

M I N U T E S

KEIZER CITY COUNCIL

Monday, August 5, 1991

Robert L. Simon Council Chambers
Keizer City Hall

CALL TO ORDER

Mayor Orcutt called the regular session to order at 7:35 p.m. Roll was taken as follows:

Present

Andrew J. Orcutt, Mayor
Mike Hart, Councilor
Dennis Koho, Councilor
Al Miller, Councilor
Bob Newton, Councilor
Joe Van Meter, Councilor
Jerry McGee, Councilor

Staff

Donald H. Otterman, City Manager
John Morgan, Community Development Director
Kevin Wickman, Parks Director
Wally Mull, Public Works Director
Shannon Johnson, City Attorney
Roxie McGrath, Acting City Recorder

PUBLIC TESTIMONY

Catherine Thiebold addressed the Council on the subject of Claggett Creek Park and noted that she had submitted a letter concerning the subject on July 26, 1991. Ms. Thiebold lives next to the park and finds that there is a severe problem with noise and vandalism. She stated that the noise ordinance is not being enforced and noted that when the police are contacted about problems there is a four hour delay in their arrival. Ms. Thiebold pointed out that the park is often used after dark, even though it is supposed to be closed at dark.

Mayor Orcutt asked Mr. Wickman what action the City is taking to resolve the problems. Mr. Wickman responded that bilingual signs are being posted in the parks. He stated that he has met with representatives of the Police Department. As a result, there will be increased patrols in the area. Mr. Wickman stated that there has been an increase in vandalism at the park which is occurring after dark. Mayor Orcutt asked Mr. Wickman to follow the situation closely.

COMMITTEE REPORTS
Certificate of
Appreciation

The L.D.S. Church on Lockhaven held a youth convention in July at which time the group spent a day providing park clean up chores. At Claggett Park and Wilark Park the children performed litter clean up and weeding which

resulted in thirty-five bags of debris. Mayor Orcutt presented Rudy Carlos the City of Keizer Community Service Award for his Youth Convention coordinating efforts.

Also, in July, a local Cub Scout group cleaned up Willamette Manor Park which include limb and litter pick up, as well as sweeping of the tennis courts. Mayor Orcutt presented Dan King, as Cub Scout Leader, the City of Keizer Community Service Award for coordinating park clean up.

PUBLIC HEARING - Mayor Orcutt opened the public hearing to consider
McNary Activity testimony regarding the McNary Activity Center Plan.
Center Plan
(Continued)

Mr. Morgan noted that the Council held its public hearing on July 1, 1991. The hearing was held over until this meeting so that staff could respond to the testimony and to allow for additional comments from the public.

Mr. Morgan discussed his report on the public testimony provided. One of the main points was circulation. The first issue was the proposed turnaround into McNary Estates. He stated that a petition was submitted by residents of McNary Estates concerning the proposed turnaround into McNary Estates. The petition states that the signers are not opposed to a second entrance, however they feel it is an invasion of privacy to allow public access across McNary Estates Drive, which is privately maintained, into the proposed turnaround. The petition additionally states that the development was offered as being private and they wish it to remain as such. The signers request an alternative be found for a second entrance.

The second issue concerning circulation was the requirement for an internal street system, primarily on the Staats Corporation property. Mr. Morgan stated that staff agrees with the Planning Commission's findings in that there will be no or minimal loss of lots. Additionally, the issue could be addressed through careful design and use of traffic inhibitors.

Mr. Morgan discussed the Planning Commission's recommendation to the Council on requiring an agreement on a strategy to "maximize retention of geese..." He pointed out that the phrase "maximizing retention" may be so restrictive in nature that it can result in interpretations that severely restrict development potential of the property. Additionally, inside an urban growth boundary where urban development is supposed to occur it may not be appropriate to restrict development for factors not specifically called out in law, such as wetlands or floodplains.

Mr. Morgan discussed the mixed use zone issue. He stated that staff is recommended adding a definition of "single development." The following change is proposed: "... no more than 50% of a single development shall be non-residential. Single development is defined as a complex of one or more buildings within the MU zone developed as a single project with one or more phases, having an overall development plan, and sharing parking and access."

Mr. Morgan discussed the proposed park location north of Keizer School. The Planning Commission had three reasons for choosing this location: (1) the location is centrally located to the northwest portion of the city and has direct access from a collector street; (2) it is best to integrate city park development with school ground development, as successfully shown in Salem; and (3) it is closer to the public it serves, as well as providing parking and is easily observable from the school.

Mr. Morgan discussed the planned development and conditional use processes. He stated that the process does become cumbersome with the Plan requiring the planned development process for the Staats property and the Activity Center Overlay Zone requiring the conditional use process for all development. One development should not have to go through both processes. Therefore, a new Subsection (c) is proposed to be added to Section 46.03 as follows: "(c) In lieu of using the conditional use process, a developer may elect or may be required to use the Planned Development process. In these cases, the provisions of (a) and (c) shall also apply."

Mr. Morgan stated that staff agrees with Ken Sherman that there needs to be descriptions of the Mixed Use and Medium Density Residential plan designations within the Comprehensive Plan. Additionally, staff agrees that it would be best to zone the Medium Density Residential portion of the Staats property RL rather than UT. The RL designation best conforms with the planned land uses, while the UT zone is better suited for areas on the board of the developed community that are still in agricultural use and that will be developed only as single family subdivisions. It is recommended the Proposed Zoning Map be amended to reflect this change.

Ken Sherman, representing the Staats Corporation, stated that he is more comfortable than before on the issues he raised at the previous public hearing. However, there are still some issues that need to be addressed related to the letters he had submitted to the Council. Mr. Sherman suggests that he and City of Keizer staff work

together on compromises concerning the Staats property. He believes that a more detailed, in-depth discussion would be helpful, but is not appropriate to discuss at the public hearing due to the lengthiness of the subject. He feels that if these issues are not resolved that the Staats Corporation will come back five to ten years from now to take another look at still vacant property.

Responding to a question from Councilor Hart, Mr. Sherman stated that there is more flexibility in the new draft with regards to the mixed use zone because of the addition of the definition of single development and since staff has no objection to removing the restriction on ground floor residential. Staff noted that there does not appear to be any reason to believe this restriction would encourage mixing of uses and it may inhibit a developer's creativity in designing a project.

Mr. Sherman suggested an extension period of one to two months. Mr. Morgan noted that if an extension was granted development could still commence during the next building season.

Mark Grenz, representing Hillman Properties, stated that in 1989 the Council reviewed the issue of the extension of McClure and this issue was also reviewed during a traffic study funded by Hillman Properties. He pointed out that the Homeowners Association would have to make a decision when the turnaround would be built. He stated that the turnaround is not required to be built, it is only a provision that one could be constructed.

Rick Herrin, a resident of Trail Drive, is concerned that he was not provided with sufficient time to review the material, since he just received the packet of information today. He had questions on the future of Trail Avenue and the mixed use zone. He also requested current examples of residences on the second floor of a building. Mr. Morgan requested that Mr. Herrin contact him after the public hearing for further information.

Bob French, a resident of Keizer, stated that he supports the Staats portion of the Plan. He suggested that the Council look at the public interest of Keizer, rather than the personal preferences of individual people. Mr. French feels that the public should not have access to Staats Lake. He supports joint development of a neighborhood park with Keizer School.

Bill Pearl, a resident of McNary Estates, discussed the proposed turnaround related to McNary Estates. He stated that when he bought his property he was never informed that there might be a turnaround constructed. He suggested that a committee should be created to review

the issue made up of residents of McNary Estates, the developer, and staff.

Dora Taylor, a resident of McNary Estates, questioned whether McNary Estates or the Staats Corporation would benefit from the turnaround. Mayor Orcutt responded that if there was a gate erected on McNary Estates, then it would probably be for the benefit of McNary Estates residents. Ms. Taylor suggested that if a gate was erected it should be on the Staats property and not McNary Estates. Mayor Orcutt pointed out that neither City, nor the Staats Corporation, proposed erecting a gate. This is an option Hillman Properties suggested if the homeowners wish to exclude public access. Ms. Taylor suggested placing a gate between McNary Estates and the Staats property. Mr. Morgan pointed out that this would require a turnaround on Staats property. He stated that there would need to be negotiations if the gate was placed on Staats property. Councilor Hart stated that there needs to be a second way out of McNary Estates because of the projected increase in population in McNary Estates. Ms. Taylor stated that she bears no malice towards the Staats Corporation, but does not want public access to McNary Estates.

Jim Roop, a resident of McNary Estates, discussed the petition from residents of McNary Estates opposing the proposed turnaround. He stated that he agrees with Mr. Pearl's comments. Responding to a question from Mr. Roop, Mr. Johnson stated that the residents of McNary Estates had followed the process correctly in finding an alternative to the turnaround by submitting the petition and testifying at the public hearing. Now, discussions will have to be entered into with the Staats Corporation for a turnaround on their property. Mr. Johnson stated that the residents should keep up their input on the issue. Mr. Roop stated that most of the residents were against the public access to the Estates. Responding to a question from Councilor Miller, Mr. Roop stated that even if the turnaround was on Staats property he would like gates erected on McNary Estates. Responding to a question from Mayor Orcutt, Mr. Roop stated that he purchased his property in 1990 and was not informed of a proposed turnaround which would allow public access to McNary Estates, rather he was told it would be a private community.

Mr. Morgan suggested that representatives of Hillman Properties, the Staats Corporation, the City of Keizer, and McNary Estates should meet to negotiate the turnaround. Ernie Fish stated that there is \$80,000 provided to finance the turnaround (\$50,000 received from Hillman Properties and \$30,000 would be received after sale of a designated lot on McNary Estates). Councilor

McGee suggested that the turnaround could be negotiated after the McNary Activity Center Plan was adopted, since it was an adjunct issue. Mayor Orcutt stated that Mr. Sherman's issues also needed to be resolved.

Jack Miller, a resident of McNary Estates, stated that the turnaround benefits Hillman Properties rather than the residents of McNary Estates. He stated that there was no benefit to him if a second access was provided.

There being no further testimony to come before the Council, Mayor Orcutt closed the public hearing.

Councilor Koho moved that staff commence negotiations with Staats Corporation, representatives of the homeowners of McNary Estates, and Hillman Properties. He requested that the subject be placed on the first meeting in September's agenda. Councilor Miller seconded the motion.

Responding to a question by Councilor Van Meter, Councilor Koho stated that his motion was with regards to the whole activity center, however the McNary Estates residents and Hillman Properties would primarily be interested in the turnaround. He stated that the two groups would not be involved in negotiations with Staats and the Staats Corporation unless there is a direct impact on them. Councilor Van Meter stated that the motion, as stated, would imply that the representative of McNary Estates and Hillman Properties would be involved in other discussions. Councilor Koho stated that the participation of Hillman Properties and the representatives of McNary Estates would be most limited to the McClure Extension and traffic related issues.

Councilor Van Meter moved to amend the motion for the Staats Corporation, through their attorney, to negotiate the remaining issues with the City in regards to the McNary Activity Center Plan.

Councilor Koho stated that this was implied in the motion.

Councilor Van Meter withdrew his amendment to the motion.

Responding to a question from Councilor Hart, Mayor Orcutt stated that the September date was a target date and could be adjusted if further time for negotiation were required between Mr. Sherman and the City.

The motion passed by the following vote:

AYES: Orcutt, Koho, McGee, Miller, Newton, Van Meter (6)
NAYS: Hart (1)

PUBLIC HEARING -
IZZY'S PIZZA
RESTAURANT
LIQUOR LICENSE

Mayor Orcutt opened the public hearing to receive input regarding the request of Izzy's Pizza Restaurant for a new liquor license.

No testimony came before the Council, Mayor Orcutt closed the public hearing.

PUBLIC HEARING -
ALPEN HAUS
RESTAURANT
LIQUOR LICENSE

Mayor Orcutt opened the public hearing to receive input regarding the request of Alpen Haus Restaurant for a new liquor license.

No testimony came before the Council, therefore Mayor Orcutt closed the public hearing.

PUBLIC HEARING -
STADIUM GRILL
& SPORTS PUB
LIQUOR LICENSE

Mayor Orcutt opened the public hearing to receive input regarding the request of Stadium Grill & Sports Pub for a new liquor license.

Mr. Otterman stated that the liquor license application was incorrect in that the Stadium Grill & Sports Pub owners would like to request a Restaurant Liquor License not a Retail Malt Beverage Liquor License. He stated that the city attorney agreed that since the restaurant liquor license was more restrictive than the malt beverage liquor license, the Council could approve the change today. There was a discussion on the differences in the two licenses.

Dave Fifer, Manager of the Stadium Grill & Sports Pub, stated that the application was incorrect and requested the approval of a restaurant liquor license. He stated that the establishment would be open only until 11 p.m. Monday through Saturday and only until 9 p.m. on Sunday. Responding to a question from Mr. McGee, Mr. Fifer stated that there had to be an overall percentage of food sold compared to alcohol sold, 65 percent food to 35 percent alcohol. Mr. Fifer noted that under a restaurant liquor license only beer and wine could be sold.

Lyndell Cheeves, representing the Church of Christ, stated that the church was located across the street from the Pub and feels that the turnaround onto Dearborn is an accident waiting to happen. He feels that it is an inappropriate location due to the proximity of the church. He stated that he is opposed to any type of establishment selling liquor. He feels that there is an increased danger because of alcohol consumption. Mr. Cheeves noted that over half of the fatal accidents in Oregon are caused by alcohol consumption. Responding to a question by Councilor Van Meter regarding whether there was an increase in traffic when Plaid Pantry was in the establishment, Mr. Cheeves stated that there was some increase in traffic, but a person did not leave Plaid Pantry after consuming alcohol as they would if the

liquor license was approved. He stated that there must be law prohibiting establishments that sell liquor to be in close proximity to churches. Mr. Miller pointed out that an individual is required to order food when order alcohol under this license.

There being no further testimony to come before the Council, Mayor Orcutt closed the public hearing.

IZZY'S PIZZA
RESTAURANT
LIQUOR LICENSE

Councilor Hart moved that the City Council recommend approval of Izzy's Pizza Restaurant liquor license application. Councilor Van Meter seconded the motion. The motion carried unanimously by the following vote:

AYES: Orcutt, Hart, Koho, McGee, Miller, Newton, Van Meter (7)

NAYS: None (0)

ALPEN HAUS
RESTAURANT
LIQUOR LICENSE

Councilor Van Meter moved that the City Council recommend approval of Alpen Haus Restaurant liquor license application. Councilor Newton seconded the motion. The motion carried unanimously by the following vote:

AYES: Orcutt, Hart, Koho, McGee, Miller, Newton, Van Meter (7)

NAYS: None (0)

STADIUM GRILL
& SPORTS PUB
LIQUOR LICENSE

Councilor Hart moved that the City Council recommend approval of Stadium Grill & Sports Pub license application. Councilor Van Meter seconded the motion.

Councilor McGee noted that there has never been a review of whether the intersection was an unusual traffic situation and suggested that the police might want to review the situation. Councilor Koho stated that there should be no delay in approving the license, since it is legal to drink and drive in Oregon. Councilor Van Meter stated that there are two other exits provided, one on James Street and one on River Road. Councilor Newton stated that he did not know if there was a law prohibiting establishments that sell liquor to be in close proximity to churches. Mr. Johnson noted that Mr. Cheeves had registered his complaint with the Liquor Commission, where they would be aware if there was a restriction. Mr. Otterman noted that there was no restriction in the zoning area or in the ordinance for approving liquor licenses.

The motion passed by the following vote:

AYES: Orcutt, Hart, Koho, Miller, Newton, Van Meter (6)

NAYS: McGee (1)

CONSENT CALENDAR Items on the Consent Calendar included:

- Urban Renewal Financial Statement
- Bid Award - Water Department Dump Truck
- Bid Award - Wheatland Road Bike Path
- July 15, 1991 City Council Regular Session Minutes

Changes to the July 15, 1991 minutes were made as follows:

Page 5, under Cummings School Disability Access, second paragraph, replace "Miller" with "Koho."

Page 6, first motion, replace "Newton" with "Miller."

Page 6, third paragraph, replace "Miller's" with "Koho's."

Councilor Hart asked that the Wheatland Road Bike Path be pulled off the consent calendar.

Councilor Koho moved for approval of the remainder of the consent calendar. Councilor Newton seconded the motion. The motion carried unanimously by the following vote:

AYES: Orcutt, Hart, Koho, McGee, Miller, Newton, Van Meter (7)
NAYS: None (0)

Bid Award -
Wheatland Road
Bike Path

Councilor Hart questioned the inconsistency between the memorandum from the City regarding the bike path bids and the information received from Marion County. Mr. Mull stated that the information received from Marion County was incorrect, the cost of construction is only to the south property line of Par 3 golf course.

Councilor Hart moved that the Council accept the bids as presented and award the construction of the Wheatland Road Bike Path to Salem Road and Driveway. Councilor Koho seconded the motion. The motion carried unanimously by the following vote:

AYES: Orcutt, Hart, Koho, McGee, Miller, Newton, Van Meter (7)
NAYS: None (0)

OTHER BUSINESS

The Council complimented Mr. Otterman on the promptness of the briefing notes.

Councilor Koho stated that staff could contact Keizer Times on Monday afternoons to place a notice of agenda topics to be discussed at the next City Council meeting in the newspaper. He suggested that staff contact Keizer Times to begin the process.

WRITTEN

No written communications were presented.

COMMUNICATIONS

AGENDA INPUT

The Council discussed whether or not to hold a meeting on August 19th.

Councilor Van Meter moved that the August 19, 1991 Council Meeting be canceled. The motion died for lack of a second.

The Council requested that the August 19, 1991 meeting address park related issues and include the yearly parks tour. Councilor Miller suggested that the meeting start at 6:30 p.m. if there was a parks tour.

ADJOURNMENT

Mayor Orcutt adjourned the meeting at 9:40 p.m.

Respectfully submitted,

Acting City Recorder

APPROVED:



MAYOR