MINUTES
KEIZER CITY COUNCIL
Monday, July 7, 1997
Keizer City Hall
Robert L. Simon Council Chambers
Keizer, Oregon

CALL TO ORDER

Mayor Koho called the regular meeting to order at 7:05 p.m. Roll call was taken as follows:

Present:
Dennis Koho, Mayor
Carl Beach, Councilor
Jerry McGee, Councilor
Dawn Meier, Councilor
Al Miller, Councilor
Garry Whalen, Councilor

Absent:
Jim Keller, Councilor

Staff:
John Morgan, Community Development Director
Dianne Suek, Personnel Officer
John Lien, City Attorney
Kent Barker, Sergeant, Keizer Police Department
Tracy L. Davis, City Recorder

PUBLIC TESTIMONY

Mayor Koho noted a number of citizens had signed up to speak on a Conditional Use case which was likely to come before the Council on appeal. He said taking testimony at this time would be inappropriate, but the Council could hear a spokesperson in this meeting.

Speaking were:
Lee Cronemiller, 7949 Timothy Lane NE, Keizer spoke regarding a potential Conditional Use permit before City staff for a manufactured home park, containing leasable lots. Approximately 14 lots are planned for the development. He said although neighbors had concerns about the configuration of the park, he was uncertain the permit would be appealed.

John Morgan, Community Development Director, said the Conditional Use permit was approved and notice has been sent to residents in the notification area. Several letters have been received, but at this point, a formal appeal has not been made. If formally appealed, a hearing will take place before the Hearings

Officer on the 4th Thursday of the month, probably in August. The Hearings Officer will render a decision which can be appealed to the City Council. Mr. Morgan explained the Council might ultimately hear the case, so testimony on the issue is inappropriate until then.

Mr. Cronemiller asked about the deadline date for the appeal. Mr. Morgan suggested calling the City staff for the exact date and the fee is $150.00.

Mr. Cronemiller also addressed the Council on the size of the notification area. He believed the 100 feet area was inadequate and noted most jurisdictions have a minimum of 250 feet. Mayor Koho believed the area had been expanded to exceed that size. Mr. Morgan pointed out the change is in the draft development code, which has not been formally adopted.

Councilor McGee suggested getting the names of those persons wishing to speak tonight so they could be specifically notified. Councilor Meier asked about the procedure for considering opposition letters. Mr. Morgan explained the notification letters follow the staff decision, resulting in opposition letters from residents. Appeals can be filed up to 10 days after the decision is mailed out. Councilor Miller suggested sharing the deadline date before the residents leave the meeting.

Mr. Cronemiller stated his disappointment in the process. His profession includes work with Portland area jurisdictions where most land use type decisions involve public hearings. He was disappointed that such important decisions are finalized before taking public input.

Mayor Koho questioned further the procedures for other cities. Mr. Cronemiller explained Beaverton requires all conditional use cases be heard by the Planning Commission. All major land use decisions include a public hearing. He asked the Council to consider how future staff decisions are made and allow citizen input prior.

Mr. Morgan said the issue being raised is appropriate to share with the Planning Commission for the draft Development Code. Conditional use permits are considered relatively minor with the decision being rendered, notice given and appeal possible. He said only about 10% of the decisions are appealed. Mr. Morgan explained that in the residential zone, manufactured homes are allowed but a conditional use permit is required in the urban transitional zone. His recommendation would be that manufactured home parks require consideration similar to a subdivision.

Councilor Meier asked if the City could put into effect the notification area expansion prior to Development Code approval. Mr. Morgan replied the Council could direct staff by motion now. Councilor

Meier also mentioned an access road being affected could trigger consideration.

In response to the specific issue at hand, Mr. Morgan stated the decision has not been mailed yet, although the Neighborhood Association was notified. Resident's notice should be mailed this week, with the appeal period to continue 10 calendar days.

Jacque Moir, 6745 McLeod Lane, Keizer informed the Council of a book created to assist with formation of a Neighborhood Association. All the necessary forms, samples, maps and explanations will be included. Ms. Moir said three inquiries had been received thus far and the City Recorder has assisted in putting the information together. She also showed the Council a brochure, available at the City office, about the Keizer Neighborhood Associations.

Councilor Miller asked if homeowners from McNary Estates had been in contact. Ms. Moir said they are being assisted in preparing bylaws and boundaries and they will probably meet together in August.

Bob Ohrn, 7950 Timothy Lane NE, Keizer, addressed the Council and passed out information on the Keizer Tree Ordinance. Mr. Ohrn said he was a professional forester and not opposed to correctly done clear cutting . His comments were triggered by a recent clear cut at the intersection of Clearlake and O'Neil Road which will ironically become Banson Wood Estates. He said the tree ordinance requires developers file a site plan to identify significant trees, highlighting those to be removed, those to remain and include procedures to protect the remaining trees.

Mr. Ohrn did not believe the ordinance was strongly written strongly enough and he was concerned that site plans are not even being filed. He assumed the tree ordinance was to protect significant trees but was not sure that was happening. Mr. Ohrn would desire to have the ordinance strengthened and the City staff work with developers, on places where ground has not yet been broken, to retain trees.

To prove his concern, Mr. Ohrn passed out pictures of the Banson Wood Estates development. He also showed an example of a situation where suitable trees have been retained.

Mr. Morgan said the subdivision in question did submit a plan for the trees and their plan was to clear cut. He noted significant debate on that issue took place at the public hearing. The developer brought a licensed arborist to the hearing who stated all the trees must be cut. The arborist said the stand could not be thinned without being subject to blowdown. The Hearings officer approved this. The replacement of new trees is now required, which Mr. Morgan agreed is not equivalent to a douglas fir stand. Mr. Morgan also pointed out nothing in the ordinance presently encourages or dissuades the cutting of trees. In some cases the issue has been worked out with the developers.

Mr. Ohrn was concerned about the quality of the advice given by arborists to eliminate risks. Standing trees could not be kept without some risk, but he felt the concern should be minimum risk.

Mayor Koho mentioned a developer who wants to save trees is needed initially. Councilor Beach mentioned his personal familiarity with the issue because of a family residence nearby. He was concerned and had a discussion with the owner who then talked with the developer. The testimony of the arborist persuaded the developer to cut to decrease the blowdown hazard.

Councilor Miller voiced his belief that the tree ordinance related to trees higher than 50 feet or larger than 12 feet in diameter. He also pointed out some additional provisions for tree protection in the ordinance. Mayor Koho clarified that the wording in the ordinance stated 50 feet high and/or 12 feet in diameter.

In discussing the issue of receiving accurate arborist information, Councilor Whalen asked where information originates and about the possibility of evaluating the arborist. Mr. Morgan stated that in this case, no questions were asked. He suggested the Hearings officer might, in the future, request a second opinion in heavily debated questions. The expertise of the presenter might also be questioned. In this case there was no reason for doubt.

Councilor Whalen asked if the new Development Code included the Tree ordinance. Mr. Morgan said the Tree ordinance was separate. Councilor Whalen offered the option, used by other cities, where tree replacement is done on a percentage basis relating to the size of the trees cut. Mr. Morgan stated that could be discussed for inclusion in the Development Code.

Jim Seymour, Catholic Community Services, 142 Glynbrook, Keizer spoke on behalf of Keizer United and passed out documentation to the Council. Mr. Seymour reminded the Council of the Keizer United mission, which is to build a community involvement that strengthens families and nurtures children, and was previously endorsed by the Council. The group did a random survey of 230 houses in each Community Policy district, asking residents where Keizer United should focus their efforts. The most mentioned items were activities for youth, activities for families with younger children and community safety. A strategic plan was distributed with ways to address each of those.

Mr. Seymour addressed the issue of community and public safety. He said 400 juveniles were arrested in Keizer last year. Using toys, he demonstrated that 20% of the juvenile offenders are responsible for 80% of the juvenile crime. He believed the place to focus was on that 20% and characterized them as not bonded to any significant institution. In discussing action to be taken, the group believed those juveniles display the characteristics of children ending up in foster care.

Discussing foster care, Mr. Seymour stated their idea is to focus locally on 5, 6 and 7 year olds being placed in a community home. Larry Tokarski, a local developer, will fund a project in a community which will embrace it. Keizer United would like to build a community home in Keizer. The home would house 5-8 children with home parents. If the parents needed to resign, Mr. Seymour said the children would stay and new parents would be selected. The children would not have to change their schools or their lives. Involvement from stable community volunteers, interacting with the children, would also be a part of the program. Bonding to the community would be a positive outcome.

Donors to build and staff the home have been found. The issue appearing before the Council related to residential zoning which does not allow for a conditional use permit to house more than five children. Mr. Seymour asked for the ordinance to be amended so that a conditional use permit might be sought for a home for up to eight children. A meeting will be held on August 14 at 8:00 a.m. at Collette's to expand on the plans. Mr. Seymour noted that the 97305 zip code has the highest rate of child abuse in the Salem area.

Councilor McGee informed the Council that the state law limits to five unrelated children in a home due to safety. Over five children can be housed but sprinklers are required, which are an extreme expense. Mr. Seymour said this would be a community home and would meet national standards.

Mr. Morgan related the provision from the code. He said the Council could initiate a text amendment by resolution, refer it to the Council for hearing and have the Planning Commission look at the issue during the interim. The process would probably take 60 days. Mr. Morgan said the number could be changed or 6-10 could require a conditional use.

Councilor McGee asked why eight children would be desirable. Mr. Seymour said that often foster families come with three children and the desire is to keep siblings together. Using eight will allow extra room. The home parents would also work in the home full time and with that number the cost per child goes down. Councilor Meier asked if a sprinkler system would be included. Mr. Seymour said the facility would be built new and meet all the requirements.

Councilor Whalen spoke positively about buildings containing sprinkler systems. He asked about the time line. Mr. Seymour answered the meeting on August 14 would help determine if public support exists. The building will not take place without community support. If all goes well, the home would be open for children in January. He mentioned again the need to have the community embrace the project.

Mayor Koho requested initiation of the legislative change for action to be taken on the issue.

Councilor Beach asked if eight was the magic number or would ten children be possible. Mr. Seymour said he believed eight is the best number to keep the home safe and manageable. Councilor McGee noted the number could also be smaller.

Karen Trucke, 6330 14th Avenue NE, Keizer, spoke regarding baseball stadium traffic. She related the first ball game resulted in a number of cars being parked in the neighborhood due to a mistake. The second game had almost no cars. The most recent game found cars again in the neighborhood. She asked what is planned for the future. Mayor Koho noted the two largest attendance nights were the ones she mentioned and might have resulted in overflow neighborhood parking.

Wally Mull, Public Works Director, agreed that those two nights had excessive crowds. This will be addressed as special nights occur at the stadium. Ms. Trucke said the problem could happen every night and asked about a plan. Mr. Mull said the department is continuing to monitor the area, checking the schedule for special nights, and placing temporary signs. He noted Greg Lamb and Jaque Moir have been contacting the city.

Councilor Meier thought the temporary No Parking signs would only be placed on McLeod Lane. Mr. Mull said McLeod has a bike lane which does not allow parking. The issue was people parking on Tepper Lane. Temporary signs will be placed in that area. Ms. Trucke said she thought there would not be any parking in this area. She suggested other cities put up no parking signs and issue permits for residents. Mayor Koho stated the procedure for residential permits have not been created. He believed permanent solutions would come later. Ms. Truck was concerned because she believed parking would not be allowed on those streets. Councilor Meier said she was on the committee and the only no parking sign location was on McLeod. She did not remember any discussion regarding Tepper Lane west. Ms. Trucke will review the minutes of previous discussions.

Greg Lamb, 2323 Latona Drive, Keizer, President of Gubser Neighborhood Association, also spoke regarding the traffic situation at the stadium. He affirmed the police action in removal of cars. On the first night, 120 cars were parked on side streets.

Mr. Lamb believed a major problem has been found on Tepper Lane west where the plan was to create a safe walkway for pedestrians. This has not worked and people have been endangered. He said one of the stadium conditions is use of police for safety. He believed a police officer is needed to assure traffic does not come back on the west side of Tepper.

He also understood and had received complaints regarding Radiant Drive entries. The backup seems to come from ill prepared stadium money takers. He felt the stadium owners should be better organized. A short term solution might be to reroute the cars down McLeod and Tepper to enter the stadium but this still requires adequate workers to take tickets. He reiterated the biggest issue being Tepper Lane west traffic.

Mr. Mull said the Department was aware of all the issues. Staff was proposing to use old telephone poles to mark parking better. Overflow parking is arranged. Sergeant Barker is meeting daily with the stadium owners to try to address issues as rapidly as possible. Mr. Lamb said the officers suggest alternative solutions to drivers but the issue of pedestrians on Tepper is still dangerous.

Councilor Beach asked how long unloading the parking lot takes. Mr. Lamb said thirty minutes has been the longest time. Councilor Beach mentioned the system takes time to learn and he was confident in the work of the Police Department and Public Works.

Councilor Miller believed the team has advance notice when a large crowd will arrive and can alert the Police department. He also suggested that during the peak incoming traffic problem, a collection person might be out on the street to speed up payments. Should traffic back up, he said officers with radios could funnel alternate cars to the least traffic area. Mr. Mull said that is currently being done. Mr. Miller did not believe funneling is taking place at the north gate. He suggested every other car be sent that direction.

Manny Martinez, 1747 Meadowlark Drive NE, Keizer, asked for clarification on two issues. He was concerned that overtime was required to staff the baseball stadium traffic control. He asked if those expenditures were budgeted and if not, why not.

Mayor Koho said the budget included a significant line item for overtime but it is not broken down by event. Mr. Mull said overtime for the officers at the field was budgeted. Mr. Martinez asked where the baseball revenue goes. Mayor Koho said the money returns to a specific project account. Councilor McGee noted the funds are all identified but the disbursement decision has not been made. All funds received and expenses accrued will not be co-mingled with other City funds. Mr. Martinez asked if an enterprise fund could be created. Councilor McGee said the project accounting is essentially an enterprise fund. Mr. Martinez would like to see the contract and the expense sheet and he will get copies from the staff.

Continuing with his second issue, Mr. Martinez discussed beautification of the City of Keizer. He related the plans in place for Cherry Avenue and discussed the ordinances regarding business color and RV parking requirements to maintain beauty. Mr. Martinez was concerned about beautification at the Gateway of Keizer. He distributed pictures of the baseball stadium area.

Tina Sloan, 5905 Radiant Drive NE, Keizer requested the City do a complete traffic study for entry and departure to the stadium. She did not believe traffic is safe and cited her reasons. She gave examples of unsafe experiences on Radiant Drive. The closing of Radiant has not been consistent, and although the officers are doing a good job, pedestrians are not safe. She also said the closing of Radiant has lasted one to two hours.

Ms. Sloan spoke about the opening of Tepper and McLeod, at least as a temporary fix. She believed the total interchange should have been completed prior to the stadium building.

Mayor Koho appreciated the input but said all the problems have not been solved at present. His idea of a frontage road was opposed by Ms. Sloan, who believed Tepper Lane and McLeod could be used. She thought condemnation would be required for that type of building. Mayor Koho disagreed, noting that the property would be valuable. Ms. Sloan was quite concerned about the cost, the number of officers being paid and the stadium being built before the traffic interchange was in place.

Councilor McGee was concerned that action is being taken on a trial and error basis. He believed a plan should be created prior to the building of the park, although the time is not too late. Mayor Koho said a Traffic Management plan was created, which the City is presently using. He noted only five games have taken place. Ms. Sloan added that Ridge Drive is being affected, including families going to the Little League games. The Mayor thanked her for the input.

Pamela Kingsbury, 7950 Timothy Lane NE, Keizer signed up to speak on the Clearlake development. She was concerned about the increased number of students attending school in the area. Next year the new school should be at capacity. Ms. Kingsbury said proposed developments must include a plan for the School district. A significant deficit in the Clearlake school facilities has resulted. Both the School District and the City have other priorities. She stated the children are the losers and especially, in the overcrowding at Whiteaker Middle School. At present, 14 portables are in use there. She was very concerned about the situation and encouraged the Council to work with the School District, looking at available properties to plan for the future.

COMMITTEE REPORTS

Heidi Smith, Mark Banks and Jason Alexander were introduced as new Keizer Police Officers, with the background given for each. John Lien, City Attorney, issued the oath of office to the officers.

Mayor Koho added an item to the Committee Reports.

Speaking was:
Dave Galati, Council of Governments Executive Director discussed the major roles of the Council of Governments (COG) as a regional planning agency. He believed the first role of a successful agency was to provide a forum for local interaction, especially among elected officials. Mr. Galati said the second major role to be provision of a number of local services. Such services utilize the agency's economic development department, land use planning department, and transportation planning expertise.

A third role for a successful agency would be addressing issues spilling over local jurisdictions. An example of work being done regionally can be found in the area affected by the popular costal destinations including the casino and the aquarium. Mr. Galati said a regional planning agency should be leading opportunities to provide information about future issues. COG is now working to enhance communication and the level of awareness. He said a regional newsletter will be distributed quarterly, along with partnerships being created with the League of Oregon Cities and the League of Oregon Counties in the future.

Mr. Galati spoke of his commitment to broaden communication levels and listen to the needs of local jurisdictions. He said the organization should be a tool for assistance in dealing with issues. He encouraged Councilors to call and alert him to actions to make the organization more relevant and valid.

Mayor Koho thanked Mr. Galati for his comments. He noted the City of Keizer has taken on significant roles with the COG.

VOLUNTEER COORDINATING COMMITTEE

Mayor Koho moved to appoint Mike Hart to serve in the Mayor position and Jacque Moir to serve in Council position number five on the Volunteer Coordinating Committee. Councilor Whalen seconded the motion.

The Motion passed:

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

COUNCIL LIAISON REPORTS

Councilor Beach reported on the **River Road Redevelopment Board** meeting held recently. He noted the name change to Keizer Urban Renewal Board (KURB) has taken longer than expected. He listed highlights of the project update as given by Mr. Morgan at the meeting. Councilor Beach mentioned concerns about the gateway disrepair at Keizer's south end.

During the Board meeting, Sam Goesch, from the Chamber of Commerce, gave the Board an update on the banner project. Councilor Beach said the total cost for five banner sets would be over $50,000. Modifications may be made to try to hold the cost down. Requirements for storage and hanging the banners created a great deal of discussion.

The Board also discussed the Unocal site which now is being considered as a part of three properties. Off street parking was one issue brought forward. The Board desired to have a consultant create feasibility plans for development.

Mayor Koho stated he had been contacted by an anonymous benefactor who would like to have the south end gateway sign turned into a green belt. The benefactor wanted to insert posts to protect the sign from cars, add additional greenery and pay for continued maintenance. The Mayor stated a proposal will come before the two Cities and Northwest Natural Gas as soon as the brick work is completed.

Mayor Koho was not able to attend the **Traffic Safety Commission**, but the group discussed the speed humps on Keizer Road and Ridge Road. The ones on Keizer Road are not functioning as anticipated and complaints have been received regarding emergency vehicles.

Mr. Mull said the options were considered extensively before actual installation. The humps could be 12 feet wide or 20 feet wide. With the 20 feet wide, the faster the driving, the less the bump was felt. City staff decided to implement the 12 foot hump, which were designed to keep the traffic traveling in the 25-30 mile per hour range. He said solutions can be offered for the complaints, but also support has been received in the City offices.

Councilor McGee asked how evaluation will take place. Mr. Mull said traffic counts were taken from previous years and they will be compared with ones taken this year.

Councilor Meier asked if the Keizer Fire Department had been contacted to determine if vehicles were able to travel the street in a timely manner. Mr. Mull said they had been contacted prior to installation but no comments had been received since then. In response to Mayor Koho's comment that he had received negative reports regarding emergency vehicles having to slow to 10 mph, Mr. Mull said that was a continuing concern. Councilor McGee said a member of the Committee has asked to ride with the Keizer Fire Department to document the situation.

In Councilor Keller's absence, Mayor Koho reported the **Council Management Committee** has posted a new rotation schedule.

OTHER BUSINESS

NEW BUSINESS

Councilor McGee would like a system developed to screen community events at the ball field so the Council will not hear all the requests. He suggested the Council establish policy and devise guidelines so a committee can oversee the schedule.

Secondly, Councilor McGee suggested the possibility of creating a monitoring or screening committee to hear initial concerns about baseball events. Councilor Meier wondered the if Traffic Noise study group, already in place, might could do that. Mayor Koho asked Councilor McGee and Councilor Meier to bring a proposal to the Council for consideration on these issues.

OLD BUSINESS

Councilor McGee requested inclusion of a note on the July sewer bills regarding the 3% reduction for sewer and water fees.

CITY MANAGER RECRUITMENT

Finally, Councilor McGee asked a committee be formed to develop a proposal for the co-manager concept so a decision could quickly be made.

Mayor Koho moved to the item of City Manager recruitment. He recommended the Council review the 10 top candidates with video interviews. He believed effort has been expended in recruiting and screening and he would like a followup.

Councilor Beach believed the issue was important. He did believe before video money is spent, the Council should take the screening committee recommendation, review the 10 prospects and determine if the Council should proceed. The Mayor noted the Council contained significant opposition to the co-manager concept. He did not believe those minds would be changed without comparison with other candidates.

Councilor Whalen stated he was on the screening committee and the co-manager option was not presented. He mentioned slight glitches have occurred with two people and believed the 2% of bad experiences needed a hard and rapid examination by the Council. With the possibility of three new staff, the next year will be spent bringing them up to speed. Since the co-managers have done a good job bringing issues before the Council, including mistakes, he favored deeper examination of the concept over the next 10 days.

Mayor Koho believed the Council should not hire the Manager on a 4-3 vote. With the present opposition, that would be the case. He reiterated the need for candidate comparison.

Councilor Beach did not think a few glitches should jeopardize the positive experiences of the co-managership. He agreed with the Mayor that the screening committee recommendation should be considered and the work should be done collectively. Councilor Miller thought the pool included talented applicants and further study should take place. He said the co-manager concept could be considered as one of the finalists.

Councilor Meier asked if the co-managers would present a video. Mayor Koho said that could happen. Questions are developed and the video is limited to 30 minutes. Councilor Meier believed that would be the only fair manner of making a decision.

Councilor McGee said if video presentations are used, then Councilor Meier's proposal is excellent. He wanted to look first at the top ten candidates quickly, and then proceed on if needed. He also wanted to examine the co-manager concept.

Councilor Miller stated that during the last interview process for the City Manager, several applicants had good applications but did not interview well. He felt a person can not be adequately discerned on paper alone. He also agreed with Councilor Meier to have the co-managers submit a video.

Mayor Koho agreed with Councilor Miller's comments regarding candidates. He believed the only way to level the playing field between those personally known, and those known only by application, would be to interview.

Councilor Whalen suggested the Council develop questions for the interview. Mayor Koho stated he wanted permission to draft those and present them to the Council for approval this week. Videos could then be produced by the candidates. Councilor Whalen thought the remaining Councilors could use the time lapse to review the top candidates and look at the concept of co-managers. He suggested proceeding as though all options were available. Research will need to be done by legal counsel regarding the legal status. Mr. Lien stated preliminary work on the issue has been done.

Councilor McGee asked if the Council could narrow the ten applicants down to seven or fewer to save money. He believed all applicants were not equal. Mayor Koho said no ranking was done. If the Council wished to manage the process rather than use the committee structure, the Mayor accepted that.

Councilor Miller commented that of all the applications received, the ten finalists were much more highly qualified than the others. They were selected unanimously by the committee with no disagreement. No attempt was made to select a certain number of candidates. He believed the committee process should be continued and the videos should be made.

Mayor Koho moved to proceed with video interviews of the ten selected finalist plus the co-city manager team. The co-city manager team must also submit a written resume for their consideration in the selection process. Councilor Miller seconded the Motion.

The Motion passed with the following votes:

AYES: Koho, McGee, Meier, Miller and Whalen (5)
NAYS: Beach (1)
ABSTENTIONS: None (0)
ABSENT: Keller (1)

Mayor Koho will produce eight questions for Council critique. Councilor Miller suggested using the expertise of Mr. Galati from Council of Governments.

Councilor McGee did not believe the concept of the co-managership was fully explored. He asked if that would be happening simultaneously. Mr. Lien said that will take place by legal counsel.

Councilor McGee thought more principles than legal alone would need examination. Mayor Koho viewed the co-managers as one person, hired and fired together. He requested Councilor McGee make a list of his issues. Councilor McGee agreed to do that and will present to the Council.

Councilor Meier reminded the Mayor of the proposal presented to the Council on some of the issues. She asked about the status. Mayor Koho did not remember. Councilor McGee said he would not address the proposal specifically but will review the concept.

Councilor Whalen asked for clarification regarding the type of resume to be submitted by the co-managers. Mayor Koho believed one entity is being hired which would mean one resume and one interview, including the experiences of both. Councilor Whalen noted the plans need to be communicated to other people on the screening committee.

POLICE DEPARTMENT REPORT

Sergeant Kent Barker, Keizer Police Department, reported on recent arrests in the Keizer area, including the largest narcotics arrest in the history of Keizer. The Police Department monitored the first Annual Veterans Parade.

Councilor McGee questioned reports received that Cherriot buses continued to run during the parade. Sgt. Barker said the Cherriots were not notified of the parade but he was uncertain of the actual happenings. Mayor Koho, as a parade participant, did not see the buses.

Sgt. Barker suggested if the Veterans parade was to be an annual event, he would recommend a committee to develop a parade permit process so the Police Department could create an operational plan. Councilor McGee suggested the Traffic Safety committee might be a good source. Mayor Koho will take the item to them.

LETTER OF APPEAL FROM CHARLES STULL

Mr. Lien reported he had received a letter, by fax, from Mr. Stull's attorney appealing his discharge. He said the Chief's contract allowed him to exercise the appeal to the Council and they will be required to make decisions. The standards used for review question whether the City Managers had sufficient cause for termination and whether the termination was arbitrary and capricious. He also gave the procedures for review, including the time limit. The hearing must be held within 20 days from the date notice is received unless the parties agree to a different date. The Council's decision is final and binding.

From Mr. Lien's conversation with Mr. Kaplan, Mr. Stull's attorney is flexible on timing but he estimates a three week hearing. Mr. Kaplan would like to have an agreement on the hearings officer if the Council exercises their right of appointment. Mr. Lien was not certain a decision needed to be made in this meeting.

Mayor Koho did not believe the seven Councilors could set aside three weeks or even half that time to hear what could be a relatively complex hearing. He thought the Council should find an experienced hearing officer.

Councilor Whalen asked Mr. Lien about the aspects of a full evidentiary hearing. Mr. Lien said the use of witness, evidence and cross examination is allowed. The rules of evidence are less formal than in a trial. A fair opportunity would need to be allowed for both sides to present their case.

Councilor Meier asked about the time estimate of three weeks. Mr. Lien noted that was Mr. Kaplan's thought, and he would not expect such length. Witness can be controlled and restricted but two or three days would be a minimum time frame. Councilor Meier asked if the regular work day schedule must be used. Mr. Lien stated the Council has the right to control the schedule.

Councilor McGee noted the difference between three weeks and three days duration. Knowing the Council can control the hours, he would like the Council to hear the appeal. Mayor Koho said Mr. Kaplan's estimate of three weeks would be doubled if only four hours per day are utilized. Any limitation by the Council could also give additional matters for appeal.

Councilor Miller was uncertain the Council realized the total responsibility involved. He felt the time would be longer, the hearing more contracted and amount of evidence to be presented larger. He said the Council has made a decision and asked the perception of the public if all that time was spent to make the same decision. He suggested the Council would appear more credible if the hearing was heard by an officer who upheld the findings. Councilor Miller noted two Councilors were mentioned in the report who might be called as witnesses. He questioned the procedure if those members were called as witnesses.

Mr. Lien answered that the question was unique and complicated. In neither instance was the Chief found at fault in the City Manager's report, thus they were not a part of the decision. He said under Administrative Rules, the Councilors might be allowed to testify and be part of the decision making process. Mr. Lien said more research is needed.

Councilor Miller commented that the Council acted on the report, which included the Councilor's names. No basis was given, except for the City Manager's report, in the termination. He thought everything in the report could be included in an Administrative hearing.

Mr. Lien said the group or person hearing the appeal may have prior familiarity with the issue. He was uncertain whether those Councilors would be able to be involved. Mayor Koho asked the result of a Councilor missing some of the hearing time. Mr. Lien said that person would need to review the record to participate in the decision.

Councilor Meier said she was uncomfortable with Councilor Miller sitting in a judgement issue over a friend. She asked about any legal concerns. Mr. Lien discussed the type of judge required for a hearing.

Resenting his character being called into question, Councilor Miller said his negative vote resulted from the legal advice given in Executive Session. He noted the remaining Councilors voted contrary to such advice. He stated his friendship with Charles Stull was not the basis of his decision and the information in the paper is totally false. His first obligation was to the City of Keizer thus his vote was in accordance with the legal representation.

Mayor Koho said many state conducted hearings include an officer who is a state employee, which may make the process appear unbiased.

Councilor McGee voiced his concern from the Executive session about at least one Councilor interviewing major participants in the investigation. He requested a response from legal counsel as to whether those would be considered ex parte contacts. Mr. Lien stated generally that would be true since one person of a fact finding body would be talking to a witness while the others were not. Land use situations have particular rules binding the procedures while this type of case does not. He would not recommend such contacts because one person might have additional information.

Councilor McGee pointed out ex parte meetings are not necessarily bad but require the results be shared with the total body. He would like Councilor Miller to share the information he gleaned from the Dotty Tryk interview at the appropriate time.

Mayor Koho pointed out that time would be at the upcoming hearing. Mr. Lien repeated no particular rule would prohibit the ex parte contacts as in land use cases. Councilor McGee mentioned again the caution from legal counsel not to have contacts with major investigation participants.

Councilor Whalen reviewed previous comments from Councilors on the issue. He suggested changing the decision at the end of the appeal may not be appropriate. He stated the Council is responsible to listen and make the right decision. Mentioning previous Council concerns about City Managers not taking responsibility, he believed the Council's responsibility, in this case, is to lead the City. He thought turning the issue over to a hearings officer would be shirking that charge.

Councilor Whalen moved that this Council hear the appeal and work out in cooperation with Mr. Stull or his representatives, a reasonable, workable schedule to hear this in an expedient way. Councilor McGee seconded the Motion.

Mayor Koho spoke about the potential of one month's income loss for Council members since he believed the hearing would be scheduled during the business day. He thought the month of August might be required for meetings and he did not think the idea was good. From his experience, the use of seven people would make the questioning extensive. His preference would be to hire a professional to bring facts back to the Council for review.

Councilor Whalen repeated Mr. Lien's comments regarding the Council controlling the schedule. Although the majority of the Council are employed, he believed the challenge is so important, Councilors should shoulder the responsibility.

Noting Mayor Koho's extensive experience, Councilor McGee urged him to step forward and accept the leadership role. He thought the Council could control the schedule and minimize the time required. Mayor Koho reiterated inclusion of seven Councilors as hearings officers, all wishing to cross examine, might easily extend the hearing to three weeks.

Councilor Meier stated her professional role would not allow her absence during the month of August. She did believe this might be one of the most important decisions the Council faces. If the timing is limited to the work day, she would support the use of a hearings officer. Meetings scheduled after hours would allow her to participate in what she believes is the Council's very important responsibility.

Responding to previous comments, Councilor Beach spoke of his concern regarding the letter from the attorney. He had hoped the matter to be completed. Although he appreciated Mayor Koho's experience, he believed the hearing would require a high level of expertise and should be done in the most efficient manner. Despite his desire to get involved, his preference would be to use a hearings officer.

Councilor McGee thought the Council included an experienced hearings officer in the Mayor. He agreed the Council needs to control the scheduling, preferably beginning at 4:00 or 5:00 p.m. He still did not agree that the appeal could extend three weeks.

Council Miller spoke on his concern with the reliance on the Council's assured ability to control the scheduling. He pointed out witness availability and other factors might play a significant role. Although the Council might have considerable latitude in the scheduling, some of the arrangements are mutual and might preclude exclusive evening hours.

In response, Mr. Lien stated the hours would be set with reasonableness. Hours could not be set which did not allow witnesses to attend. As he read the contract, the City is given most of the scheduling latitude. A majority of witnesses will be Police officers with variable schedules.

Continuing in the same line of questioning, Mayor Koho asked about the attorney's schedule. Mr. Lien said Mr. Stull cannot be deprived of right to counsel because of a scheduling conflict. The City does have some authority to establish the schedule.

Councilor Miller clarified that an independent fact finder would make a recommendation to the Council. Mr. Lien read the specific language about the hearings officer merely making a recommendation. Councilor Miller's point was that the Council would still have the ability to review all the evidence and hearing tapes, which he believed would be the wisest move.

Councilor Meier brought up her reluctance to make a decision without consulting Councilor Keller about his schedule. She did not think the decision needed to be made in this meeting. Her suggestion was to table the motion and discuss the issue at Monday's work session.

From a parliamentary procedure point of view, Councilor McGee thought the motion should be tabled. Mayor Koho felt the action could be taken by a consensus of the Council. He suggested a meeting on July 14. Councilor McGee said he would not be present.

Mr. Lien repeated the 20 day timing needed to adhere to the contract. Mayor Koho suggested allowing the management committee to make the decision.

<u>The Council agreed by consensus to let the management committee determine if the appeal will be heard by the City Council or by an independent hearings officer.</u>

Mayor Koho did advise the Council to keep their afternoons in August free. In a final comment, Councilor Miller, drawing upon his legal career, reiterated again his concern with an ambitious time line of three days. Mr. Lien clarified the time would be a minimum of three days. His hope was to narrow down the issues to streamline the hearing.

PUBLIC HEARINGS

AMENDMENT TO ZONING ORDINANCE - WIRELESS TELECOMMUNICATION FACILITIES

Mayor Koho opened the Public Hearing.

Mr. Morgan gave the staff report. The staff recommendation will be to hold the hearing open for a month so the draft proposal can be circulated among Neighborhood Associations and the telecommunication industry for comments.

He did explain that the draft regulates the placement of wireless telecommunication facilities, more commonly known as cell towers. The ordinance was patterned closely after the City of Springfield's, which has been held up nationally as well done. He said the industry has also been accepting of the ordinance. The basic idea would be to determine the appropriateness of areas and include gradients of design and process restrictions for each area. Mr. Morgan offered to answer Council questions prior to the rescheduled hearing.

There was no testimony to come before the Council.

Mayor Koho continued the hearing until Monday, August 4, 1997.

ADMINISTRATIVE ACTION

RESOLUTION - AMENDMENT TO CLASSIFICATION/ COMPENSATION PLAN FOR UNREPRESENTED EMPLOYEES

The staff report was given by Dianne Suek, Personnel Officer. She reviewed the benefits received by the recent Keizer Police Association (KPA) agreement as listed in the staff memo. Approximately half of the City employees are not covered by the new contract. Historically, the Council has reviewed the compensation for unrepresented employees yearly to determine adjustments, if any, to make.

Councilor McGee highlighted principles in consideration on the issue. He stated the recommendation attempts to dispel any separation between those represented by a union and those not. The recommendation is also trying to pay the actual cost of living. Pointing out the wording used, 3% for cost of living (COLA) and 2% for salary "catchup" to market value, Councilor McGee noted the KPA contract stated 5% for a combination of COLA and "catchup". He believed the wording should be as similar to the KPA contract as possible. He felt the staff should use the Portland Consumer Price Index (CPI), which has been agreed as a Keizer standard.

Mayor Koho asked when that standard was determined. Councilor McGee thought that was a working policy even though it might not be written. He believed the amount attributed to COLA each year should be identified. He thought the identical wording from the KPA agreement should be used.

Mayor Koho understood the philosophy but was unsure how to apply to information to the staff report. Councilor McGee repeated the wording "5% including COLA" which he desired. Mayor Koho said the staff report was not actually being adopted. Councilor McGee clarified that the report lays out the 5% and how it will be distributed which would be a decision of the Council.

Mr. Mull tried to clarify Councilor McGee's wishes. After another explanation, he agreed he understood but noted the Police Department included in their contract a method of determining the "catchup" part of their salary. At this point, the unrepresented employees do not have the compensation plan adopted. Councilor McGee noted that would be the next step. Mr. Mull was uncertain action could be taken in this meeting since the COLA number was unavailable tonight.

Councilor Whalen suggested a change in the recommendation in view of the fact the compensation study will appear before the Council in August. He advised approving a COLA increase at 3% and leave the remaining information for discussion later. Mayor Koho said since the resolution includes exact dollar amounts for each position, then the suggestion cannot be utilized. The staff report language would not included in the Council's approval.

Councilor Beach preferred to approve the resolution and then later include the language changes suggested by Councilor McGee.

Councilor Meier asked about incentive pay proposals for additional education. Ms. Suek clarified the incentive pertained to Police Sergeants and she was not recommending that standard for all employees, merely giving a cost estimate. Councilor Whalen asked for additional clarification. Ms. Suek said Items 1, 2, 4 and 6, included in the resolution, relate to all nonrepresented employees, while items 3 and 5 would apply only to Police Sergeants.

Councilor McGee asked if an adjustment could be made in the August meeting. Mayor Koho said the effective date is July 1 so retroactive pay would result. Councilor McGee clarified again the CPI traditionally is used to complete as a standard. He did not want the City to deviate from the COLA. Ms. Suek was not aware the Portland CPI was traditionally used, and the Police union uses the CPI-W.

<u>The Council agreed by consensus to refer this matter back to staff to investigate the Portland Consumer Price Index rate and return to Council at a later date.</u>

ORDINANCE - COMP PLAN AMENDMENT/ ZONE CHANGE/ SUBDIVISION CASE NO. 96-05 - SPECIAL POLICY AREA (WHALEN/CHANDLER/ PRICE)

Councilor Whalen excused himself from the Council table due to his involvement in this matter.

Mayor Koho reported the Salem City Council adopted their staff recommendation today at their noon meeting. He believed this adoption was in essence a "no" response to the last proposal submitted by Keizer. Mayor Koho recommended moving forward with the approval of the development application and directing staff to prepare the necessary documents to dissolve the dual interest agreement. The dissolution of the agreement is based upon the time lapse since the conclusion of the study and the implementations of the recommendations contained with the report.

In response to a question from Councilor Miller, Mr. Morgan noted that Mr. Reimann nor McNary estates has submitted an application for development in the questionable area.

Councilor Miller suggested staff notify other potential developers in this area of the Council's action and approval of the development application.

<u>Mayor Koho moved to direct staff to come back with the necessary documents to complete the approval of Case No. 96-05 (Comp Plan Amendment/Zone Change/Subdivision - Whalen/Chandler/Pierce). Councilor McGee seconded the Motion.</u>

Councilor Beach questioned if the provisions contained in the last proposal would be in effect. He indicated some of the restrictions and safeguards will protect the City of Keizer. *

Mayor Koho believed we should go forward with the development, including the provisions that will protect Keizer. The City of Salem will not be included in these safeguards.

<u>The Motion passed with the following votes:</u>

<u>AYES:</u> Beach, Koho, McGee, Meier, and Miller (5)
<u>NAYS:</u> None (0)
<u>ABSTENTIONS:</u> Whalen (1)
<u>ABSENT:</u> Keller (1)

<u>Mayor Koho moved to direct staff to bring back a Resolution dissolving any special policy area agreements between the City of Salem, City of Keizer and Marion County. Councilor McGee seconded the Motion.</u>

<u>The Motion passed with the following votes:</u>

<u>AYES:</u> Beach, Koho, McGee, Meier, and Miller (5)
<u>NAYS:</u> None (0)

ABSTENTIONS: Whalen (1)
ABSENT: Keller (1)

RESOLUTION - AUTHORIZING CITY MANAGERS PRO TEM TO INCREASE LIABILITY INSURANCE

Mr. Morgan stated the City's insurance carrier has recommended, for some time, an increase in the City's liability insurance. Staff agreed with the recommendation and requested the authority to add an additional 8 million dollars of liability insurance.

Mayor Koho moved to approve the staff recommendation to increase the City's liability insurance to a total of $10,000,000. Councilor Whalen seconded the Motion.

The Motion passed with the following votes:

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

CONSENT CALENDAR

The consent calendar consisted of the following:

a. Employee Hiring Thaw/Capital Outlay Limit Revocation

b. Community TV/CCTV

c. Council Management Committee

d. Approval of May 5, 1997 City Council Regular Session Minutes

Councilor Beach removed item "b" from the consent calendar.

Councilor Meier removed item "d" from the consent calendar.

Mayor Koho moved for approval of items "a" and "c" on the consent calendar. Councilor Meier seconded the Motion.

The motion passed with the following votes:

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

COMMUNITY TV/CCTV

Councilor Beach thanked those who worked diligently on the CCTV survey. He did not believe the survey showed an overwhelming demand for continued coverage. In looking at the long range, he was uncertain a $66,000 annual fee would be a worthwhile expense, especially with physical improvements needed on City facilities.

Mayor Koho clarified that a proposal has not yet been received so the cost has not been determined. He would like to continue coverage until the cost is received. Councilor McGee said although the proposal is only for three additional months, he was uncertain the cost would be set low enough for the Council to continue coverage after that period. If that is the case, he felt coverage should end now because the method of dispersing news is not efficient.

Councilor Meier pointed out survey numbers can have differing meanings. She viewed having almost 50% of the people consider financing coverage as a positive aspect. She believed the survey showed the Council coverage needed additional marketing.

Councilor Whalen stated one of the findings was that less than 40% of the people knew the Council was on TV, and only one in five had watched. He suggested CCTV might be given the responsibility to raise public awareness. He was encouraged by the willingness of people to finance coverage which they had not viewed. He thought the newsletter, which was significantly less expensive, was one of the City's best communication tools but he would like to commit for the next three months with CCTV.

Mayor Koho mentioned the service the City now receives may not be worth $50,000 but the possibility of having additional community coverage could be much better. He would like to see the CCTV proposal before ending service.

Speaking regarding the marketing concept, Councilor McGee said an attempt had been made to market the program. At one time the Council was on radio live but not enough advertisers bought time. He also commented on the present moving of the Council meeting on TV to 11:00 p.m. He was willing to consider a one month extension only, to allow CCTV to submit a proposal.

Mr. Mull said three months would take the coverage through the September meeting. In discussion with Carol Fischer today, she said the Council could expect to receive a proposal in 8-10 weeks. Councilor McGee supported the previous extensions, but he did not believe many more extensions could be afforded with the cost increases each time.

Council Miller did not see how he could support continuing the coverage either now or later. He could not even justify spending $2,000 per month. He did not believe the marketing effort could have been much stronger at the time and yet a majority of citizens did not either know about the show or watch it. He felt the small majority watching the meetings did not justify the expense.

The Council agreed by consensus to defer this item until a full Council is present.

Item "d"

Councilor Meier noted she was not present for the May 5, 1997 Council meeting.

Mayor Koho moved for approval of the May 5, 1997 City Council Regular Session Minutes. Councilor Whalen seconded the Motion.

The motion passed with the following votes:

AYES: Beach, Koho, McGee, Miller and Whalen (5)
NAYS: None (0)
ABSTENTIONS: Meier (1)
ABSENT: Keller (1)

WRITTEN COMMUNICATION

There was no written communication to come before the Council.

AGENDA INPUT

Mayor Koho mentioned the suggestion of canceling the July 21st meeting since the agenda is small.

Councilor Meier moved to cancel the July 21, 1997 regular City Council meeting. Councilor Whalen seconded the Motion.

The motion passed:

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

Mr. Morgan asked for a point of clarification regarding the Keizer United request. He suggested allowing the Planning Commission to initiate a legislative amendment to the zoning ordinance. The Council agreed upon that procedure.

ADJOURNMENT

The meeting was adjourned at 11:17 p.m.

Tracy L. Davis
City Recorder

APPROVED:

Dennis Koho-Mayor

COUNCIL MEMBERS:

Councilor #1 - Garry Whalen

Councilor #4 - Carl Beach

Councilor #2 - Dawn Meier

Councilor #5 - Al Miller

Councilor # 3 - Jim Keller

Councilor #6 - Jerry McGee

Minutes approved: