MINUTES
KEIZER CITY COUNCIL
Monday, August 7, 2000
Keizer City Hall
Robert L. Simon Council Chambers
Keizer, Oregon

CALL TO ORDER

Mayor Newton called the regular meeting to order at 7:03 p.m. Roll Call was taken as follows:

Present:
Bob Newton, Mayor
Lore Christopher, Council President
Jim Keller, Councilor
Jerry McGee, Councilor
Jacque Moir, Councilor
J. L. Wilson, Councilor

Staff:
Chris Eppley, City Manager
Susan Gahlsdorf, Finance Director
Rob Kissler, Public Works Director
Maria Meier, Senior Planner
Marc Adams, Chief of Police
Dianne Hunt, Human Resources Director
Shannon Johnson, City Attorney
Tracy L. Davis, City Recorder

PUBLIC TESTIMONY

Jim Reimann, 742 Castle Pines Way, Keizer- representing Monterey Development Company regarding a Comprehensive Plan Application changing current zoning from EFU to Single-family residential. He noted that the property in question was within the Special Policy Area. Mr. Reimann requested that a hearing be set for this case on September 18th.

Responding to questions, Senior Planner, Maria Meier noted that the application has been submitted and deemed complete. She noted that if Council requested that the hearing be called up a public hearing could be scheduled. Ms. Meier indicated that DLCD must be noticed 45 days in advance of the public hearing.

City Attorney, Shannon Johnson stated in order to be sure that a final decision was made the case would need to be heard either September 25th or October 2nd, thus allowing the 45- day public notice requirement.

FMAGIC

Questions were addressed regarding additional land in the area (Garry Whalen property) and Mr. Johnson indicated that applications had not been received for that particular property. He went on to note that if the Council wished to supply direction to staff that a resolution could be brought to the next Council meeting.

Mr. Reimann interjected that his legal council saw no problem with a 41-day notice to DLCD. He also requested to submit additional information and documentation pertaining to McNary homeowners.

Councilor Keller moved to suspend the rules to act upon the request of Mr. Reimann and Mr. Whalen. Councilor Moir seconded the Motion.

Responding to questions, Mr. Reimann noted a subdivision application was submitted and withdrew. Those fees were refunded by the City.

The motion passed unanimously as follows:

AYES: Christopher, Keller, McGee, Moir, Newton, and Wilson (6)
NAYS: None (0)
ABSTENTIONS: None (0)
ABSENT: None (0)

Mr. Johnson suggested that the date of the Resolution be September 25, 2000.

Mr. Reimann expressed concerns about issues that could extend the decision beyond October 2, 2000.

Councilor Keller moved a Resolution Call up For Council Initial Consideration Comprehensive Plan Map/Zone Change (Applicant: Monterey Development Inc Case No 00-51 and setting the hearing for September 18, 2000.) Councilor McGee seconded the Motion.

The motion passed unanimously as follows:

AYES: Christopher, Keller, McGee, Moir, Newton, and Wilson (6)
NAYS: None (0)
ABSTENTIONS: None (0)
ABSENT: None (0)

Garry Whalen, P.O. Box 21088, Keizer- noted his original application for subdivision approval was filed four years ago within the Special Policy Area. He indicated some fine-tuning would need to be done to the original application and requested the same timeline as Monterey Development, in addition to a waiver of the fees.

Responding to questions, Mr. Johnson noted the Council could not call up this case since no application had been filed. He went on to state that the Council could pass a resolution by minute motion, but the city could not send DLCD notice on an application that had not been received.

Councilor Keller moved that when the land use application is received from Mr. Whalen that it is called up for initial hearing on October 2, 2000 and that any fees already paid is credited towards this case. Councilor McGee seconded the Motion.

The motion passed unanimously as follows:

AYES: Christopher, Keller, McGee, Moir, Newton, and Wilson (6)
NAYS: None (0)
ABSTENTIONS: None (0)
ABSENT: None (0)

Dave Hilgeman, 1522 Rafael Court North, Keizer- spoke as attorney for the Baker Brothers. He indicated that his clients are interested in bidding for the property owned by the city, which is located at the corner of Chemawa and River Road.

Councilor McGee noted there had been some confusion over the process and requested that Council consider a public hearing and bid process for the property.

Dave Hilgeman, 1522 Rafael Court North, Keizer- spoke as representative of developer (Chuck Sides) interested in the Chemawa Activity Center development. He indicated that Mr. Sides had made progress in securing land in area A.

Mr. Sides shared that he had received secured agreements from 50% of the property in Area A and within the next two weeks would be in contact with the remainder of the property owners.

COMMITTEE REPORTS

Mayor Newton thanked everyone for their testimony.

a. Volunteer of the Quarter Award-Dave Walery
Councilor Keller reported that Mr. Walery was nominated by Councilor Moir for his work and dedication to the community with such activities as the hanging of Christmas decorations along River Road each year.

Mayor Newton presented Mr. Walery with a Volunteer clock in recognition of his service to the community.

b. City Council Position #5 Appointment/Swearing In
Mayor Newton announced the procedure for the appointment of Council position #5.

Councilor Moir moved to bring forth the names of Richard Walsh and Judy Peterson to fill the Council vacancy. Councilor McGee seconded the Motion.

The motion passed unanimously as follows:

AYES: Christopher, Keller, McGee, Moir, Newton, and Wilson (6)
NAYS: None (0)
ABSTENTIONS: None (0)
ABSENT: None (0)

Councilor McGee moved that the nominations be closed. Councilor Moir seconded the motion.

The motion passed unanimously as follows:

AYES: Christopher, Keller, McGee, Moir, Newton, and Wilson (6)
NAYS: None (0)
ABSTENTIONS: None (0)
ABSENT: None (0)

Richard Walsh and Judy Peterson supplied a brief presentation outlining their qualifications and reasons for seeking Council position #5.

Mayor Newton thanked Mr. Walsh and Ms. Peterson for their presentations and explained the voting process.

City Attorney, Shannon Johnson announced the ballots and the successful candidate as Richard Walsh with a 4-2 vote. Voting for Mr. Walsh: Christopher, Keller, McGee

and Moir. Voting for Ms. Peterson: Newton and Wilson.

Mayor Newton moved a Resolution Validating Richard Walsh as the Appointment to Council Position Number 5. Councilor Moir seconded the Motion.

The motion passed unanimously as follows:

AYES: Christopher, Keller, McGee, Moir, Newton, and Wilson (6)
NAYS: None (0)
ABSTENTIONS: None (0)
ABSENT: None (0)

City Attorney, Shannon Johnson administered the oath of office to Councilor Walsh.

Mayor Newton announced a recess of the Council meeting at 7:50 p.m. then called the meeting back to order at 7:56 p.m.

c. Parks System Development Charge Methodology Report-Don Ganer

Public Works Director, Rob Kissler reported that the methodology was discussed during the 1999-2000 Budget Committee and indicated that the report addressed the growth beyond the 1992 Master Plan and the compliance issues under the Supreme Court Case of Dolan vs. City of Tigard.

Responding to questions, Mr. Kissler indicated that the population increase over the next ten years as listed in the plan was addressed using in-fill grant information as well as the amount of multi-housing available.

Don Ganer presented the Parks and Recreation Facilities System Development Charge Update Methodology Report. He highlighted some of the items in the report and offered to answer questions from the Council.

Mr. Ganer answered questions regarding neighborhood park percentages of growth and non-growth-required needs and how SDC's can be spent on parks per the outcome of the Dolan Case. He indicated the maximum that could be charged for SDC's using this methodology would be $880.00 for a single family dwelling and $624.00 for a multi-family dwelling.

Mr. Ganer noted that the current methodology did not

address the administrative costs involved in administering the SDC's and this was addressed in the updated methodology report.

Responding to questions, Mr. Kissler shared that the current Parks SDC rate is $300.00 for a single- family dwelling and for multiple family dwelling is $200.00 per unit.

Mr. Ganer reported that the SDC fees could be indexed allowing a yearly increase. He noted that many cities apply this index based upon the construction costs index.

It was the consensus of the Council to accept the report, apply additional study and take action on the report at a later date.

OTHER BUSINESS

a. New Business

Councilor McGee requested that the Council go on record regarding the UNOCAL property. He felt whatever agreements were in the process be halted and review the appropriate route for the disposition of the property.

Responding to questions, City Manager Eppley indicated that the City had owned the property for approximately one year and that the costs and attorney's fees on the property were $135,000.00.

City Attorney, Shannon Johnson stated there were no requirements for appraisal only the need for evidence of market values. He went on to state that any action regarding this property would be done as an urban renewal action.

It was the consensus of the Council to review the procedure at the August 21, 2000 Council Meeting.

Mayor Newton suggested that a goal setting work session be set for September 25, 2000 with an invitation to the new Council candidates.

Chief Adams noted that there were three sworn positions available in the police department. The department would be working through the hiring process in the following weeks.

Chief Adams shared that detectives had made an arrest in the fire department radio theft case.

Human Resources Director, Dianne Hunt shared that implementation of the salary survey and COLA would take place with the next payroll. Caps had been placed on employee benefits with the necessary implementations taking effect August 1, 2000. Ms. Hunt noted the union that was formed by the public works department and negotiations that would be taking place.

b. Old Business

Mr. Kissler requested direction from Council regarding improvements along Alder. He noted the possible partnership with the new schools and the urban renewal district to allow the improvements to take place.

Mr. Kissler shared that 210 million gallons of water were consumed in Keizer during the month of July 2000. He indicated that this was the largest amount of water produced during a one- month period in the city's history. He noted the growth issues that were being taken into consideration as they worked on the water master plan and indicated the plan should be available for Council's review this month.

Responding to questions, Mr. Kissler indicated as part of the city's hydrology report the issue of Salem possibly accessing Keizer's aquifer would be addressed.

Council expressed interest regarding the direction Mr. Kissler was seeking pertaining to Alder Drive. Mr. Kissler stated that a portion of Alder Drive was within the Urban Renewal District for realignment to match the traffic signal. He asked Council if they would supply direction whether to move ahead with the engineering phase and the acquisition of the ground.

With additional questions from the Council, Mr. Kissler reported that the project would consist from the eastern boundary of the urban renewal district and the location of the school with a six-foot bike path on both sides of Alder. He went on to state if a full alignment of Alder was proposed that full improvements would take place at the intersection of Sam Orcutt Way and Alder Drive.

Councilor McGee expressed appreciation that staff was keeping the Council informed on the project.

It was the consensus of Council to direct staff to move forward with the project.

Mr. Kissler answered additional questions from the Council pertaining to the city's aquifer. He noted that the current water system was at capacity during peak hours. Staff was reviewing the additional areas to build a reservoir in Bair Park.

Senior Planner, Maria Meier updated the Council regarding the In-fill Grant that the city had been awarded and noted that Shaperio and Associates were chosen by the City to develop the In-fill Plan. She shared that it would be a year- long process that would include public input to define the opportunities and constraints within the development code.

Mr. Johnson returned to the UNOCAL property issue. He stated that the article in the local paper had not reported all the information accurately and that staff was aware of the need to undertake the required public hearing before sale of the property.

PUBLIC HEARINGS

a. Primetime Pizza Liquor License Application

City Manager Eppley reported Samuel Wibowo and Michael Sublett had submitted an application for a restaurant liquor license for Primetime Pizza located at 5205 River Road North (former sight of Round Table Pizza).

He noted required notices were sent with no negative responses received. A background investigation was performed with no negative response.

It was recommended that a public hearing be conducted and upon it's completion the Council approve the restaurant liquor license for Primetime Pizza.

Mayor Newton opened the public hearing

Public Hearing

Michael Sublett, Primetime Pizza, 5025 River Road North- noted the focus of the license was as a standard for the industry and requested that the Council grant the restaurant liquor license.

No further testimony was brought before the Council.

Mayor Newton closed the public hearing.

Councilor Keller moved to recommend approval of the

Restaurant Liquor License Application for Primetime Pizza. Councilor McGee seconded the Motion.

The motion passed unanimously as follows:

AYES: Christopher, Keller, McGee, Moir, Newton, and Wilson and Walsh (7)
NAYS: None (0)
ABSTENTIONS: None (0)
ABSENT: None (0)

b. Keizer Transportation System Plan (continued from June 5, 2000)

Senior Planner, Maria Meier reported that the hearing was continued from June 5, 2000. She noted that Council had identified three primary issues regarding the proposed TSP including: flexibility with improvement projects due to possible budget constraints; objective to not create false expectations for improvements by exceeding state standards and identify a signal for Radiant Drive.

Staff recommended that the City Council accept additional public testimony and then close the public hearing to deliberate the proposed plan. Staff also recommended that Council include the amendments identified in the exhibits.

Ms. Meier introduced Wayne Rickert, Project Manager with the Mid-Willamette Council of Governments to answer questions from the Council.

Councilor Keller posed questions to Ms. Meier regarding the plan being brought back before the Council prior to the requested changes of making the plan *"meet and not exceed"* the state standards were in place.

Ms. Meier noted that a careful review of each of the elements within the plan and coordination with additional city staff and the individuals who originated the plan would be needed to meet these requests. She apologized for the misunderstanding as she thought staff was requested to analyze the requested changes.

Councilor McGee noted he was seeking more global language in the plan rather than each individual project being reviewed to make the necessary determinations.

Wayne Rickert, Project Manager, Mid-Willamette Valley Council of Governments- agreed that global language would be more prudent and noted the language

only exceeded the standards for bikeways on arterials and major collectors.

Councilor Keller expressed concerns that as the TSP was written the mandate of exceeding state standards in specific areas was not what the Council was seeking due to the mandate and funding issues that it would raise. He suggested that staff add language to those areas of the plan exceeding the state standards to be written as it would only occur upon the Council's approval. He felt this would eliminate the mandate within the plan.

Ms. Meier indicated verbiage could be added under the bicycle facility network statement on page 41 of the TSP.

A discussion of improvements at various intersections took place that would improve the accident level in various areas on River Road and how periodic review of this document and the traffic data would offer additional information for review during this process.

After input from the City Attorney, Mayor Newton closed the public hearing.

The Council directed staff to wordsmith the document with the changes in language as suggested and bring back for approval at the September 5, 2000 meeting.

c. Variance/Flood Plain Development Case No 00-18 Land Use Appeal (AT&T)

City Attorney, Shannon Johnson outlined the applicable criteria and procedures in the case. There were no objections, exparte contacts or bias announced.

Senior Planner, Maria Meier reported that the applicant (AT&T) requested approval of a Major Variance to construct a 140-foot monopole Wireless Telecommunication System (WTS) facility in an AI (agricultural industrial) zone. She noted the variance request was necessary to reduce the north side yard from the required 140 feet to 65 feet and to reduce the rear yard from the required 140 feet to 70 feet. She went on to state that the subject property was also located within the 100 year flood plain and was required to obtain approval for a Flood Plain Development Permit. Ms. Meier indicated that the appeal was in objection to the requested variance to the north property line setback.

Ms. Meier stated that the City had approved the Variance and Flood Plain Development permit request with conditions. The appellant, Miller Forests, objected to the

Major Variance request to reduce the setback adjacent to the north property line, which is located on the city limits and UGB. She also reported that the Hearing's Officer affirmed the Zoning Administrator's decision to approve the variance request in accordance to the criteria identified in Section 3.105.05 of the Keizer Development Code. Miller Forest, Inc. had appealed the Hearing's Officer decision to be heard before City Council.

Staff recommended that the public hearing be conducted and that the Council affirm the Hearing's Officer's and Zoning Administrator's decision to approve the Variance/Floodplain Development Permit request with all conditions as outlined in the original Notice of Decision.

Mr. Johnson addressed some of the threshold issues from the letter dated July 25, 2000 from Spencer Vail, Planning Consultant and the appeal form submitted by Miller Forest, Inc. He indicated that the Council considers hearings on a de novo basis.

Responding to questions, Mr. Johnson indicated that within the Keizer Development Code regarding telecommunication sites there are three noted sites, preferred, accepted and prohibited.

Ms. Meier noted inconsistencies within the Development Code and the original ordinance adopted regarding telecommunication sites. Legal counsel determined that the current ordinance would stand for processing of the application.

Mr. Johnson explained that these inconsistencies were due to the fact that there was no IA Zone at the time the Wireless Communication Ordinance was first established, but the new code contained the IA Zone and the preferred sites.

Public Testimony:
Spencer Vail, Land Use Planning Consultant with AT&T Wireless- seeking direction from Council to allow him to make his presentation. He noted the inconsistencies might want to be addressed for future appeals.

Mr. Johnson offered the appellant, John Miller the opportunity to address the threshold questions. He indicated that the applicant was noting that the appeal might be deficient, as it did not specify errors, therefore

the appeal should not be heard and that if the appeal was heard it should be limited to only that which is on the record.

John Miller, Appellant- noted they were given guidance by staff regarding the procedure and that it was a de novo hearing. He also felt it would be ludicrous to deny an appellant or an applicant the ability to present their case before Council. He went on to state that he agreed with the staff and city attorney regarding their position.

Mayor Newton made the motion for Council to entertain the appeal and to receive new testimony in the case and limit the time of the testimony. Councilor Keller seconded the motion.

Responding to questions Ms. Meier noted there were no other differences between the ordinance and the Development Code other than the inclusion of the IA Zone.

Councilor Walsh suggested that the errors of the Hearings Officer be identified to allow for testimony to be limited to this area.

The motion passed unanimously as follows:

AYES: Christopher, Keller, McGee, Moir, Newton, and Wilson and Walsh (7)
NAYS: None (0)
ABSTENTIONS: None (0)
ABSENT: None (0)

Spencer Vail, Planning Consultant with AT&T Wireless Services- noted the original application that indicated why a cell tower was needed in that particular area. He stated the approval standards were met for the variance and approved by staff. He reviewed the remainder of the appeal to the Hearings Officer of which the Hearings Officer approved. Mr. Vail urged the Council to uphold the Hearings Officers decision and reserved the right of rebuttal after the appellant's comments.

Responding to questions, Mr. Vail indicated that they were able to comply with the Flood Plain Standards.

John Weeks, Windsor Island Road, Keizer- supplied computer enhanced pictures of where the monopole

would be placed to stress why the variance was necessary. He reviewed each of the pictures with the Council explaining the layouts of the monopole. He requested that his variance be granted.

John Miller, 4985 Battlecreek Road, Salem- stated their appeal was based on that the Hearings Officer decision and that the applicant had not addressed appellants concerns which related to the city's ordinance. Mr. Miller reported that the Hearings Officer had indicated that the cell tower was being placed on land that was not being farmed. He supplied pictures indicating that the land had been farmed as recently as 1998. He also noted that the tower would be placed west of the row of firtrees and not south as the Hearings Officer had indicated. He noted other errors, which he felt the Hearing Officer made in her decision and felt the decision was flawed. Mr. Miller stressed that Mr. Weeks would be obtaining revenue from the placement of the tower and should bear the brunt of this decision and not area property owners.

Responding to questions, Mr. Miller indicated that the tower would be close to his property line, which could be suitable for development in the future. He reiterated that there had been no case made as to the request for placement of the cell tower and why it could not be located elsewhere.

Mr. Johnson indicated that the property is outside of the UGB and zoned EFU, which under county guidelines would make it difficult to develop as a residence.

Spencer Vail, Planning Consultant, AT&T Wireless- read from page three of the Hearings Officer's decision and he noted Engineering statements that were submitted regarding the construction of the cell tower. Mr. Vail indicated the attempt to use the existing trees to screen the tower from public view and lessen the impact of surrounding farmland. He felt the decision of the Hearings Officer should be upheld and the appeal denied.

Responding to questions, Mr. Weeks indicated the need for access roads to keep vehicles from compacting useable farmland. He noted that the cell tower was not taking any farmland out of production and with the expansion of his business he wished to avoid this. He stressed he had put a great deal of thought into the placement of the tower and offered the use of the access road to Mr. Miller.

Responding to questions, Ms. Meier indicated that based upon the testimony there would be no change in staff's recommendation.

With no additional testimony or questions from the Council Mayor Newton closed the public hearing.

Mr. Johnson noted that the hearing was a quasi-judicial hearing and read the criteria for the Council's consideration.

The Council discussed the positioning of the cell tower as noted by the applicant and reviewed the criteria of the variance.

Councilor Keller moved to direct staff to prepare an Ordinance for Council approval upholding the Hearings Officer decision with the conditions as outlined. Councilor Moir seconded the Motion.

Councilor McGee expressed his uneasiness that the issue of the tower being placed within Mr. Weeks compound was not further addressed as Mr. Weeks was being compensated for the use of the land by AT&T.

Councilor Walsh noted the zoning for the Weeks and Miller properties.

The motion passed unanimously as follows:

AYES: Christopher, Keller, McGee, Moir, Newton, and Wilson and Walsh (7)
NAYS: None (0)
ABSTENTIONS: None (0)
ABSENT: None (0)

ADMINISTRATIVE ACTION

a. Request for Qualifications-Legal Services

City Manager Eppley submitted for Council's review language for Request for Qualifications for legal services. He noted the changes from the previous draft and requested direction from Council.

At the request of Council Mr. Eppley indicated that he could include language on one page two, number five that would limit contact of legal council by staff per the City Manager's discretion.

Council President Christopher moved to make the changes as indicated and initiate the process according to the timeline. Councilor Moir seconded the Motion.

The motion passed unanimously as follows:

AYES: Christopher, Keller, McGee, Moir, Newton, Wilson and Walsh (7)
NAYS: None (0)
ABSTENTIONS: None (0)
ABSENT: None (0)

City Manager Eppley shared that the Engineering Request for Qualifications should be available for the Council to review at the August 21, 2000 meeting.

CONSENT CALENDAR

a. **RESOLUTION- Certification of Street Lighting District Assessments**

b. **RESOLUTION- Certification of Delinquent Sewer Assessments**

c. **RESOLUTION-Transferring Appropriations for Fiscal year 2000-2001 (Youth Compact Program)**

d. **Approval of July 10, 2000 Special Session Minutes**

e. **Approval of July 17, 2000 Regular Session Minutes**

f. **Approval of July 24, 2000 Work Session Minutes**

Councilor Moir pulled item "d" is from the Consent Calendar.

Councilor McGee pulled item "f" from the Consent Calendar.

Councilor Keller moved for approval of the remaining items on the Consent Calendar. Councilor Moir seconded the Motion.

The motion passed unanimously as follows:

AYES: Christopher, Keller, McGee, Moir, Newton, Wilson and Walsh (7)
NAYS: None (0)
ABSTENTIONS: None (0)
ABSENT: None (0)

WRITTEN COMMUNICATIONS

No written communications were brought before the Council.

AGENDA INPUT

August 21, 2000
7:00 p.m. Keizer City Council Meeting

- Chemawa Activity Center Plan Public Hearing (continued from July 17, 2000)
- Appropriation of Contingency Funds-Personal Services
- Emergency Management Operations Manual - Chapter One Review

September 5, 2000 (Tuesday)
7:00 p.m. Keizer City Council

Mayor Newton noted the agenda items.

Mr. Kissler requested that Francis Kessler with the Willow Lake Treatment Plant be scheduled to make a presentation regarding a pilot study on a natural treatment system.

After discussion it was the consensus of Council to tentatively schedule this presentation for September 18,2000.

ADJOURNMENT

Mayor Newton adjourned the meeting at

Tracy L. Davis
City Recorder

APPROVED:
MAYOR:

Bob Newton

COUNCIL MEMBERS:

Councilor #1 - J. L. Wilson

Councilor #2 - Lore Christopher

Councilor #3 - Jim Keller

Councilor #4 - Jacque Moir

Councilor #5 - Richard Walsh

Councilor #6 - Jerry McGee

Minutes approved:

August 21, 2000