subdivision. He did not see the policy relating to this issue.

Councilor Meier asked why no recommendation was included in the findings. Mr. Morgan believed the hearings officer chose not to raise the issue. He did not know the reason why, but thought the officer might have felt it did not need to be brought up.

Mr. Grenz clarified that Mr. Ohrn made a presentation to the hearings officer regarding the size issue. It was discussed at the hearing and Mr. Grenz's layout was challenged. The officer did make it clear in the process that no ordinance provisions were required other than those meeting the minimum criteria.

Councilor Whalen asked about rewording the paperwork while all of the protective properties are protected. Mr. Johnson believed the addition of language regarding the trees would be appropriate and he had prepared wording for the Council. In regard to drainage, he pointed the Council to the findings section, Exhibit C, and the City Engineer's report, Exhibit E-1. He read from page 3 of the report, which included the typical requirement for infrastructure development.

Mayor Koho pointed out that although the requirement includes a drainage plan, no mention was made regarding the quality of the plan, which he believed should be specified to be adequate in this order. Mr. Mull pointed out the report does not allow drainage from or to any properties. This wording seemed to capture the meaning for Mayor Koho.

Ms. Kingsbury clarified that the issue of drainage location was important to them. She wanted to know what property would be impacted. Regarding the process, Ms. Kingsbury read a statement from LUBA in another case dealing with adequate water supply. The major issue for them was the lack of opportunity for input at a later time. She wanted a broader process.

Mayor Koho did not believe every engineering plan would need to be submitted with the subdivision plan before approval.

Mr. Johnson proposed the addition to Exhibit E, of a subsection D under number 6. This would read as follows: "The applicant shall comply with the provisions of Keizer Zoning Ordinance Section 18.09. The landscaping plan shall be submitted by the applicant and approved by the Community Development Director prior to issuance of the building permit."

Regarding the drainage question, Mr. Johnson proposed additional descriptive words to Exhibit E-1, Page 3. In subsection A, he suggested the addition of the word "adequate" prior to the word service. Also, in subsection C, he suggested the addition of "satisfactory" prior to the word evidence. The Public Works Department will review the drainage plan prior to the issuance of a building permit.

Mr. Grenz offered no objections to the additions on behalf of the applicants. The appellants said the additions made the situation better.

There was no further testimony to come before the Council.

Mayor Koho closed the public hearing.

Council President Keller moved an Order in the Matter of the Application of the Picullel Chimento Group for detail approval of a 16 lot Subdivision located at 1585 Clear Lake Road NE (Subdivision Case No. 97-7) as amended. The Motion was seconded by Mayor Koho.

The Motion passed unanimously:

AYES: Beach, Keller, Koho, McGee, Meier, Miller and Whalen (7)

NAYS: None (0)

ABSTENTIONS: None (0)

ABSENT: None (0)

**ADMINISTRATIVE
ACTION
INITIATING
BONNEVILLE STREET
VACATION**

Mr. Morgan gave the staff report. He said a development proposal is being considered in the area along the southern part of Claggett Creek. Staff have worked with the designers for the layout and the proposal will use Bonneville Street right-of-way. The staff did suggest consideration of the Alder Street extension in the future. Doing so would preclude using the Bonneville right-of-way. The issue before the Council would initiate the process and set the hearing.

Councilor Meier moved the Council initiate the vacation process by holding a public hearing on the vacation of the Bonneville Street NE right of way on October 6, 1997. The Motion was seconded by Council President Keller.

The Motion passed unanimously:

AYES: Beach, Keller, Koho, McGee, Meier, Miller and Whalen (7)

NAYS: None (0)

ABSTENTIONS: None (0)

ABSENT: None (0)

**ORDINANCE -
WIRELESS
TELECOMMUNICATION
FACILITIES**

Mr. Morgan directed the Council to the information given to them. The ordinance appeared tonight for adoption after public hearings in July and August.

Councilor Meier moved a Bill for an Ordinance in the Matter of Adoption of Wireless Telecommunication Facilities Regulations [Amending Ordinance No. 87-078 (Keizer Zoning Ordinance)]. Councilor McGee seconded the Motion.

The Motion passed unanimously:

AYES: Beach, Keller, Koho, McGee, Meier, Miller and Whalen (7)

NAYS: None (0)

ABSTENTIONS: None (0)

ABSENT: None (0)

**CITY MANAGER
RECRUITMENT**

Mayor Koho stated the Council was continuing to consider candidates that have been interviewed. They will be meeting in Executive Session on September 3, at 5:00 p.m.

**CONSENT
CALENDAR**

The consent calendar consisted of the following:

- a. Affirming Co-City Managers Decision to Hire Finance Director
- b. RESOLUTION - Amending the City's Deferred Compensation Plan
- c. RESOLUTION - Approving City Engineer Report for Leewood Meadows Street Lighting Local Improvement District
- d. RESOLUTION - Certification of Street Lighting Districts for 96-97
- e. Approval of June 2, 1997 City Council Regular Session Minutes

Council President Keller moved for approval of the consent calendar. Councilor Meier seconded the Motion.

The motion passed:

AYES: Beach, Keller, Koho, McGee, Meier, Miller and Whalen (7)

NAYS: None (0)

ABSTENTIONS: None (0)

ABSENT: None (0)

WRITTEN COMMUNICATION

There was no written communication to come before the Council.

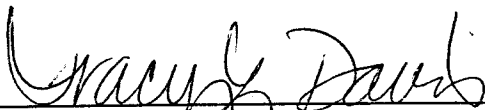
AGENDA INPUT

Mayor Koho said he would not be present at the September 15th meeting.

Councilor Keller asked for confirmation of the Community Policing meeting. Mr. Mull said their meeting would be September 12th after the Work Session. Councilor Meier suggested moving Community Policing to October. Mr. Mull suggested replacement of the Work Session agenda be discussed at the Management meeting on September 3.

ADJOURNMENT

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

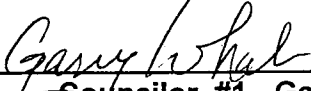


Tracy L. Davis
City Recorder

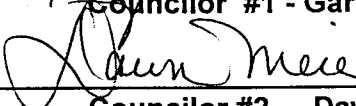
APPROVED:

Dennis Koho-Mayor

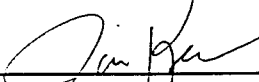
COUNCIL MEMBERS:



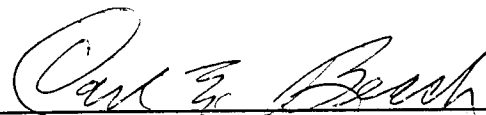
Councilor #1 - Garry Whalen



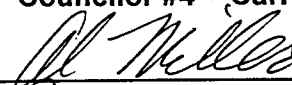
Councilor #2 - Dawn Meier



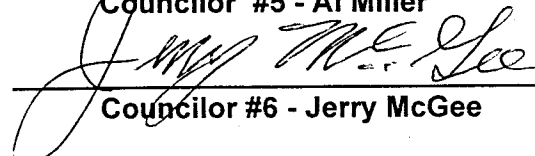
Councilor #3 - Jim Keller



Councilor #4 - Carl Beach



Councilor #5 - Al Miller



Councilor #6 - Jerry McGee

Minutes approved:

November 3, 1997