MINUTES

KEIZER CITY COUNCIL
Monday, July 18, 1994
Robert L. Simon Council Chambers
Keizer City Hall

CALL TO ORDER

Mayor Dennis Koho called the regular meeting to order at 7:00 p.m. Roll call was taken as follows:

Present
Dennis Koho, Mayor
Jim Keller, Councilor
Jerry McGee, Councilor
Al Miller, Councilor
Chet Patterson, Councilor
Jerry Watson, Councilor
Marlene Wellin, Councilor

Staff
Dotty Tryk, City Manager
John Morgan, Community Development Director
Charles R. Stull, Chief of Police
Wally Mull, Public Works Director
Kim Krause, Finance Officer
Shannon Johnson, City Attorney
Tracy L. Davis, City Recorder

PUBLIC TESTIMONY

Presenting testimony to the Council was:

Charles Conahey, 1050 Lockhaven Drive, Keizer addressed the Council regarding possible widening of Lockhaven Drive. He and other area residents are concerned there would be adequate space for turn lanes, bike paths and sidewalks along the street. Mr. Conahey stated by making these proposed changes, parking along Lockhaven could be eliminated.

Dotty Tryk, City Manager reported the city engineer has developed preliminary plans studying the feasibility for these improvements. Area residents will be contacted for input and suggestions during this process.

Bob Brown, 1020 Lockhaven Drive, Keizer also cited his concerns with the feasibility of these possible improvements to Lockhaven Drive.

Mayor Koho noted improvements to Lockhaven Drive will not be completed without input from the residents.

Benjamin F. Dake III, 1267 Manzanita Way, Keizer voiced his concern with the condition of LaBish ditch. During his 28 years of living along the ditch, he has never observed the present condition of the water. Mr. Dake also is concerned with the large amount of garbage in the ditch.

Public Works Director, Wally Mull stated the amount of construction in the area and low water level of the ditch has caused some of these problems.

Mayor Koho suggested the McNary High School Science Club be contacted for a possible waterway study of this area.

COMMITTEE REPORTS

Recognition of the Keizer Minor Girls Softball Team

Mayor Koho introduced the Keizer District 7 Minor Girls Softball team who recently completed an undefeated season. He congratulated the team on winning the state championship.

PUBLIC HEARINGS

Honeysuckle Street Lighting Local Improvement District

Mayor Koho reopened the hearing from July 5, 1994.

Wally Mull, Public Works Director reported he met with the residents of the area and provided the necessary information for the undergrounding of wiring and number of proposed lights for the district.

Presenting testimony to the Council was:

Maria Eyerly, 656 Honeysuckle Avenue, Keizer spoke as a representative of the residents of the district. Ms. Eyerly stated all residents were happy with the proposed lighting improvements; the proposed number of lights and the undergrounding of wiring. She thanked Mr. Mull for his help in this matter.

Joseph Rakocy, 3840 Rivercrest Drive N, Keizer confirmed the unanimous agreement among the district residents is for undergrounding of the wiring. He expressed his gratitude to Mayor Koho for attending the meeting and to Mr. Mull for his work in reducing the costs for the undergrounding.

Mayor Koho closed the public hearing.

<u>Councilor Patterson moved to direct staff to prepare an Ordinance to bring back to the next meeting spreading the assessments to Honeysuckle Street Lighting Local Improvement District with eight street lights and the wiring being placed underground. Councilor Miller seconded the Motion.</u>

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

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

ORDINANCE - Viacom Franchise Agreement

Mayor Koho reopened the hearing from March 21, 1994.

City Manager, Dotty Tryk stated the City has been working with the City of Salem, Marion and Polk Counties to negotiate a new franchise agreement with Viacom Cable. Ms. Tryk highlighted the changes and additions contained in the new Ordinance and the franchise agreement. She explained the five-year agreement has an informal renewal clause for two additional years at the City's discretion.

In response to a question from Councilor Patterson, Ms. Tryk stated the City will have access to the PEG funds if an operating or capital plan is adopted which will directly provide benefit to the public, government or education. Councilor McGee stated this is a flow through tax which will allow the rates to increase.

There was no testimony to come before the Council.

City Manager Tryk advised the Council she participated in the negotiations and discussed details specific to Keizer with Viacom representatives. She stated the federal government has set strict guidelines for cable companies to follow and feels Keizer will gain from this agreement.

Councilor McGee asked if the expenses incurred during the negotiations process were also considered a flow-through-tax. City Manager Tryk said the expenses are included in the rate base and the only expense incurred to date would be for advertisement for the public hearing.

Mayor Koho closed the public hearing.

Councilor Keller moved for an Ordinance to Provide for the Establishment and Granting of Franchise of Privileges for the Construction, Maintenance and Operation of Cable Communications Systems and Further Providing for the Continuing Regulation and Administration of these Franchises and Related Activated and to repeal Ordinance 87-082. Councilor Wellin seconded the Motion.

The Motion passed as follows:

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

Mayor Koho moved for a Resolution authorizing the City Manager to sign the agreement with Viacom Cable Company. Councilor Keller seconded the Motion.

The Motion passed as follows:

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

ORDINANCE - Hidden Creek Street Lighting Local Improvement District

City Manager Dotty Tryk, advised the Council the developer of this area filed a petition to form a local improvement district to install street lights. Notice of the public hearing and estimated assessments have been sent to the affected parties.

Mayor Koho opened the public hearing.

There was no testimony to come before the Council.

Mayor Koho closed the public hearing.

In response to a question from Councilor McGee, Public Works Director Wally Mull stated the estimated costs contained in the engineer's report are computer generated by Portland General Electric or Salem Electric based upon national standards.

City Attorney Johnson stated in the interest of public safety the Council should use caution when reducing the recommended number of lights in a district.

Councilor McGee moved for a Bill for an Ordinance spreading assessments to Hidden Creek Phase I Street Lighting Local Improvement District. Councilor Miller seconded the Motion.

The Motion passed as follows:

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

Zone Change/Variance Case 94-4 (Wittenberg)

Mayor Koho opened the Public Hearing.

City Attorney, Shannon Johnson cited the applicable criteria for the zone changes and the variance request in this matter and reminded the participants the testimony should be directed towards this criteria. He also outlined the procedure used in this land use matter.

John Morgan, Community Development Director stated the application for zone changes and a variance was been filed by Paul Wittenberg, owner of Keizer Retirement Center. Mr. Morgan outlined the proposed areas on the map and noted that staff has worked with Mr. Wittenberg on the development plan for this area. He noted the entire property is presently designated commercial retail. Mr. Wittenberg has requested zone changes on one parcel to mixed-use and the other parcel to commercial general.

Mr. Morgan highlighted the findings contained in the land-use case staff report. Regarding the proposed zone change on the 3.1 acres located in the northeast corner of the property, Mr. Morgan stated the mixed-use zone is considered an appropriate zone of the commercial comprehensive plan designation. By changing the zoning, it allows Mr. Wittenberg the flexibility for possible expansion of the Keizer Retirement Center or development of a motel/hotel.

On the eastern portion of the property, Mr. Wittenberg is requesting a zone change to commercial general in order to permit the construction of a mini-storage warehouse complex. Mr. Morgan noted this change also conforms with the commercial comprehensive plan designation. However, since the commercial general allows several other uses, he recommended approval of a limited-use overlay to bind the applicant to the use specified during the hearing process; mini-storage warehouses.

Mr. Morgan stated the applicant has requested a variance from the Keizer Zoning Ordinance, Section 17.40, to allow the construction of a brick wall ten feet from the back property line adjacent to the mini-storage warehouses. Discussions with the neighbors of the area also resulted in the agreement to preserve the existing row of trees and provide landscaping to the area between the wall and the trees.

Mr. Morgan recommended granting approval of the zone changes with specific engineering conditions contained in the staff report and a limited-use overlay zone to restrict the use to mini-storage warehouse. Mr. Morgan noted the traffic engineer's report recommends the installation of a traffic signal at Claggett Street with this development being responsible for fifty-percent of the costs. The report also recommends a revised access plan and the development of a cross-access corridor from Chemawa Road to Claggett Street.

Councilor Keller inquired if setback requirements are being met with the recommendation of the brick wall. Mr. Morgan believes the wall will provide a buffer for the residents and substitutes for the need of the required setback in this case.

In response to a question from Councilor Patterson, Mr. Morgan noted the recommended access closures being discussed with the involved parties should be consistent with the proposal being developed by the River Road Redevelopment Board.

Providing testimony to the Council was:

Ken Sherman Jr., 687 Court Street, Salem, appeared before the Council representing the applicant in this matter. Mr. Sherman stated this is a complicated case which involves two zone changes and a variance request and by allowing the zone changes, it will allow the applicant the needed flexibility to determine the best possible use of this property.

Mr. Sherman highlighted the applicable criteria being addressed in the zone changes and the variance request; both zones being requested are permitted within the commercial designation in the comprehensive plan, the proposed uses can be accommodated on the properties and can be developed in compliance with the development standards of the zoning ordinance, public utilities are present on the property to serve the need and the supplies of vacant commercial general and vacant mixed-use property in the community are inadequate.

Mr. Sherman stated large parcels of land zoned commercial general are unavailable for purchasing or are inadequate for such developments as mini-storage warehouses. Also, the proximity of this property to the Keizer Retirement Center is critical to Mr. Wittenberg for possible future expansion of this facility. Mr. Sherman also reminded the Council this property has been vacant for some time with no other interest for future development.

Mr. Sherman noted by changing the zone designation to commercial general it will allow the developer to be creative by developing a low-impact commercial use that will buffer and work compatibility with the residential area which abuts it to the east. Mr. Sherman presented a photograph of a mini-storage warehouse being developed by Mr. Carlson in Newberg and a drawing of the proposed block wall. (These items were marked as exhibits 1 and 2)

In response to the conditions of approval recommended by staff, Mr. Sherman noted the only objection lies with the cost allocation of the traffic signal. He noted that Mr. Wittenberg presently is responsible for twenty-five percent of the costs associated with the Keizer Retirement Center. This additional amount would make his total contribution seventy-five percent. Mr. Sherman asked the Council to consider sharing the costs of the signal with the property owners across River Road.

In conclusion, Mr. Sherman stated this proposal offers a nice development opportunity for the citizens of Keizer.

Paul Wittenberg, 5210 River Road N, Keizer advised the Council he presently is soliciting medical personnel to occupy the existing hydrotube building.

Councilor Patterson questioned the status of the Chevron station for participation in the Claggett Street traffic signal. Mr. Morgan noted $6000.00 has been submitted by the developer of the Chevron station for participation in a traffic signal at Sandy Drive.

Councilor Watson inquired of the feasibility of aligning Claggett with Sandy Drive and placing the traffic signal at this intersection. Mr. Mull indicated the City intends to close Sandy Drive in the future and eliminate the cross walk. A cross walk would be placed at the Claggett/River road intersection.

Jerry Carlson, 22691 SW 55th Avenue, Tualatin, developer of the mini-storage warehouse, advised the Council the facility will allow the storage of recreation vehicles in some of the inner units but his main objective is to allow the storage of household items.

In response to a question from Councilor Miller, Mr. Carlson stated the ten-foot area between the commercial building and residential homes will be landscaped and maintained. He also noted a manager will live on-site to provide security for the development.

Mr. Carlson, responding to a question from Councilor McGee, stated his storage units will have an economical life of 24 to 40 years.

Rick Curry, 1381 Manbrin Street, Keizer, declared his possible conflict of interest due to his part ownership of budget-rent-a-space. In response to the statement of reasons submitted by the applicant, Mr. Curry noted he was able to find over 12 acres of land that is properly zoned for mini-storage warehouses in Keizer. This property would accommodate 230,000 to 250,000 square feet of storage space and there is no reason to rezone this valuable resource for mini-storage warehouses.

Mr. Curry submitted a letter outlining his reasons for recommending denial of the zone change on the property proposed for the mini-storage warehouses.

In response to a question from Mayor Koho, Mr. Curry stated he was not aware if the available property he found was for sale.

Leone Timm, 5432 70th Avenue SE, Salem stated he is opposed to the zone change request for the mini-storage warehouses. Mr. Timm noted a public need does not exist to grant this zone change. Presently, Mr. Timm is in the process of developing storage units on Windsor Island Road and noted other similar proposed developments in the area.

According to statistics gathered, Mr. Timm stated there is an excess of mini-storage warehouse units in the area and urged the Council to consider this matter very carefully.

Councilor McGee questioned Mr. Timm for his reasons why he was developing additional mini-storage warehouse space if the need was not present.

In response to a question from Councilor Keller, Mr. Timm stated the land-use laws require a public need for the zone changes and presently he is not aware of this need in Keizer.

John Hall, 5223 7th Avenue, Keizer stated his questions have been answered during the previous testimony. He did not have any additional items to add.

Ken Sherman Jr. responded to the testimony regarding the abundance of commercial general land available for purchase. His research indicated the two to three acre parcel needed for development of the mini-storage warehouses is not available in Keizer. He also stated a public need for this zone change is not a criteria that needs to be addressed. Mr. Sherman stated there is an inadequate supply of parcels this size and would be willing to produce additional documentation on this subject. Mr. Sherman noted the proposed mini-storage warehouse development would contain approximately 500 units.

Mr. Carlson stated he has looked at other available parcels of property in the area and has not found one that meets his needs. His facility will provide on-site security managers which will help control the environment of his establishment.

Councilor Miller asked if this facility would be solely designed to meet storage needs of the Keizer Retirement facility residents. Mr. Sherman said most residents of the center would not be candidates for use of this facility, however, it may be a possibility.

In response to a question from Councilor Watson, Mr. Morgan stated the definition of mini-storage comes from the standard industrial classification. However, the limited-use overlay will restrict the use to the testimony submitted during this hearing. Mr. Sherman stated it is clearly the intention of Mr. Carlson to create solely a storage facility.

Mr. Carlson added there will be a small retail facility within the office to sell boxes, locks and twine and other materials associated with storage. He also added the lease agreement signed by the tenants is restrictive to the use of the facility.

In response to a question from Councilor McGee, City Attorney Johnson stated the consideration of the purchase of a portion of this property being contemplated by the City, is not a conflict of interest in this case.

Mr. Sherman indicated Mr. Carlson intends to landscape the ten-foot strip between the storage facility and the trees and anticipates Mr. Carlson will be responsible for the maintenance of the trees. Mr. Sherman stated there is a public need to make productive use of this property.

Mayor Koho moved to hold the hearing over until August 1, 1994 and direct staff to prepare an Order approving the zone changes subject to the conditions outlined in the staff reports. Councilor Keller seconded the Motion.

Councilor Watson asked to have the applicant provide additional information regarding the inadequacy of the supply of vacant commercial general land.

The Motion passed unanimously as follows:

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

ADMINISTRATIVE ACTION

City Manager, Dotty Tryk advised the Council the Ordinance was prepared based upon the testimony of the residents during the public hearing on July 5, 1994.

ORDINANCE Northrup / Northshire Street Lighting Local Improvement District

Councilor Keller moved for an Ordinance spreading assessments to the Northrup/Northshire Street Lighting Local Improvement District. Councilor Miller seconded the Motion.

The Motion passed unanimously as follows:

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

CONSENT CALENDAR

The Consent Calendar consisted of the following:

a. RESOLUTION - Amendments to the Compensation and Classification Plan

b. RESOLUTION - Initiating Hidden Creek Phase II Street Lighting Local Improvement District

c. RESOLUTION - Initiating Springridge Estates Street Lighting Local Improvement District

d. RESOLUTION - Country Glen Street Lighting Local Improvement District (Approve Engineer's Report)

e. Approval of July 5, 1994 Regular Session Minutes

Councilor McGee removed items "a" and "e" from the Consent Calendar.

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

The Motion passed with the following votes:

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

item "a"

City Manager Tryk provided the Council with a fiscal impact analysis of the affect these increases will have on the budget.

Councilor McGee asked to eliminate the Accounting Technician position from Section 6 of the Compensation Resolution.

The Council agreed by consensus to this change.

Councilor McGee moved to eliminate lines 14 and 15 in Section 19 of the Compensation Resolution (2% deferred compensation match). Councilor Keller seconded the Motion.

Councilor McGee stated he understands the need to maintain an equality between the represented and non-represented employees however, he believes an error was made when this item was allowed in the bargaining agreement.

Mayor Koho voiced his support in treating all employees equally and does not believe the inclusion of this benefit in the bargaining agreement was done in error.

In response to a question from Councilor Miller, City Manager Tryk stated all employees, except her, would be eligible for the 2% deferred compensation match.

Councilor Watson voiced his support for treating all employees equally and recommended the Council review the entire compensation plan in the future. City Manager Tryk suggested this as the topic of the October worksession.

Councilor Keller supported equality among employees but suggested further discussion of this issue prior to the preparation of the next budget document.

Councilor McGee stated he did not recall discussing the 2% cost of living issue during the budget process or during negotiations with the police bargaining unit. Also, if this proposal is adopted, he feels the wrong message will be sent to the employees.

The Motion failed as follows:

AYES: McGee and Patterson (2)
NAYS: Keller, Koho, Miller, Watson and Wellin (5)
ABSTENTIONS: None
ABSENT: None (0)

Councilor McGee suggested changing the management benefit package to 33% rather than 32% plus 1% as listed in the Resolution. City Manager Tryk stated this language was adopted prior to 1990 and represents a management cafeteria style benefit package of 32% plus an additional 1% which is restricted to deferred compensation. Mayor Koho noted this is existing language and by eliminating now, it would be a considered a take back.

The Council agreed they are not happy with the overall language in this Resolution and should discuss this matter in further detail at a worksession or refer the matter to a Council subcommittee.

Councilor Keller moved for a Resolution Setting Forth a Change in the Classification and Compensation Plan By Amending Certain Unrepresented Classifications; A Change in Compensation for All Employees Effective July 1, 1994; and Repealing R94-722 as amended. Mayor Koho seconded the Motion.

The Motion passed as follows:

AYES: Keller, Koho, Miller, Patterson, Watson and Wellin (6)
NAYS: McGee (1)
ABSTENTIONS: None
ABSENT: None (0)

item "e"

Councilor McGee asked for an amendment to the Motion on page 14 of the Minutes of July 5, 1994. The Motion eliminated the content of the motion. The Motion should have read:

Councilor McGee moved to delay the matter and to have the City Manager provide a fiscal impact statement. Councilor Miller seconded the Motion.

He asked that this matter be amended in the minutes.

Councilor McGee moved for approval of the July 5, 1994 Regular Session minutes as amended. Mayor Koho seconded the Motion.

The Motion passed unanimously as follows:

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

OTHER BUSINESS

City Manager Tryk stated the City has planned to make improvements to Lockhaven over the last few years. However, based upon the number of calls regarding safety on this street, she asked the City Engineer to include an estimate for sidewalks and curbs in addition to the widening. She suggested the Council discuss these improvement alternatives and funding for these improvements; formation of a local improvement district with the residents or use of City funds.

Mayor Koho stated he was concerned if the property owners decide to proceed with the Local Improvement District process and then sufficient remonstrances are received, what happens to the project.

Councilor Miller suggested the City Manager meet with the residents due to the concerns of the individuals stated tonight during the public testimony portion of the meeting.

Councilor Watson feels sidewalks and protected bike lanes are needed along Lockhaven. However he is concerned the needed space may not be available in this area.

The Council asked the City Manager to determine the support of the residents for these improvements and then provide additional alternatives for consideration and report back to Council.

There was no other business to come before the Council.

WRITTEN COMUNICATION

City Manager Tryk advised the Council she received a letter from John Gail of the Oregon Housing and Associated Services requesting the donation of two homes presently located on City property. This organization is required to place homes on public property, however, none is available in Keizer. They have requested the Council consider allowing these homes to be moved to available public property in Silverton.

Councilor McGee suggested this matter be scheduled as a future agenda item for more discussion.

Mayor Koho noted a letter had been received from Chariot scheduling a meeting to discuss funding issues. A representative from Keizer will attend this meeting and return any necessary information to the Council.

There was no other written communication to come before the Council.

AGENDA INPUT

Mayor Koho noted the agenda input items listed.

The meeting was adjourned at 10:02 p.m.

Tracy L. Davis

TRACY L. DAVIS
City Recorder

APPROVED:

MAYOR:

Dennis Koho

COUNCIL MEMBERS:

Chester Patterson

Jerry McGee

Al Miller