MINUTES
KEIZER CITY COUNCIL
Monday August 5, 1996
Keizer City Hall
Robert L. Simon Council Chambers
Keizer, Oregon

CALL TO ORDER

Mayor Koho called the regular meeting to order at 7:07 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
Shannon Johnson, City Attorney
Nona Oxe', Recording Secretary

PUBLIC TESTIMONY

Leon Croteau, 7575 Hunsaker Road SE, Turner, presented testimony to support his request that Council move forward the hearing to consider "Rescinding of Claggett Creek Cemetery Comp Plan/Zone Change/Conditional Use."

Mr. Croteau stated that after Council considered the issue on June 17, and continued the public hearing to October 21, he talked with George Lyman, with the Keizer Funeral Home, and representatives of The Ridge Homeowners Association. At the June 17 hearing, both parties had expressed concerns about the property being developed for residential uses rather than expansion of the cemetery. Mr. Croteau noted that both parties have now withdrawn their objections. He requested that Council move the hearing forward to the earliest possible date.

FMAGIC

Mayor Koho asked Community Development Director Morgan if technically it was possible to move forward the date.

Mr. Morgan noted that a couple weeks ago Council was given a copy of a letter from Mr. Lyman withdrawing his objections. Mr. Morgan had also seen documents negotiated between The Ridge Homeowners Association and the buyer of Mr. Croteau's property, indicating that they were very close to agreement. In that the original application for cemetery expansion was no longer an option, Mr. Morgan could see no reason to hold off the hearing until October 21. If so directed by Council, staff would reschedule the hearing for the earliest possible date that would allow proper noticing.

Mr. Morgan confirmed for Councilor McGee that because the hearing was continued by Council motion, it would be necessary for Council to pass a new motion to reschedule the hearing.

Councilor Beach moved to reschedule the public hearing to the earliest possible date. Mayor Koho seconded the motion.

Mayor Koho asked for and received confirmation that notice of the hearing would go to all who were previously noticed.

The motion passed as follows:

AYES: Beach, Keller, Koho, McGee, Miller, Newton and Watson (7)
NAYS: None (0)
ABSTENTIONS: None (0)
ABSENT: None (0)

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

COMMITTEE REPORTS

COUNCIL LIAISON REPORTS

There was no report on the **Traffic Safety Commission.**

Councilor Beach reported on the **River Road Redevelopment Board** meeting of July 31, 1996. He noted that Keizer Fire Marshal Joel Stein appeared and presented information on fire hydrant locations in connection with a discussion of the River Road Design Plan. Also appearing at the meeting was Chris Freshley, the Inland Shores landscape architect. Mr. Freshley presented a proposal for a gateway at the corner of Lockhaven and River Road. Councilor Beach also reported on announcements made by Mr. Morgan at the R3B meeting regarding a proposed bus pullout/transit shelter north of Iris Lane, sign code compliance, and a proposal for a development project at the Chemawa Interchange. Councilor Beach noted that the meeting concluded with Consultant John Spencer presenting the updated Cherry Avenue Design Plan.

After Councilor Beach's report, Community Development Director Morgan responded to questions about the Cherry Avenue Design Plan. He invited Council members to attend a public meeting on August 14 at 6:00 p.m. in the middle of Cade Street to talk about options for Cade Street. Mr. Morgan also responded to questions about a proposed bus pullout, and sign code compliance.

Mayor Koho gave a brief report on **the Oregon Mayor's Association Conference.** He named ballot measures that were endorsed by the Association, and ones that were opposed, and pointed out the potential impacts of the legislation on local governments. He noted that the group also voted unanimously to support a resolution brought forward by the Mid-Valley Mayors' Coalition asking that the State Parks Department work closely with local governments and others to come up with a solution other than closing the parks.

Councilor Newton presented a check for $266 to the DARE Program, representing contributions from the **Iris Festival** fun runs. He also presented Police Chief Stull with six T-shirts left over from the festival, to be distributed as part of the Police Department's program to recognize children demonstrating good behavior.

PUBLIC HEARINGS

ORDINANCE - APPEAL OF ZONE CHANGE CASE NO. 96-02 (BECK) CONT. FROM 7-15-96

Mayor Koho reopened the public hearing.

City Attorney Johnson recalled that at the July 15 Council meeting a public hearing was held on Zone Change Case 96-02 for property at Linda Avenue and River Road owned by Richard Beck. He noted that Council continued the public hearing to tonight's meeting and directed legal staff to prepare an appropriate ordinance granting the requested zone change with certain conditions. Mr. Johnson called attention to the draft ordinance included in the Council agenda packet, and stated that he would respond to any questions from Council.

Councilor McGee called attention to excluded uses listed on page 2 of Exhibit "A" to the ordinance, and staff's recommendations for compromise with regard to eating and drinking establishments. He felt that Council's direction to allow eating and drinking places, but prohibit drive-up or drive-through windows, and to prohibit the sale or serving of alcoholic beverages was clearly defined. Councilor McGee questioned the change in wording in Section 1.c. of Exhibit "E" of the proposed ordinance which states "Any eating and drinking place using a "drive-through" or "drive-up window service." He wondered if the wording should not be precise to that in Exhibit "A."

City Attorney Johnson pointed out that Exhibit "A" represented an evidence exhibit presented at the public hearing. The list in Exhibit "A" was taken directly from Mr. Morgan's staff report and recommendation at that time. Mr. Johnson noted that after Council deliberation the decision was to exclude the uses listed on Exhibit "E." He noted that section 1.a. dealt with the issue of alcoholic beverages, and 1.c. dealt with drive-up or drive-through windows.

Noting that the term "drinking place" is generally used in connection with the sale of alcoholic beverages, Councilor McGee felt that a reference to eating and drinking places in section 1.c. might cause some confusion in the future.

Mr. Johnson pointed out that the term eating and drinking place has been used in the zone code instead of restaurant as a broad category. He conceded that "drinking place" is used when referring to a place that serves alcohol, but felt that its use in this case would be in the context of the zone code.

Mayor Koho recalled that the intent was to have no drive-up or drive-through window service regardless of the use. He felt that section 1.c. should not be specific to an eating and drinking place.

Presenting testimony to the Council was:

Richard Beck, 4485 River Road S, Salem, recalled discussion from the previous hearing regarding ways to place limits on eating and drinking places in order to exclude convenience stores and fast food restaurants. He noted that prohibiting the sale of alcohol was considered one way to reduce the likelihood of a fast food store. Council had also discussed the fact that the property is already zoned for a sit-down restaurant, and had indicated a desire to retain such a use. That discussion had led to the decision to prohibit drive-up windows.

Mr. Beck indicated that his only exception to the proposed document was with regard to section 1.a. of Exhibit "E" which excludes the "Sale or serving of any alcoholic beverages." He requested that "serving" be struck from the restriction. It was his feeling that most sit-down restaurants have the capability of serving a glass of wine or beer. Although currently there were no intentions to do so, Mr. Beck wished to retain the opportunity to serve beer or wine in a sit-down restaurant at some time in the future.

Mayor Koho recalled from previous discussions the objections to anything having to do with a liquor license. He felt that the proposed language reflected Council's decisions based on those discussions.

Mr. Beck pointed out that at the time of his original application for use as a Pizza Hut, the zoning allowed for the serving of alcoholic beverages. He noted that the intent of the zone is not to unnecessarily limit the use of a piece of property. He felt that no problems would be created by granting his request.

Mayor Koho wished to make it clear that once Council grants any use allowing liquor, Council looses all control. He pointed out Council's limited involvement once the OLCC is in control.

Councilor Watson felt that the language reflected Council's intent. He could see no reason to get into a discussion about an issue not now significant to the applicant. He pointed out that the applicant could come back should the issue become relevant. Councilor Watson, however, questioned whether Mr. Beck would have any problem with changing the wording in section 1.c. of Exhibit "E" to replace "any eating and drinking place" with "any establishment."

Mr. Beck objected to placing on restrictions that would further limit the potential for future uses. He used as an example the possibility of a drug store with a drive-up window. He expressed his frustration with the continuing delays and lack of cooperation. He emphasized that current zoning would allow all the things that Council is restricting should he decide to pull the rezone request.

There was no further testimony to come before the Council.

Mayor Koho closed the public hearing.

Councilor Miller agreed with Councilor Watson's suggestion to substitute "establishment" for "eating and drinking place" in section 1.c. of Exhibit "E." In response to Mr. Beck's comments, Councilor Watson noted that Council had established the list of exclusions based on testimony and deliberation at the public hearing. He stressed that Council's decision now would not foreclose on any future changed use on the property--only that a request to do anything on the list would require another hearing and public input.

Councilor Miller moved a bill for an Ordinance in the Matter of the Application of Richard Beck for a Zone Change from Commercial Retail-Limited Use (CR-LU) to Commercial Retail (CR) on a 0.33 Acre Parcel Located at 4710 River Road North, Keizer, Oregon (Case No. ZC 96-02) (Partially Repealing Ordinance No. 92-236), with an amendment to Section 1.c. on Exhibit "E" to read: "Any establishment using a "drive-through" or "drive-up" service window." Councilor Beach seconded the motion.

Councilor McGee objected to the amendment. He recalled that the discussion regarding a drive-up window was specific to an eating establishment, not a bank, drug store, or any other similar use. It was his recollection that the testimony was with regard to the out-door speaker noise and traffic related to a fast-food establishment, therefore, he could not support the amendment.

Mayor Koho pointed out that the motion on the floor included the change in language. He suggested that if Councilor McGee wished to return to the original language in the draft, an amending motion would be necessary.

<u>Councilor McGee moved to amend the motion to adopt the ordinance as originally worded. Councilor Newton seconded the motion.</u>

Councilor McGee indicated his satisfaction with City Attorney Johnson's explanation regarding his major concern, drinking places. He also agreed with the exclusion of fast- food stores. He reiterated, however, that the drive-up and drive-through discussion was specific to eating places, and he did not feel nearly as strongly that a drive-up bank, etc. should be excluded. He felt that the ordinance was unnecessarily restrictive and encompassed more than the original intention to exclude convenience stores and fast-food stores.

Councilor Watson felt that Council's decision should not be controlled simply by the fact that the previous discussion focused on fast-food restaurants. He felt that Council could look at the logical implications--other activities that are similar in nature. He would not be in support of Councilor McGee's proposal.

It was Councilor Miller's perception that even though the discussion talked about fast-food restaurants, the main concern was traffic that would be generated by any kind of drive-up window.

<u>The Amendment to the Motion failed as follows:</u>

<u>AYES:</u> McGee (1)
<u>NAYS:</u> Beach, Keller, Koho, Miller, Newton and Watson (6)
<u>ABSTENTIONS:</u> None (0)
<u>ABSENT:</u> None (0)

Referring to item 1 on Exhibit "C," Councilor Watson questioned the accuracy of the stated 0.33 acres property size.

City Attorney Johnson confirmed that the 0.33 acres refers to the subject property only.

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)

APPEAL OF SUBDIVISION CASE NO. 96-03 (3-H CONSTRUCTION)

Mayor Koho opened the public hearing.

City Attorney Johnson reviewed the applicable criteria and procedures for the subject hearing. Because of the length of the exact criteria for the subdivision case, Mr. Johnson proposed that reading of the exact criteria be waived. There were no objections.

Mr. Johnson requested that any objections or conflicts of interest be declared at this time. No objections or conflicts of interest were raised.

Community Development Director Morgan presented the staff report in connection with an appeal by 3-H Construction of Condition 11 of the Hearings Officer Decision. Mr. Morgan noted that in this case staff is siding with the applicant and recommending an amendment to the Hearings Officer Decision.

Mr. Morgan briefly reviewed the case. He noted that in May Council rezoned the property from RS to RM. The Council held a public hearing over two nights; May 6 and May 20. At the first hearing the applicant did not present a site plan and suggested no density limitation other than that allowed by the zoning ordinance. The standard zoning ordinance would allow 99 units on this site. At the continued hearing on May 20, the applicant submitted a site plan showing 80 multi-family units. The Council approved the zone change conditioning it by requiring the development to be in substantial conformance with the site plan and not to exceed 80 multi-family units.

Mr. Morgan noted that in the mean time the applicant also applied for a subdivision of the property. In the decision on that case, the Hearings Officer specifically placed a Condition 11 which reads "Because I can find nowhere in the record that Applicant has committed to a particular number of multi-family units, Applicant may develop from 41 multi-family units to no more than 73 multi-family units on Lot 1, pursuant to the pertinent Comprehensive Plan density standards."

Summarizing, Mr. Morgan noted that in the separate subdivision proceeding the Hearings Officer put a cap of 73 units. The Council in the zone change had put a cap of 80 units.

Mr. Morgan noted that at the applicant's request, and concurring in the applicant's position, staff asked the Hearings Officer on July 2 to reconsider his decision. On July 6, the Hearings Officer, by letter, denied the request. His reasons for the denial are summarized as follows:

1. The criteria for density determinations are found in the Comprehensive Plan and those criteria must be applied.

2. This new information on the zoning ordinance density standards and on the Council action is not part of the record and therefore he cannot consider it after the record is closed.

3. An application must be judged based on the laws in place at the time the application is filed. The Council action approving the zone change occurred <u>after</u> the subdivision application was filed.

Mr. Morgan noted that staff disagrees with the Hearings Officer on the first point, and reluctantly concurs with the findings on the second and third points as being technically correct, however strictly constructed.

Mr. Morgan addressed point 1. He explained why staff disagrees with the Hearings Officer's reading of the Comprehensive Plan. He noted that the policy in question is specifically intended to guide the City in creating a Comprehensive Plan Land Use Map. It does not establish density standards which have the force of the Law. Mr. Morgan called attention to another Comprehensive Plan policy, not cited by the Hearings Officer, closer to establishing a density standard. Chapter III, Section D.2.c.1 states: "1. Allow a mix of housing types in this category in two general levels of residential density: a. Medium density

- over 8 and up to 16 units per gross acre." He noted, however, that staff believes this standard is not a criteria for two reasons. First, it is intended to be a "general" level of density. Second, and more importantly, as with all the design policies of the Comprehensive Plan, the density policies are implemented by the Zoning Ordinance, which was specifically adopted to be the implementing tool for the Comprehensive Plan policies. Mr. Morgan emphasized that the Zoning Ordinance allows more density by its very specific provisions than what the Comprehensive Plan says. The Zoning Ordinance is law, while the Comprehensive Plan is not in this particular case.

Mr. Morgan stated that staff concurs with the applicant that the Hearings Officer erred in applying the Comprehensive Plan policies, and finds the 80 unit proposal conforms with the Comprehensive Plan.

Staff recommended that Council conduct the public hearing, continue the hearing until August 19, and direct staff to return on August 19 with an order upholding the Hearings Officer decision but striking Condition 11.

Councilor Keller was concerned about dissension between staff and the Hearings Officer. He asked if it was unusual for staff to disagree with the Hearings Officer and come forward in support of the applicant. Mr. Morgan conceded that it was.

Councilor Keller recalled traffic issues as being a primary concern when the zone case was last discussed. He felt that if information capping the number of units at 73 had been made available, Council likely would have gone with it to help mitigate the traffic concerns.

Mr. Morgan explained that the limit was not brought up in the zone change context or in the subdivision proceeding in that generally the zone change deals with density issues and the subdivision deals with dividing land. He noted that in his letter to the Hearings Officer he found that it was inappropriate for the Hearings Officer to discuss density issues at a subdivision proceeding. He emphasized that Council had all the information relevant to the case in that it was working with the law--the Zoning Ordinance. He noted that since 1985 the Zoning Ordinance has guided the density development of the community.

Councilor McGee questioned why a discrepancy existed between the Comp Plan and the Zoning Ordinance. Mr. Morgan was unsure why there was a discrepancy, but suggested that it would be good to look at some amendments to either one or the other to bring them into closer conformity.

City Attorney Johnson acknowledged that the discrepancy does lead to some confusion. He could see how the Hearings Officer could reach his conclusions, but agreed with Mr. Morgan's understanding. Mr. Johnson reviewed some of the history of the crafting of the Comp Plan and Zone Code, and noted that limited resources were available for crafting the Zone Code.

Councilor McGee praised the work of the Hearings Officer and his independent judgment in reviewing cases.

Mayor Koho quoted from a letter from the Hearings Officer dated July 6. In the letter the Hearings Officer stated that he was unaware of any authority, statutory or otherwise, that would enable him to augment evidentiary record after rendering a decision. Mayor Koho asked if the hearing was conducted under the Administrative Procedures Act. He felt that it would allow for additional evidence to be presented. City Attorney Johnson answered that such hearings are conducted based on the City's Zone Code. He noted that a reconsideration by the Hearings Officer was requested, not a rehearing. He perceived that the lack of opportunity to get additional evidence into the record was the reason for Mr. Morgan's concession on points 2 and 3 of the Hearings Officer Decision.

Councilor Keller asked if anything was in the works that would clarify the issues and prevent a similar disagreement from occurring in the future. Mr. Morgan felt that a better understanding of each other's points-of-view was occurring by way of recent correspondence between him and the Hearings Officer on this issue. He perceived that as Hearings Officer Adamson gained more knowledge of Keizer's codes, procedures and history, the process would go more smoothly.

Councilor Watson indicated that he was also struck by the fact that this was the second such conflict between the

Hearings Officer and staff. He also applauded the independent action of the Hearings Officer and indicated that he would not like to see it interfered with.

Councilor Watson relayed his understanding that the Zone Code must be consistent with the Comprehensive Plan. He asked City Attorney Johnson if it was his opinion that the Zone Code prevails over the Comprehensive Plan.

Mr. Johnson agreed that the Comprehensive Plan should control over the Zone Code if there is a direct conflict. He explained that in this case the conflict isn't as direct. Mr. Johnson explained how the Hearings Officer's finding was based on a combination of Comp Plan density designations, not a specifically defined number. It was Mr. Johnson's opinion that the Hearings Officer had erred in that he had factually looked at the Comp Plan wrong. He felt that the Hearings Officer should have been looking at the provision in the Zoning Ordinance which speaks about 2,000 SF per unit.

Presenting testimony to the Council was:

Mark Grenz, Multi-Tech Engineering, 1155 - 13th Street SE, Salem, expressed his frustration with the complexity of the zoning and Comp Plan process. He noted the problems he encountered with a previous application for another piece of property, and his efforts in this case to take all the appropriate steps to ensure approval by the Council.

Mr. Grenz noted that Council's decision regarding density based on the Zone Code was not at issue when he began the subdivision process. He noted that in doing many subdivisions in Keizer he had never had to address density as an issue in the subdivision process--always assuming that the Zone Code would govern the development of the properties based on lot sizes. Mr. Grenz felt the Hearings Officer was in error by bring up the density issue. He indicated that he merely wanted Council to allow him to do what they had agreed upon.

There was no further testimony to come before the Council.

Councilor Miller moved to continue the hearing until August 19, 1996, and direct staff to return on August 19 with an order upholding the Hearings Officer decision but striking Condition 11. Mayor Koho seconded the motion.

For clarification, Councilor Watson questioned the maximum density allowed in Medium to High Density Residential. Mr. Morgan noted that the Comp Plan allows 9-16 units for Medium Density, but puts no ceiling on High Density. The Zoning Ordinance bases density on square footage, allowing in the RM Zone about 21 to 22 units per acre.

Councilor Watson had concerns about the inconsistencies in what is allowed and what may be perceived to be allowed. He would support the motion, but felt that the discrepancies in density ratios should be further explored.

Councilor Keller expressed his appreciation to Mr. Morgan and City Attorney Johnson for clarifying the process. He felt that the Hearings Officer might also look at the process a little differently after hearing the explanation.

The motion passed as follows:

AYES: Beach, Keller, Koho, McGee, Miller, Newton and Watson (7)
NAYS: None (0)
ABSTENTIONS: None (0)
ABSENT: None (0)

Mayor Koho announced that the hearing is recessed until August 19.

ADMINISTRATIVE ACTION

Updated Tax Base Request

City Manager Tryk recalled that at the July work session the Council discussed the possibility of placing an updated tax base on the ballot in November. She noted that at that point, there was some consensus to place a "safety net" tax base before the voters. It would be in the amount of the current tax base and the current one-year levy plus 6%. Ms. Tryk stated that her projections show that this amount would fund the general fund at the current status for two years. After that time, Council would need to address a shortfall.

Ms. Tryk advised that in response to a request from Councilor McGee at the July meeting, projections based on a series of scenarios were distributed to the Council a couple weeks ago. The only additional information she had was with regard to Measure 47 known as "cut and cap" legislation. If approved by the voters, in addition to reducing tax revenues by $50,000 in the first year, any levy request would have to be approved by a majority vote with a 50% voter turnout. Ms. Tryk pointed out that for Keizer's last levy election there was a 42% turnout.

Ms. Tryk noted that the deadline for placing a tax base request on the ballot is September 5, leaving two more Council meetings before a decision must be made.

Mayor Koho stated that he would like to see a decision made at the earliest reasonable time in order to allow for public discussion of the issue.

Councilor McGee asked if the impact of an approved "cut and cap" measure would be the same whether or not the updated tax base was approved.

Ms. Tryk explained how a more updated tax base might provide a little higher tax base to fall back on in the event Measure 47 is approved.

Councilor McGee stated that after talking to many people in the community, he has reconsidered his advocacy for a "safety net" approach. He now felt that it might create some confusion. He indicated support for pursuing an updated tax base, and considered the current budget plus 6% appropriate. Assuming the tax base is passed in November, Councilor McGee questioned whether in the regular budget cycle it would jump another 6%. City Manager Tryk answered that it would not.

Councilor McGee also questioned what type of provisions might be put in place to restrict the sudden explosion of other revenues to make up for lost tax revenues. Ms. Tryk pointed out that in addition to the budget process, Council would have to adopt any resolutions or ordinances that would implement such revenues.

Mayor Koho emphasized that anything passed by this Council to restrict fee increases could be undone by a majority vote of any subsequent council.

Councilor Miller had reservations about going for a tax base this year. He agreed that there was a need to update the base, but saw many variables that could cause severe hardship to the City. He was especially concerned that after approving an updated base, voters would later reject any additional levy regardless of the circumstances. He felt the City might be in a better position to go for an updated tax base in two years.

Councilor Beach felt that an updated tax base was necessary to give the City some stability. He agreed with setting it at the amount levied this year plus 6%.

Mayor Koho indicated support for an updated tax base. He felt that the current tax base and levy plus 6% would be acceptable. Sensing that Councilor McGee's perception of a "safety net" might be somewhat different, Mayor Koho indicated that he saw this proposal as being something that the City could live with if it had to, and as such he saw it as a "safety net." He pointed out that it would give the Budget Committee a fixed income to work with. Although concerned about the "cut and cap," Mayor Koho was more concerned about the ballot measure that would require a "super majority" for any tax base. He could see where its approval would result in major impacts on staffing.

Councilor Keller had previously been inclined to go along with Councilor Miller's position to wait a couple years. But with the qualification of Measure 47 for the ballot he saw a need to create some stability now, and was in support of going for the updated tax base.

Councilor Newton agreed with the need to proceed now. He felt that the best chance for approval of the tax base would be at the general election in November. He also saw a need to make the public aware that tax dollars are being used wisely in Keizer.

Councilor Watson agreed with moving on the updated base now. He felt that the numbers were very conservative and would necessitate a tight budget, and a commitment to the voters to make it work. With regard to tax measures that would place limits, It was Councilor Watson's hope that the voters would carefully consider the consequences before voting to approve.

Councilor Miller indicated that for the sake of unanimity he would support going for the tax base this year. He felt, however, that regardless of the passage of any of the ballot measures, Keizer would be looking at budget problems and layoffs in the future.

Mayor Koho moved to direct staff to come back to the next Council meeting with the necessary work to send to the November ballot an updated tax base of $1,950,612. Councilor McGee seconded the motion.

City Manager Tryk requested appointment of a sub-committee of the Council to help her write the ballot title. Councilors Newton, McGee and Miller were appointed.

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. Marion County Building Code Agreement

b. RESOLUTION - Authorizing Intergovernmental Emergency Management Cooperative Agreement

c. 1996-97 Quarterly Goals Report

d. RESOLUTION - Authorizing Membership in City/County Insurance Services

e. RESOLUTION - Awarding Bid for McLeod Lane Storm Drain/Bike Paths Project

f. RESOLUTION - Awarding Bid for Pleasantview/Menlo/Cedar Storm Drain Project

g. RESOLUTION - Initiating Hidden Creek Estates Phase 4 Street Lighting District

h. RESOLUTION - Approving Engineer's Report for O'Neal Road (Edgemoore Estates) Street Lighting District

i. Approval of July 1, 1996 Regular Session Minutes

j. Approval of July 8, 1996 Work Session Minutes

Councilor Watson pulled item "j" from the Consent Calendar.

Councilor Watson moved for approval of the items on the consent calendar with the exception of item "j". 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)

item "j"

Councilor Watson called attention to a typographical error on page 3 of the July 8 minutes. In paragraph 6 the ballot date was incorrectly stated as November 1998. He requested that the minutes be corrected to indicate November 1996.

Councilor Watson moved for approval of item "j", the minutes of July 8, 1996, as corrected. 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

Initiation of Zone Change Modification (Hidden Creek Subdivision)

City Attorney Johnson distributed copies of a staff report and proposed resolution to initiate a zone change modification for Hidden Creek Subdivision. Mr. Johnson stated that the matter involves a flooding issue associated with the Labish Ditch--specifically the unanticipated flooding of the Country Glen and Hidden Creek Subdivisions. The proposed resolution would initiate an amendment to modify a condition of approval for Hidden Creek Properties which called for preservation of a 30-foot vegetative buffer adjacent to Labish Ditch, and stated that no trees or vegetation could be removed from such 30-foot buffer, except for certain listed exceptions. The proposed amendment would allow cleaning out of the Labish Ditch.

Mr. Johnson noted that the developers of Hidden Creek and Country Glen have offered financial support to clean out the ditch.

Mr. Johnson indicated that after careful review of the proposal and previous documentation, he felt that any activity there that might disturb the vegetative buffer would be best served by looking at modifying the condition. It would allow opportunity to provide safeguards to the Gubser neighborhood, and also be clear, for safety purposes with regard to flooding, that certain modifications could be made to the 30 foot buffer. Mr. Johnson noted that the proposed resolution would initiate the zone change procedure to look at modifying that condition.

Mr. Johnson emphasized that adoption of the resolution would not bind the Council to make any decisions one way or the other regarding the clean out of the ditch or modification of the condition. It would merely begin the process. He also stressed that the proposed action deals only with the one stated condition. Details regarding any clean out would be addressed later. Mr. Johnson noted that the suggested hearing date is September 3.

Councilor Keller noted that there are misconceptions as to the location and boundaries of Labish Lake and Labish Ditch. He asked for clarification. Ms. Tryk could not define specific boundaries. She noted, however that Lake Labish is drained by two different irrigation districts, one, the east and one, the west. It was her understanding that both were called Lake Labish.

Councilor Newton wished to be sure that notice of the hearing go to property owners on downstream toward the Willamette. With regard to the distance downstream to be noticed, he indicated that he would defer to the Engineer's judgment as to properties that might be affected by the drainage.

Councilor Watson indicated a particular interest in the issue since his home is downstream from the proposed clean out. He had serious concerns about the impacts of the clean out. He questioned if it was the developer's intention to pay for cleaning out the ditch all the way to River Road. He felt that the neighboring property owners should not be expected to pay the costs.

Ms Tryk felt that neighboring property owner's obligations would need to be talked about. However, at this point, the developer's were intending to clean it at their expense down to River Road.

Councilor McGee pointed out other issues that had been discussed in relation to Lake Labish. He wondered if the various solutions would be brought to Council one at a time or collectively.

Ms. Tryk stated that she intended to spend the August 12 workshop giving Council an overview with all of the information pertaining the cleaning of the ditch, the enlarging of the culvert, and the status of dealings with the two irrigation districts. She noted that the issues would come to Council one at a time--the proposed amendment would come first.

Mr. Johnson emphasized that the proposed land use hearing is just to review the condition and possibly modify it at the Council's discretion.

<u>Mayor Koho moved a Resolution Initiating Consideration of an Amendment to Ordinance 93-251 to Modify a Certain Condition of Approval for Hidden Creek Properties (Case No. KP/ZC/PUD/V 92-4. Councilor Miller seconded the motion.</u>

Councilor Watson indicated that a neighbor had reminded him that in addition to the culvert at River Road there is a very important culvert on the trail that crosses from

Swingwood and runs up to the school. In order to solve the problem at River Road, it should be dealt with as well.

Ms. Tryk noted that she brought it up to the City Engineer and he would be prepared to address it.

Councilor Newton reiterated that he wouldn't want to solve the problem at Hidden Creek and pass it on to some other location. He felt that the other flood issues should be addressed at the same time.

<u>The motion passed as follows:</u>

<u>AYES:</u> Beach, Keller, Koho, McGee, Miller, Newton and Watson (7)
<u>NAYS:</u> None (0)
<u>ABSTENTIONS:</u> None (0)
<u>ABSENT:</u> None (0)

City Manager Tryk noted that she had distributed to each Council member a copy of the Draft Master Plan for the Willow Lake Sewage Treatment Plant and Sewage System. Today, she had attended a meeting presented by the consulting firm that was retained by the City of Salem. She noted that their intent is to provide for a lot of public input over the course of the next few months. Ms. Tryk will offer them every opportunity to do so in the City of Keizer.

WRITTEN COMMUNICATIONS

There was no written communication to come before the Council.

AGENDA INPUT

Mayor Koho noted the agenda input items.

ADJOURNMENT

The meeting was adjourned at 8:49 p.m.

Tracy L. Davis, City Recorder

By *Nona M. Oxe'*
Nona M. Oxe'
Recording Secretary

APPROVED:

MAYOR:

Dennis Koho

COUNCIL MEMBERS:

Councilor #1 - Jerry Watson

Councilor #2 - Bob Newton

Councilor #3 - Jim Keller

Councilor #4 - Carl Beach

Councilor #5 - Al Miller

Councilor #6 - Jerry McGee

Minutes approved:

August 19, 1996