

CITY OF KEIZER MISSION STATEMENT
**KEEP CITY GOVERNMENT COSTS AND SERVICES TO A MINIMUM BY PROVIDING CITY
SERVICES TO THE COMMUNITY IN A COORDINATED, EFFICIENT AND LEAST COST FASHION**

A G E N D A
KEIZER CITY COUNCIL
EXECUTIVE SESSION

Tuesday, July 5, 2005

5:30 p.m.

**Keizer City Hall
Keizer, Oregon 97303**

- 1. CALL TO ORDER**
- 2. ROLL CALL**
- 3. DISCUSSION**
 - a. Pursuant to ORS 192.660(2)(i) – To review and evaluate the employment related performance of the chief executive officer**
- 4. ADJOURN**

The Oregon Public Meeting Law authorizes governing bodies to meet in executive session in certain limited situations. An executive session is defined as any meeting or part of a meeting of a governing body which is closed to certain persons for deliberations on certain matters as defined by ORS 192.660. These sessions are closed to the public. The media may attend the session, unless the Oregon State Statutes specifically prohibits media attendance. The governing body is not allowed to take any final action or make any final decisions during the executive sessions. Any final action or decision must be made after returning or at the next regularly scheduled meeting.

CITY OF KEIZER MISSION STATEMENT
**KEEP CITY GOVERNMENT COSTS AND SERVICES TO A MINIMUM BY PROVIDING CITY
SERVICES TO THE COMMUNITY IN A COORDINATED, EFFICIENT AND LEAST COST FASHION**

A G E N D A
KEIZER CITY COUNCIL
EXECUTIVE SESSION

Tuesday, July 5, 2005

6:15 p.m.

Keizer City Hall
Keizer, Oregon 97303

1. **CALL TO ORDER**
2. **ROLL CALL**
3. **DISCUSSION**
 - a. Pursuant to ORS 192.660(2)(h) – To consult with counsel concerning the legal rights and duties of a public body with regard to current litigation or litigation likely to be filed.
 - b. Pursuant to ORS 192.660(2)(e) – Real Property Transaction
4. **ADJOURN**

The Oregon Public Meeting Law authorizes governing bodies to meet in executive session in certain limited situations. An executive session is defined as any meeting or part of a meeting of a governing body which is closed to certain persons for deliberations on certain matters as defined by ORS 192.660. These sessions are closed to the public. The media may attend the session, unless the Oregon State Statutes specifically prohibits media attendance. The governing body is not allowed to take any final action or make any final decisions during the executive sessions. Any final action or decision must be made after returning or at the next regularly scheduled meeting.

CITY OF KEIZER MISSION STATEMENT

**KEEP CITY GOVERNMENT COSTS AND SERVICES TO A MINIMUM BY PROVIDING CITY SERVICES TO
THE COMMUNITY IN A COORDINATED, EFFICIENT, AND LEAST COST FASHION**

AGENDA

KEIZER CITY COUNCIL

REGULAR SESSION

Tuesday, July 5, 2005

7:00 p.m.

**Robert L. Simon Council Chambers
Keizer, Oregon 97303**

1. CALL TO ORDER

2. ROLL CALL

3. FLAG SALUTE

4. PUBLIC TESTIMONY

*This time is provided for citizens to address the Council on any matters
other than those on the agenda scheduled for public hearing*

5. COMMITTEE REPORTS

a. Swearing In of Keizer Police Cadets Sarah Behrends and John Hofmann

6. PUBLIC HEARINGS

**a. ORDINANCE – Five Year Extension of Comcast Cable Franchise
Agreement**

b. ORDINANCE – Water Rate Change

7. OTHER BUSINESS

*This time is provided to allow the Mayor, City Council members, or staff an
opportunity to bring new or old matters before the Council that are not on
tonight's agenda.*

a. New Business

b. Old Business

8. **ADMINISTRATIVE ACTION**

- a. **US Market #125 Liquor License – Change of Ownership**
- b. **RESOLUTION – Nopp Property Acquisition – Keizer Station Area B**

9. **CONSENT CALENDAR**

- a. **Approval of June 2, 2005 Special Session Minutes**
- b. **Approval of June 6, 2005 Regular Session Minutes**
- c. **Approval of June 20, 2005 Regular Session Minutes**

10. **WRITTEN COMMUNICATIONS**

To inform the Council of significant written communications.

11. **AGENDA INPUT**

July 11, 2005

5:30 p.m. City Council Work Session

July 18, 2005

7:00 p.m. City Council Regular Session

August 1, 2005

7:00 p.m. City Council Regular Session

12. **ADJOURN**

KEIZER POLICE DEPARTMENT Memorandum

To: Chief Adams
Via: Capt. Kuhns
From: Sgt. Lance Inman
Date: June 16th, 2005
Subject: **NEW CADETS/ SWEARING-IN**

On Monday, June 13th, new cadets Sarah Behrends [pronounced "bear-ends"] and John Hofmann graduated from the Salem Police Cadet Academy. These cadets completed approximately 120 hours of training during this five-month academy on topics such as criminal law, traffic crash investigations, defensive tactics and firearms familiarization.

Cadet Behrends is 19 years of age and is a criminal justice student at Chemeketa Community College. Cadet Hofmann is 15 years of age and is home schooled. These cadets were identified as top applicants out of approximately 20 applications last winter.

Please welcome Cadet Behrends and Cadet Hofmann as the newest members of the Keizer Police Cadet Unit.

CITY COUNCIL MEETING: July 5, 2005

AGENDA ITEM NUMBER: _____

TO: MAYOR CHRISTOPHER AND COUNCIL MEMBERS

THROUGH: CHRISTOPHER C. EPPLEY, CITY MANAGER

FROM: E. SHANNON JOHNSON, CITY ATTORNEY

SUBJECT: *SECOND RENEWAL AGREEMENT FOR COMCAST CABLE*

The City of Keizer (as well as Marion County and the City of Salem) have cable franchise agreements with Comcast Cable. These agreements are for a five-year term with two five-year renewal periods.

The first renewal period has ended and we are about to begin the second (and final) renewal period which will terminate in 2010.

Marion County and the City of Salem have approved the informal extensions (renewals) similar to the agreement attached.

RECOMMENDATION:

Open and conduct the public hearing. If there are no questions, close the public hearing and adopt the attached resolution authorizing the Mayor to sign the second renewal agreement with Comcast Cable.

Please let me know if you have any questions in this regard. Thank you.

ESJ/tmh
attachment

1 CITY COUNCIL, CITY OF KEIZER, STATE OF OREGON

2 Resolution R2005-_____

3 AUTHORIZING THE MAYOR TO SIGN SECOND RENEWAL
4 AGREEMENT WITH COMCAST OF OREGON I, INC. (FORMERLY
5 KNOWN AS FAR-WEST COMMUNICATIONS, INC., DBA AT&T
6 CABLE SERVICES)
7

8 WHEREAS, the City of Keizer and Far-West Communications, Inc. entered into
9 that certain cable television franchise agreement on or about August 29, 1994;

10 WHEREAS, the term of the agreement is for five years with two five-year
11 renewal terms;

12 WHEREAS, the First Renewal Agreement was extended to July 31, 2005;

13 WHEREAS, the parties wish to enter into a third and final five-year term by
14 entering into that certain Cable Television Franchise Agreement Second Renewal
15 Agreement ("Second Renewal Agreement") under the informal procedures provided in
16 the Franchise Agreement;

17 NOW, THEREFORE,

18 ///

19 ///

20 ///

1 BE IT RESOLVED by the City Council of the City of Keizer that the Mayor is
2 authorized to sign that certain "Cable Television Franchise Agreement – Second
3 Renewal Agreement," a copy of which is attached as Exhibit A and by this reference
4 incorporated herein.

5 PASSED this _____ day of _____, 2005.

6 SIGNED this _____ day of _____, 2005.

7

8

9

Mayor

10

11

12

City Recorder

**CABLE TELEVISION FRANCHISE AGREEMENT
SECOND RENEWAL AGREEMENT**

between

THE CITY OF KEIZER,
an Oregon municipal corporation
("Grantor")

and

COMCAST OF OREGON I, INC.,
an Oregon corporation
("Grantee")

RECITALS

1. Grantor, pursuant to applicable federal and state law and local ordinance is authorized to grant and renew one or more non-exclusive, revocable franchises to operate, construct, maintain and reconstruct cable television systems in the City of Keizer, Oregon. In 1994, Grantor granted to Grantee's predecessor in interest a renewal of its cable television franchise, whose original franchise commenced in 1987.

2. The terms and conditions of the franchise renewal were contained in a Cable Television Franchise Agreement ("Franchise Agreement"), which provided for a five-year term, with no more than two five-year renewal terms. Grantor and Grantee entered into a Cable Television Franchise Agreement First Renewal Agreement ("First Renewal Agreement") effective on January 27, 2000. The First Renewal Agreement expires on June 30, 2005, based upon an extension granted by the Grantor.

3. Grantor, after evaluation of Grantee's services, and after reviewing public comment, has determined that it is the best interest of the City and its residents to renew the Franchise Agreement for a third, and final, five-year term, with renewal thereafter as provided by law.

4. The parties wish to renew the Franchise Agreement for a third, and final, five-year term by entering into this Cable Television Franchise Agreement Second Renewal Agreement ("Second Renewal Agreement") under the informal procedures provided in the Franchise Agreement.

NOW THEREFORE, based on the foregoing recitals and in consideration of the mutual promises and the terms and conditions set forth below, Grantor and Grantee agree as follows:

1. The cable television franchise granted in the Franchise Agreement is hereby renewed subject to the terms and conditions of this Second Renewal Agreement ("Renewal"). This Renewal extends to the Grantee the franchise, authority, right and privilege to construct, reconstruct, operate and maintain a cable television system within the streets and public right of ways in the City of Keizer as the City is now, or may in the future during the Term of this Renewal, be constituted. This Renewal is the third, and final, renewal of the Franchise Agreement, with renewal thereafter as provided by law.

2. All provisions of the Franchise Agreement, including the exhibits thereto, and the First Renewal Agreement, including the exhibits thereto, are incorporated herein by this reference and will remain in full force and effect for the Term of this Renewal.

3. Except as provided below, this Renewal will be effective for a five-year term ("Term") from the date both parties have executed this Second Renewal Agreement, provided that date is no later than ten (10) days after the date the Keizer City Council approves the Renewal ("Effective Date") and in such an event the effective date shall be considered to be ten (10) days after the date of approval by the Keizer City Council.

4. The Renewal is contingent upon Grantee filing with the Grantor an original executed copy of this Second Renewal Agreement and the security fund and insurance certificates required under the Franchise Agreement ninety (90) days after the date the Keizer City Council approves the Renewal. If Grantee fails to file the security fund and insurance certificate within the prescribed period, Grantor may declare the Renewal null and void, upon which the Term of the Renewal and this Second Renewal Agreement shall terminate as of the ninety-first (91st) day following the date after the Keizer City Council approves the Renewal.

5. Notices transmitted by either party to the other party shall be addressed as follows:

Grantor: City Manager
City of Keizer
930 Chemawa Road NE
Keizer, OR 97303

Grantee: Government Affairs
Comcast
2897 Chad Drive
Eugene, OR 97408

IN WITNESS WHEREOF, the Grantor and Grantee have caused this Second Renewal Agreement to be executed by their duly authorized representatives.

Comcast of Oregon I, Inc., Grantee

City of Keizer, Grantor

By: _____
Curt Henninger
General Manager, Senior Vice President

By: _____
Mayor
City of Keizer

Date: _____

Date: _____

COUNCIL MEETING: July 5, 2005

AGENDA ITEM NUMBER: _____

TO: MAYOR CHRISTOPHER AND COUNCIL MEMBERS

**THROUGH: CHRIS EPPLEY
CITY MANAGER**

**FROM: SUSAN GAHLSDORF, FINANCE DIRECTOR
and
ROB KISSLER, PUBLIC WORKS DIRECTOR**

SUBJECT: WATER RATE INCREASE

BACKGROUND AND ISSUES:

Staff has completed Water Rate Model update for fiscal year 2005-2006. The model indicates that both fixed and consumption rates for all customer class are based on the cost of service, which is the method the Council adopted in 2002. The model shows that a 4% system-wide increase is needed to pay for infrastructure as outlined in the City's Capital Improvement Program. The Fiscal Year 2006 Council Adopted budget provides for a 4% increase in water rates effective August 1, 2005.

FISCAL IMPACT:

A 4% system-wide increase will bring in an additional \$85,000 in revenue in fiscal year 2005-2006. Attachment #1 shows proposed water rates. Attachment #2 shows the impact of this rate increase on the two customer classes.

RECOMMENDATION:

Staff recommends Council open the public hearing on the proposed water rate increase. After all public testimony has been received, staff recommends the Council close the public hearing, deliberate on this issue and approve the attached Ordinance, setting new water rates and repealing Ordinance 2002-473, if it so chooses.

If you have any questions please contact Susan Gahlsdorf or Rob Kissler at 503.390.3700.

CITY OF KEIZER
COMPARISON OF EXISTING WATER RATES TO PROPOSED WATER RATES

Meter Charge - \$/Meter/Bi-Monthly
Meter Size

5/8 - 3/4"

1"

1-1/2"

2"

3"

4"

6"

8"

Volume Rate - \$/ccf
Customer Class

Residential

Commercial

Private Fire Protection - \$/Hydrant-Bi-Monthly
Hydrant Size

4"

6"

8"

10"

	Rate	Franchise Fee 5%	Total	Rate	Franchise Fee 5%	Total	Percent Increase
	\$ 7.35	\$ 0.37	\$ 7.72	\$ 7.52	\$ 0.38	\$ 7.90	2.3%
	15.09	0.75	15.84	15.28	0.76	16.04	1.3%
	29.23	1.46	30.69	29.56	1.48	31.04	1.1%
	46.21	2.31	48.52	46.71	2.34	49.05	1.1%
	89.98	4.50	94.48	90.80	4.54	95.34	0.9%
	142.48	7.12	149.60	143.91	7.20	151.11	1.0%
	284.01	14.20	298.21	286.81	14.34	301.15	1.0%
	484.47	24.22	508.69	491.17	24.56	515.73	1.4%
	\$ 0.94	\$ 0.05	\$ 0.99	\$ 0.98	\$ 0.05	\$ 1.03	4.3%
	0.88	0.04	0.92	0.94	0.05	0.99	6.8%
	\$ 21.12	\$ 1.06	\$ 22.18	\$ 20.96	\$ 1.05	\$ 22.01	-0.8%
	58.68	2.93	61.61	58.23	2.91	61.14	-0.8%
	123.23	6.16	129.39	122.28	6.11	128.39	-0.8%
	211.25	10.56	221.81	209.63	10.48	220.11	-0.8%

CITY OF KEIZER
ANALYSIS OF RATE INCREASE ON TYPICAL BILLS
FY 05-06

RESIDENTIAL

3/4" meter		Existing Rate Structure			Proposed Rate Structure		
		Base Rate	Cons in cf	TOTAL	Base Rate	Cons in cf	TOTAL
Consumption in Cubic Ft.		\$ 7.72	\$ 0.99		\$ 7.90	\$ 1.03	
April	8	\$ 7.72	7.90	\$ 15.61	\$ 7.90	16.07	\$ 23.96
February	10	\$ 7.72	9.87	\$ 17.59	\$ 7.90	18.10	\$ 25.99
December	10	\$ 7.72	9.87	\$ 17.59	\$ 7.90	18.10	\$ 25.99
October	45	\$ 7.72	44.42	\$ 52.13	\$ 7.90	53.64	\$ 61.54
August	42	\$ 7.72	41.45	\$ 49.17	\$ 7.90	50.60	\$ 58.49
June	17	\$ 7.72	16.78	\$ 24.50	\$ 7.90	25.21	\$ 33.10

\$ 176.59

\$ 229.09

Annual Difference

\$ 52.50

COMMERCIAL

1 1/2" meter		Existing Rate Structure			Proposed Rate Structure		
		Base Rate	Cons in cf	TOTAL	Base Rate	Cons in cf	TOTAL
Consumption in Cubic Ft.		\$ 7.72	0.92		\$ 7.90	0.99	
April	1	\$ 7.72	0.92	\$ 8.64	7.90	0.99	\$ 8.88
February	1	\$ 7.72	0.92	\$ 8.64	7.90	0.99	\$ 8.88
December	46	\$ 7.72	42.50	\$ 50.22	7.90	45.40	\$ 53.30
October	126	\$ 7.72	116.42	\$ 124.14	7.90	124.36	\$ 132.26
August	119	\$ 7.72	109.96	\$ 117.67	7.90	117.45	\$ 125.35
June	67	\$ 7.72	61.91	\$ 69.63	7.90	66.13	\$ 74.03

\$ 378.95

\$ 402.70

Annual Difference

\$ 23.75

1 BILL NO. _____

A BILL

ORDINANCE NO.
2005-_____

2
3 FOR

4
5 AN ORDINANCE

6
7 **SETTING WATER RATES (2005);**
8 **REPEALING ORDINANCE 2004-513;**
9 **DECLARING AN EMERGENCY**

10
11 The City of Keizer ordains as follows:

12 Section 1. WATER RATES. Water rates for the Keizer Water Department are
13 imposed as set forth on Exhibit AA@ and by this reference incorporated herein.

14 Section 2. REPEAL OF ORDINANCE 2004-513 Ordinance No. 2004-513 is
15 hereby repealed.

16 Section 3. EFFECTIVE DATE. This Ordinance being necessary for the
17 immediate preservation of the public health, safety and welfare, an emergency is
18 declared to exist and this Ordinance shall take effect for the August 2005 billings and all
19 successive billings.

20 PASSED this _____ day of _____, 2005.

21 SIGNED this _____ day of _____, 2005.

22
23 _____
24 Mayor

25 _____
26 City Recorder

EXHIBIT "A"

Meter Charge - \$/Meter/Bi-Monthly

<u>Meter Size</u>		<u>Rate</u>
5/8 - 3/4"	\$	7.52
1"	\$	15.28
1-1/2"	\$	29.56
2"	\$	46.71
3"	\$	90.80
4"	\$	143.91
6"	\$	286.81
8"	\$	491.17

Volume Rate - \$/ccf

<u>Customer Class</u>		<u>Rate</u>
Residential	\$	0.98
Commercial	\$	0.94

Private Fire Protection - \$/Hydrant-Bi-Monthly

<u>Hydrant Size</u>		<u>Rate</u>
4"	\$	20.96
6"	\$	58.23
8"	\$	122.28
10"	\$	209.63

Miscellaneous Fees:

Service Fee	\$	15.00
Shut off Processing Fee	\$	30.00
After Hours Fee	\$	75.00
Tampering Fee	\$	30.00
Removal of Meter Following Third Tampering Incident	Cost Plus 15%	

The Service Fee will be charged for all new accounts, account transfers, landlord/rentals and vacation accounts. The Service Fee will not be charged to customers voluntarily terminating service or moving out.

The Shut off Processing Fee will be charged for all accounts remaining unpaid on the day of shut off, whether or not such meter is physically shut off.

The After Hours Fee will be charged to customers requesting water to be turned on after regular business hours. This fee does not apply to emergency calls.

The Tampering Fee will be charged to all customers whose water has been shut off if they turn the water back on themselves or otherwise tamper with the water meter or City water equipment.

CITY COUNCIL MEETING: July 5, 2005

TO: MAYOR CHRISTOPHER AND CITY COUNCIL MEMBERS

**THROUGH: CHRIS EPPLEY
CITY MANAGER**

**FROM: TRACY L. DAVIS, CMC
CITY RECORDER**

**SUBJECT: US MARKET #125
CHANGE OF OWNERSHIP**

BACKGROUND:

On June 14, 2005 an application for a change of ownership was received from Lal Sidhu requesting approval of a change of ownership for US Market #125 located at 3825 Cherry Avenue, Keizer (Keizer Village). The City of Keizer Ordinance indicates the Council must approve the requested change; however no public hearing is required.

On June 15, 2005 a request was sent to the Keizer Police Department for background check on the applicants and a call for service report at the location. Attached you will find the report from the Keizer Police Department.

A letter was sent to the applicant on June 23rd requesting his appearance at the City Council meeting to answer any questions the Council may have.

RECOMMENDATION:

It is recommended the City Council approve and forward a recommendation to the Oregon Liquor Control Commission for the change of ownership for the off premises liquor license for US Market #125.



Keizer Police Department

Phone: (503) 390-3713 • Fax: (503) 390-8295
930 Chemawa Rd. N.E. • P.O. Box 21000 • Keizer, OR 97307-1000

City Council Meeting of _____

Agenda Item No. _____

To: Mayor and City Council

Thru: Chris Eppley, City Manager

From: Marc Adams, Chief of Police
Rita Powers, Police Support Supervisor *RP*

Subject: Liquor License Application — Change of Ownership:
US Market #125, 3825 Cherry Ave. N.E.

Issue: Shall the City Council approve the liquor license application of US Market #125, at 3825 Cherry Ave. N.E., Keizer, Oregon 97303.

Background

There were 16 (sixteen) calls for service at the address of 3825 Cherry Ave. N.E., between June 1, 2004 and May 31, 2005. Two were in conflict with City of Keizer Ordinance 95-318.

The applicants, Satwinder Singh and Lal Sidhu have no Oregon criminal conviction history on record at this time.

Thus, the background investigation did not reveal any criminal history or significant location events that would be in conflict with the City of Keizer City Ordinance 95-318.

Recommendation

The Keizer Police Department recommends approval of the liquor license for US Market #125, 3825 Cherry Ave. N.E., Keizer, Oregon 97303.

OREGON LIQUOR CONTROL COMMISSION
LIQUOR LICENSE APPLICATION



PLEASE PRINT OR TYPE

Application is being made for:

LICENSE TYPES

- ☐ Full On-Premises Sales (\$402.60/yr)
☐ Commercial Establishment
☐ Caterer
☐ Passenger Carrier
☐ Other Public Location
☐ Private Club

☐ Limited On-Premises Sales (\$202.60/yr)
☒ Off-Premises Sales (\$100/yr)
☐ with Fuel Pumps
☐ Brewery Public House (\$252.60)
☐ Winery (\$250/yr)
☐ Other: _____

ACTIONS

- ☒ Change Ownership
☐ New Outlet
☐ Greater Privilege
☐ Additional Privilege
☐ Other _____

FOR CITY AND COUNTY USE ONLY

The city council or county commission:

(name of city or county)

recommends that this license be:

Granted ☐ Denied ☐

By: _____
(signature) (date)

Name: _____

Title: _____

OLCC USE ONLY

Application Rec'd by: Reaching 18

Date: 6/10/05

90-day authority: ☐ Yes ☐ No

Applying as:

- ☒ Individuals ☐ Limited Partnership ☐ Corporation ☐ Limited Liability Company

1. Applicant(s): [See SECTION 1 of the Guide]

① SATWINDER SINGH ③ _____

② LAL SIDHU ④ _____

2. Trade Name (dba): US MARKET #125

3. Business Location: 3825 Cherry Ave Keizer Marion OR 97303
(number, street, rural route) (city) (county) (state) (ZIP code)

4. Business Mailing Address: 3825 Cherry Ave Keizer OR 97303
(PO box, number, street, rural route) (city) (state) (ZIP code)

5. Business Numbers: 503-463-0222 503-463-7134
(phone) (fax)

6. Is the business at this location currently licensed by OLCC? ☒ Yes ☐ No

7. If yes to whom: _____ Type of License: OP

8. Former Business Name: _____

9. Will you have a manager? ☐ Yes ☒ No Name: _____
(manager must fill out an individual history form)

10. What is the local governing body where your business is located? Keizer
(name of city or county)

11. Contact person for this application: LAL Sidhu 503 910 6527
(name) (phone number(s))
3295 Silverton Rd, SALEM 503-302-2519
(address) (fax number) (e-mail address)

I understand that if my answers are not true and complete, the OLCC may deny my license application.

Applicant(s) Signature(s) and Date:

① Satwinder Singh Date 6/1/05 ③ _____ Date _____

② Lal Sidhu Date 6/1/05 ④ _____ Date _____

1-800-452-OLCC (6522)
www.olcc.state.or.us

CITY COUNCIL MEETING: July 5, 2005

AGENDA ITEM NUMBER: _____

TO: MAYOR CHRISTOPHER AND COUNCIL MEMBERS

THROUGH: CHRISTOPHER C. EPPLEY, CITY MANAGER

FROM: E. SHANNON JOHNSON, CITY ATTORNEY

SUBJECT: *NOPP PROPERTY ACQUISITION*

Keizer Station Boulevard will begin near the intersection of Lockhaven and Chemawa Road and move north and then east under the railroad tracks into Area A Village Center. As part of the construction project, right-of-way will need to be acquired through Area B. The City/Urban Renewal Agency has acquired the Weigel property immediately west of the railroad tracks in Area B. To extend Keizer Station Boulevard the rest of the way to Lockhaven/Chemawa, the City needs to acquire portions of property owned by Patricia Nopp and the Louis and Flora Tiersma Trust. (Please see map attached to the Agreement.)

At the direction of the City Manager, I have been in contact with Norman Webb who represents both Patricia Nopp and the Tiersma Trust. We have reached tentative agreement on the Nopp property. Throughout the negotiations Mrs. Nopp has requested that the City acquire all of her property, including the remaining bare ground north of Lockhaven/Chemawa, as well as the residence which is necessary for the extension of the realigned Chemawa Road. The total proposed purchase price is \$1,455,000.00, as allocated below:

1. Right of Way property through Area B: \$250,000.00.
2. "Excess Property" in Area B: \$740,000.00.
3. Residence and adjoining property on Chemawa Road: \$465,000.00.

Because excess property is being purchased, and the Urban Renewal District cannot currently fund additional redevelopment property, the portion of the transaction including the "excess property" and the residence property is delayed until January – March 2006. This benefits the City/Urban Renewal Agency in that interim financing will not need to be acquired if the Urban Renewal District is extended, or alternatively other types of funding can be found if the Urban Renewal Agency is not extended. In addition, Mrs. Nopp does not want to move from her residence until some time early next year. However, the right-of-way portion will be acquired approximately July 27, 2005 so there will be no delay in the construction

process. (The realignment of Chemawa Road south of Lockhaven is not anticipated to begin until next year.)

Based on appraisal information concerning the “after-project” value, it appears the City/Urban Renewal Agency will be able to recoup its investment for the excess property.

Pursuant to the negotiations, I have prepared a purchase and sale agreement, as well as resolution authorizing the City Manager to sign such agreement. It is enclosed for your review.

RECOMMENDATION:

Adopt the attached resolution. (Exhibit A to the Agreement will be delivered later.)

Please let me know if you have any questions in this regard. Thank you.

ESJ/tmh
attachment

1 CITY COUNCIL, CITY OF KEIZER, STATE OF OREGON

2 Resolution R2005-_____

3 RATIFYING AND AUTHORIZING THE CITY MANAGER
4 TO ENTER INTO AN AGREEMENT TO PURCHASE REAL
5 PROPERTY LOCATED AT 2289 CHEMAWA ROAD NORTH
6 (RESIDENCE PROPERTY), PROPERTY LOCATED NORTH
7 OF LOCKHAVEN DRIVE, PLUS EASEMENT AREAS (ROW
8 PROPERTY), AND REMAINING LAND ON EITHER SIDE
9 OF THE ROW PROPERTY (EXCESS PROPERTY), KEIZER,
10 MARION COUNTY, OREGON (PATRICIA NOPP)
11

12 WHEREAS, Patricia Nopp is the owner of the residence and adjoining land
13 located at 2289 Chemawa Road North, property located north of Lockhaven Drive
14 approximately 0.52 acres in size, plus easement areas proposed for public infrastructure
15 (hereinafter “the ROW property”), and remaining land on either side of the ROW
16 property in Keizer, Marion County, Oregon;

17 WHEREAS, such property is appropriate and necessary for future redevelopment
18 of the area;

19 WHEREAS, Patricia Nopp has agreed to sell the real property described herein to
20 the City of Keizer;

21 WHEREAS, the Agreement of Purchase and Sale has been signed by the City
22 Manager;

1 NOW, THEREFORE,

2 BE IT RESOLVED by the City Council of the City of Keizer that the City
3 Manager is hereby authorized to enter into that certain Agreement of Purchase and
4 Sale, a copy of which is attached as Exhibit "A" and by this reference incorporated
5 herein, and that his actions of entering into such agreement is hereby ratified.

6 BE IT FURTHER RESOLVED that the City Manager is directed and authorized
7 to take all actions necessary and appropriate to consummate the transaction as
8 contemplated therein.

9 PASSED this _____ day of _____, 2005.

10 SIGNED this _____ day of _____, 2005.

11

12

13

Mayor

14

15

16

City Recorder

AGREEMENT OF PURCHASE AND SALE

(Under Threat of Condemnation)

THIS AGREEMENT OF PURCHASE AND SALE (the “Agreement”) is made and entered into as of _____, 2005, by and between Patricia Ann Nopp (the “Seller”), and the City of Keizer, an Oregon municipal corporation (the “Buyer”).

RECITALS

A. The Seller is the owner of the real property and improvements on it hereinafter referred to as the “Property,” located in the city of Keizer, County of Marion, State of Oregon, and more particularly described in Exhibit “A” attached. The property consists of:

(1) The residence and adjoining land located at 2289 Chemawa Road N (hereinafter the “Residence Property”);

(2) A portion of Seller’s property north of Lockhaven Drive approximately 0.52 acres in size, plus easement areas proposed for public infrastructure (hereinafter “the ROW property”)(see Exhibit “B”); and

(3) All remaining land owned by Seller on either side of the ROW property (hereinafter “the Excess Property”) (see Exhibit “B”).

B. The Buyer desires to purchase the Property from the Seller, and the Seller desires to sell the Property to the Buyer.

C. The parties acknowledge and agree that this purchase is made under threat of condemnation.

The terms of this Agreement are as follows:

AGREEMENT

1. Purchase and Sale. The Seller agrees to sell to the Buyer, and the Buyer agrees to purchase from the Seller, the Property on the terms and conditions set forth in this Agreement.

2. Purchase Price. The purchase price for the Property shall be \$1,455,000.00.

3. Payment of Purchase Price. The purchase price shall be payable as follows:

(a) Deposit. The Buyer shall pay into escrow the sum of \$25,000.00 within seven (7) days of approval by the Keizer City Council.

(b) Cash Balance. On or before the closing date, the Buyer shall deposit into escrow the cash, a wire transfer of funds, a certified check, or a cashier's check, in the amount necessary pursuant to Section 4(b).

4. Escrow

(a) Opening of Escrow. Upon the deposit by the Buyer of the sum of \$25,000.00, escrow is established for consummating this transaction. The Buyer and the Seller shall deliver a fully executed copy of this Agreement to Fidelity National Title Company (the Escrow Holder). The Buyer and the Seller shall execute and deliver into escrow any additional or supplemental instructions as may be necessary or convenient to implement the terms of this Agreement and to close this transaction. If the additional or supplemental instructions conflict with the express terms of this Agreement, the terms of this Agreement control.

(b) Closing Date. The parties agree that three different portions of the Property shall be conveyed upon the following dates corresponding to the following payments made by Buyer and released to Seller:

(1) Upon payment of \$250,000.00, Seller shall convey the ROW property. The Closing Date for this portion of the transaction shall be no later than July 27, 2005.

(2) Upon payment of the remaining purchase price (\$1,205,000.00), Seller shall convey the Residence Property and the Excess Property. The Closing Date for this portion of the transaction shall be no later than March 1, 2006.

As used herein, "Closing Date" shall apply according to which portion of the Property is being conveyed. The earnest money amount of \$25,000.00 shall be held in escrow until the closing of the Residence Property and Excess Property.

5. Conditions to Closing

(a) Conditions Precedent to Buyer's Obligations. The close of escrow and the Buyer's obligations with respect to the transaction contemplated by this Agreement are subject to the satisfaction, not later than the Closing Date (unless otherwise provided), of the following conditions, and the obligations of the parties with respect to such conditions are as follows:

(1) Title. Buyer, at the Buyer's cost and expense, shall cause the Escrow Holder to issue to the Buyer its preliminary title report on the Property (the "Preliminary Commitment"), along with copies of all documents that give rise to exceptions listed in the report (the "Underlying Documents"). Within seven (7) days of receiving the Preliminary Commitment and the Underlying Documents, the Buyer shall give the Seller written notice setting forth the exceptions that are not acceptable to the Buyer (the "Unacceptable Exceptions"). All other exceptions shall be deemed acceptable to the Buyer. The Seller shall have seven (7) days after receiving the Buyer's notice within which to give the Buyer its written notice stating whether it will remove some or all of the Unacceptable Exceptions; provided, however, that the Seller must remove all monetary liens and encumbrances to the Buyer's reasonable satisfaction on or before the Closing Date. If the Seller agrees to eliminate the Unacceptable Exceptions, the Seller must do so at its cost and as of the Closing Date. If the Seller declines to eliminate all of the Unacceptable Exceptions, the Buyer has the right to terminate this Agreement by written notice given to the Seller within five (5) days of receiving the Seller's notice.

(2) Survey. Buyer, at Buyer's expense shall have obtained a survey satisfactory to Buyer in Buyer's sole discretion and which meets title company requirements for an ALTA extended owner's title policy.

(3) Site Study. Before closing, the Buyer may engage consultants or engineers of the Buyer's choosing to conduct site studies of the Property as the Buyer deems necessary. The Buyer or its agents shall have the right to enter the Property at reasonable times before closing to make such tests, inspections, studies, environmental inspections (including Level I assessment), and other investigations as the Buyer may require, at the Buyer's expense and risk. The Buyer shall indemnify and hold the Seller harmless from any loss, damage, or claim arising out of the Buyer's access to the Property for the purpose of making tests, inspections, studies, and other investigations. It shall be a condition to closing that the results of such studies or analyses, as well as the survey be acceptable to the Buyer in its sole discretion.

(4) Representations, Warranties, and Covenants of Seller. The Seller shall have duly performed each and every agreement to be performed by the Seller hereunder and the Seller's representations, warranties, and covenants set forth in this Agreement shall be true and correct as of the Closing Date.

(5) No Material Changes. At the Closing Date, there shall have been no material adverse changes related to or connected with the Property, whether directly or indirectly.

(6) Seller's Deliveries. The Seller shall have timely delivered each and every item to be delivered by the Seller pursuant to this Agreement.

(7) Title Insurance. As of the close of escrow, the Escrow Holder shall have issued or shall have committed to issue the title policy to the Buyer.

(8) Adoption of a Resolution by the Keizer City Council ratifying this Agreement of Purchase and Sale on or before July 5, 2005.

The conditions set forth in this Paragraph 5(a) are solely for the benefit of the Buyer and may be waived only by the Buyer. The Buyer shall at all times have the right to waive any condition. Such waiver or waivers shall be delivered in writing to the Seller. The waiver by the Buyer of any condition shall not relieve the Seller of any liability or obligation with respect to any representation, warranty, covenant, or agreement of the Seller. Neither the Seller nor the Buyer shall act or fail to act for the purpose of permitting or causing any condition to fail (except to the extent the Buyer, in its own discretion, exercises its right to disapprove any such items or matters). If any condition is not satisfied or waived by the Closing Date, the deposit shall be refunded to Buyer. However, if the subject condition was not satisfied by reason of a breach of this Agreement by Seller, then Buyer may exercise any remedy available to Buyer.

(b) Cancellation Fees and Expenses. If this escrow terminates because of the nonsatisfaction of any condition for a reason other than the default of the Seller under this Agreement, the cancellation charges required to be paid by and to the Escrow Holder shall be borne by the Buyer. If this escrow terminates because of the Seller's default, the cancellation charges required to be paid by and to the Escrow Holder shall be borne by the Seller.

6. Deliveries to Escrow Holder

(a) By Seller. On or before the Closing Date, the Seller shall deliver the following in escrow to the Escrow Holder:

(1) Deed. A statutory warranty deed duly executed and acknowledged in recordable form by the Seller, conveying the Property to the Buyer subject only to nondelinquent property taxes, and other matters that may be approved in writing by the Buyer.

(2) Nonforeign Certification. The Seller represents and warrants that it is not a “foreign person” as defined in IRC ' 1445. The Seller will give an affidavit to the Buyer to this effect in the form required by that statute and related regulations.

(b) By Buyer. On or before the Closing Date, the Buyer shall deliver the following in escrow to the Escrow Holder:

(1) Purchase Price. The purchase price in accordance with Paragraph B.3 above.

7. Deliveries to Buyer at Closing. The Seller shall deliver possession of the Property to the Buyer at close of escrow.

8. Title Insurance. Within (7) days of closing, the Buyer shall receive, at its expense, a extended ALTA owner's title insurance policy in the amount of the purchase price specified above, insuring title vested in the Buyer or its nominees, subject only to nondelinquent real property taxes and any other matters revealed by the Preliminary Commitment and not objected to by the Buyer pursuant to paragraph 5(a)(1) above. Seller must execute and deliver to the Escrow Holder at closing a certificate and indemnity substantially in the form required by the Escrow Holder in order to issue its extended ALTA policy.

9. Adjustments. The Buyer shall pay for the title insurance policy, recording charges for the deed, one-half of the escrow fees and costs, and the Buyer's share of prorations pursuant to Paragraph 10 below. The Seller shall pay one-half of the escrow fees and costs, all remaining recording charges and Seller's share of prorations pursuant to Paragraph 10 below. The Buyer and the Seller shall each pay its own legal and professional fees of other consultants incurred by the Buyer and the Seller, respectively. At closing, the Buyer shall contribute any funds necessary to pay its share of adjustments.

10. Prorations

(a) General. Rental, revenues, and other income, if any, from the Property and presently existing taxes, assessments, improvement bonds, and other expenses, if any, affecting the Property, shall be prorated as of the day following the Closing Date. For the purpose of calculating prorations, the Buyer shall be deemed to be in

title to the Property and, therefore, entitled to the income and responsibility for the expenses for the entire day following the Closing Date.

11. Seller's Representations and Warranties. In addition to any express agreements of the Seller contained here, the following constitute representations and warranties of the Seller to the Buyer:

(a) Representations Regarding Seller's Authority.

(1) The Seller has the legal power, right, and authority to enter into this Agreement and the instruments referred to here and to consummate the transactions contemplated here.

(2) This Agreement and all documents required to be executed by the Seller are and shall be valid, legally binding obligations of and enforceable against the Seller in accordance with their terms.

(3) Neither the execution and delivery of this Agreement and documents referred to here, nor the incurring of the obligations set forth here, nor the consummation of the transactions here contemplated, nor compliance with the terms of this Agreement and the documents referred to here conflict with or result in the material breach of any terms, conditions, or provisions of, or constitute a default under any bond, note, or other evidence of indebtedness, or any contract, indenture, mortgage, deed of trust, loan, partnership agreement, lease, or other agreements or instruments to which the Seller is a party or affecting the Property.

(b) Warranties and Representations Pertaining to Real Estate and Legal Matters.

(1) The information contained in the recitals is true and correct.

(2) Except as disclosed to the Buyer in writing, there is no litigation, claim, or arbitration, pending or threatened, with regard to the Property or its operation, except for threatened condemnation proceedings.

(3) No attachments, execution proceedings, assignments for the benefit of creditors, insolvency, bankruptcy, reorganization, or other proceedings are pending or, to the best of the Seller's knowledge, threatened against the Seller, nor are any such proceedings contemplated by the Seller.

(4) The Seller is the legal and beneficial fee simple titleholder of the Property and has good, marketable, and insurable title to the Property, free and clear

of all liens, encumbrances, claims, covenants, conditions, restrictions, easements, rights of way, options, judgments, or other matters, except as disclosed by the preliminary title report.

(5) The Seller has not entered into any other contracts for the sale of the Property, nor do there exist any rights of first refusal or options to purchase the Property.

(6) The Seller has not received any notices from any insurance company of any defects or inadequacies in the Property.

(7) The Seller has not sold, transferred, conveyed, or entered into any agreement regarding “air rights” or other development rights or restrictions relating to the Property.

(8) To the best of the Seller’s knowledge, the Property is materially in compliance with applicable state and federal environmental standards and requirements affecting it.

(9) The Seller has not received any notices of violation or advisory action by regulatory agencies regarding environmental control matters or permit compliance with respect to the Property.

(10) The Seller has not transferred hazardous waste from the Property to another location that is not in compliance with applicable environmental laws, regulations, or permit requirements. To the best of the Seller’s knowledge, no other person has transferred hazardous waste from the Property to another location that is not in compliance with applicable environmental laws, regulations, or permit requirements.

(11) There are no proceedings, governmental administrative actions, or judicial proceedings pending or, to the best of the Seller’s knowledge, contemplated under any federal, state, or local laws regulating the discharge of hazardous or toxic materials or substances into the environment.

(12) To the best of the Seller’s knowledge, there has not been any hazardous substance, including asbestos, stored, produced, or disposed of on the Property.

(13) No leasing or brokerage fees or commissions of any nature whatsoever shall become due or owing to any person, firm, corporation, or entity after closing with respect to the tenant leases.

(c) Representations, Warranties, and Covenants Regarding Operation of the Property Through the Close of Escrow.

(1) The Seller further represents and warrants that, until this transaction is closed or escrow is terminated, whichever comes earlier, it shall:

- A. Keep all existing insurance policies affecting the Property in full force and effect;
- B. Make all regular payments of interest and principal on existing financing, if any;
- C. Comply with all government regulations;

(2) The Seller will not make any alterations to the Property.

(d) General Representation. The Seller's representations and warranties contained here are true and accurate, and are not misleading. The Seller's representations and warranties contained here shall be continuing and shall be true and correct as of the Closing Date with the same force and effect as if remade by the Seller in a separate certificate at that time. The Seller's representations and warranties contained here shall survive the close of escrow and shall not merge into the deed and the recordation of the deed in the official records.

12. Buyer's Representations and Warranties. In addition to any express agreements of the Buyer contained here, the following constitute representations and warranties of the Buyer to the Seller upon ratification of this Agreement by the Keizer City Council:

(a) The Buyer has the legal power, right, and authority to enter into this Agreement and the instruments referred to here and to consummate the transactions contemplated here.

(b) All requisite action has been taken by the Buyer in connection with entering into this Agreement and the instruments referred to here and the consummation of the transactions contemplated here. No further consent of any partner, shareholder, creditor, investor, judicial or administrative body, governmental authority, or other party is required.

(c) The persons executing this Agreement and the instruments referred to here on behalf of the Buyer have the legal power, right, and actual authority to bind the Buyer to the terms and conditions of this Agreement.

(d) This Agreement and all documents required by it to be executed by the Buyer are and shall be valid, legally binding obligations of, and enforceable against the Buyer in accordance with their terms.

(e) Neither the execution and delivery of this Agreement and documents referred to here, nor the incurring of the obligations set forth here, nor the consummation of the transactions contemplated, nor compliance with the terms of this Agreement and the documents referred to here conflicts with or results in the material breach of any terms, conditions, or provisions of or constitute a default under any bond, note, or other evidence of indebtedness, or any contract, indenture, mortgage, deed of trust, loan, partnership agreement, lease, or other agreements or instruments to which the Buyer is a party.

13. Property Sold “As Is”. Other than the Seller’s representations and warranties contained in this Agreement and those contained in any instrument delivered to the Buyer at closing, the Buyer acknowledges that it is purchasing the Property AS IS.

14. Damage or Destruction. Until close of escrow, the risk of loss shall be retained by the Seller. The Seller shall keep the Property fully insured to full replacement cost until close of escrow.

In the event all or any portion of the Property is damaged or destroyed before the close of escrow, Buyer shall be assigned all insurance proceeds (except for personal property) payable to or for the account of the Seller.

15. Waiver and Release of Claims. Seller hereby releases and waives any and all claims, causes of actions and complaints, whether judicial, administrative or otherwise against Buyer and the Urban Renewal Agency of the City of Keizer which arise under or in any way is connected with Seller’s ownership of the Property or the sale of the Property to Buyer. This waiver and release includes, without limitation, waiver and release of any reversionary interest Seller may have by way of condemnation law, as well as a release of any relocation costs and benefits, it being the understanding of the parties that the consideration set forth herein to be paid to Seller contemplates the total amounts that may be due to Seller, including relocation benefits.

16. Notices. All notices or other communications required or permitted under this Agreement must be in writing and must be (1) personally delivered (including by means of a professional messenger service), which notices and communications will be deemed received on receipt at the office of the addressee; (2)

sent by registered or certified mail, postage prepaid, return receipt requested, which notices and communications will be deemed received three days after deposit in the United States mail, postage prepaid; (3) sent by overnight delivery using a nationally recognized overnight courier service, which notices and communications will be deemed received one business day after deposit with the courier; or (4) sent by telefax, which notices and communications will be deemed received on the delivering party's receipt of a transmission confirmation.

To Buyer: City of Keizer
c/o Tracy Davis, City Recorder
PO Box 21000
Keizer, OR 97307

With a Copy to: E. Shannon Johnson
Lien & Johnson
4855 River Road N.
Keizer, OR 97303

To Seller: Patricia Ann Nopp
2289 Chemawa Road N
Keizer, OR 97303

With a Copy to: Norman F. Webb
Webb Martinis & Hill
1114 12th St SE
Salem, OR 97302

Notice of change of address shall be given by written notice in the manner detailed in this paragraph.

17. Required Actions of Buyer and Seller. The Buyer and the Seller agree to execute all such instruments and documents and to take all actions pursuant to the provisions of this Agreement in order to consummate the purchase and sale contemplated and shall use their best efforts to accomplish the close of escrow in accordance with the provisions here.

18. Buyer Held Harmless as Municipal Government. Seller agrees and understands that Buyer's responsibility and obligations under this Agreement do not and cannot bind Buyer as to its duties as municipal government which are necessarily separate and apart from its obligations hereunder. To that end, with regard to any actions that may affect Seller's operation of the Premises in any manner whatsoever, Seller agrees that enforcement in good faith of any lawful

ordinances or regulations or any other acts Buyer may take with regard to the adoption of appropriate and necessary laws and ordinances, or any other acts Buyer may take in its role as municipal government shall not be restricted by the fact that Buyer entered into this Agreement. However, nothing in this Section shall be interpreted to permit Buyer to act or fail to act in any way inconsistent with any common law, constitutional or statutory rights of Seller or the established duties and obligations of Buyer as a municipal body. This provision shall survive closing and shall not merge with the deed. As used in this Section, the term “Buyer” shall also include the Urban Renewal Agency of the City of Keizer.

19. Legal and Equitable Enforcement of This Agreement

(a) Default by the Seller. If the close of escrow and the consummation of the transaction here contemplated do not occur by reason of any default by the Seller, the Buyer shall be entitled to all its out-of-pocket expenses incurred in connection with the transaction, including the deposit, or alternatively, shall have the right to pursue any other remedy available to it at law or equity, including the specific performance of this Agreement.

(b) Default by the Buyer. If the close of escrow and the consummation of the transaction here contemplated do not occur by reason of any default by the Buyer, Seller shall have the right to the deposit, or alternatively, the right to pursue any other remedy available to Seller at law or equity, including the specific performance of the this Agreement.

20. Assignment. The Buyer shall have the right to assign its rights and obligations under this Agreement, on giving prior written notice to the Seller, to any person or entity as long as the assignee expressly assumes the obligations of the Buyer and the assignee demonstrates to the Seller's satisfaction that it has the financial ability to perform. Any assignee shall succeed to all the rights and remedies under this Agreement, including but not limited to the specific performance of this Agreement. Notwithstanding the foregoing, no such assignment shall relieve the Buyer from its liability under this Agreement up to and through the close of escrow, whereupon the Buyer shall be fully relieved from any further liability under this Agreement. In the event of assignment, the assignor waives notice, presentment, any defenses arising from subsequent modification of this Agreement, and any defenses other than those that may be raised by the assignee.

Notwithstanding the above, Seller consents to the Buyer's assignment of part or all of this Agreement to the Urban Renewal Agency of the City of Keizer.

21. Miscellaneous

(a) Partial Invalidity. If any term or provision of this Agreement or the application to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby, and each such term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

(b) Waivers. No waiver of any breach of any covenant or provision contained here shall be deemed a waiver of any preceding or succeeding breach thereof, or of any other covenant or provision here contained. No extension of time for performance of any obligation or act shall be deemed an extension of the time for performance of any other obligation or act.

(c) Survival of Representations. The covenants, agreements, representations, and warranties made here shall survive the close of escrow and shall not merge into the deed and the recordation of it in the official records.

(d) Successors and Assigns. This Agreement shall be binding on and shall inure to the benefit of the permitted successors and assigns of the parties to it.

(e) Attorney Fees. If a party to this Agreement brings any action or suit against another party to this Agreement by reason of any breach of any of the covenants, agreements, or provisions on the part of the other party arising out of this Agreement, then the prevailing party shall be entitled to have and recover from the other party all costs and expenses of the action or suit, including actual attorney fees, at trial and on appeal.

(f) Entire Agreement. This Agreement (including any exhibits attached to it) is the final expression of, and contains the entire agreement between, the parties with respect to the subject matter of the Agreement and supersedes all prior understandings with respect to it. This Agreement may not be modified, changed, supplemented, or terminated, nor may any obligations under it be waived, except by written instrument signed by the party to be charged or by its agent duly authorized in writing or as otherwise expressly permitted here. The parties do not intend to confer any benefit on any person, firm, or corporation other than the parties hereto.

(g) Time of Essence. The Seller and the Buyer hereby acknowledge and agree that time is strictly of the essence with respect to each and every term, condition, obligation, and provision.

(h) Construction. Headings at the beginning of each paragraph and

subparagraph are solely for the convenience of the parties and are not a part of this Agreement. Whenever required by the context of this Agreement, the singular shall include the plural, and the masculine shall include the feminine, and vice versa. This Agreement shall not be construed as if it had been prepared by one of the parties, but rather as if both parties had prepared it. Unless otherwise indicated, all references to paragraphs and subparagraphs are to this Agreement. All exhibits referred to in this Agreement are attached and incorporated by this reference. If the date on which the Buyer or the Seller is required to take any action under the terms of this Agreement is not a business day, the action shall be taken on the next succeeding business day.

22. Governing Law. The parties acknowledge that this Agreement has been negotiated and entered into in the state of Oregon. The parties expressly agree that this Agreement shall be governed by, interpreted under, and construed and enforced in accordance with the laws of the state of Oregon.

23. Statutory Disclaimer.

THE PROPERTY DESCRIBED IN THIS INSTRUMENT MAY NOT BE WITHIN A FIRE PROTECTION DISTRICT PROTECTING STRUCTURES. THE PROPERTY IS SUBJECT TO LAND USE LAWS AND REGULATIONS, WHICH, IN FARM OR FOREST ZONES, MAY NOT AUTHORIZE CONSTRUCTION OR SITING OF A RESIDENCE AND WHICH LIMIT LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930 IN ALL ZONES. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES AND EXISTENCE OF FIRE PROTECTION FOR STRUCTURES. ORS 93.040(2).

///

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date and year written above.

BUYER

SELLER

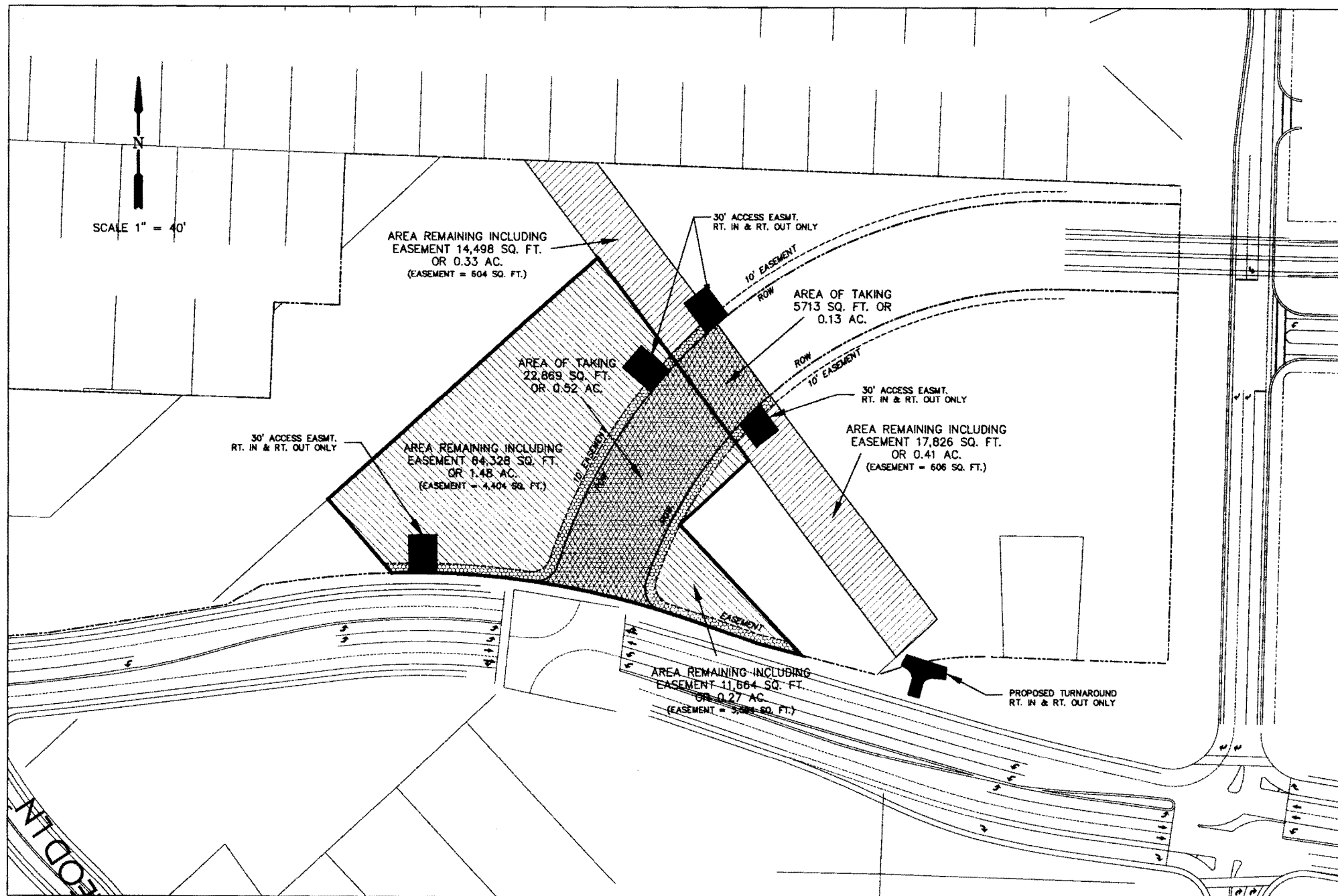
THE CITY OF KEIZER

By: _____
Christopher C. Eppley,
City Manager

Patricia Ann Nopp

Dated: _____

Dated: _____





MINUTES
KEIZER CITY COUNCIL
SPECIAL SESSION
Monday, June 2, 2005
Robert L. Simon Council Chambers
Keizer City Hall, Keizer, Oregon

CALL TO ORDER Mayor Christopher called the special session to order at 12:08 p.m. Roll call was taken as follows:

Present:

Lore Christopher, Mayor
Richard Walsh, Council President (12:11)
David McKane, City Councilor
Jacque Moir, City Councilor
Troy Nichols, City Councilor
James Taylor, City Councilor

Absent:

Charles Lee, City Councilor

Staff:

Shannon Johnson, City Attorney
Rob Kissler, Public Works Director
Chris Eppley, City Manager
Nate Brown, Community Development
Dianne Hunt, Human Resources
Tracy Davis, City Recorder

PUBLIC TESTIMONY None

ADMINISTRATIVE ACTION

**a. RESOLUTION
– Authorizing
the City
manager to
Enter Into
Development
Agreement
and
Easements
with Chemawa
Station LLC for
Keizer Station
Area D**

City Attorney Shannon Johnson explained that this item was tentatively on the agenda for the last regular meeting but was not adopted because of lack of supporting documents. He noted that the documents in hand had been approved by both tribes and outlined the agreements explaining the easements for Ulali Road and the terms: (1) Public Use Easement – for Ulali, (2) Water storage tank and (3) Utility Easement

Mr. Johnson answered questions regarding taxes, types of easements, intent of the parties, ownership of the “Developer” and various items on the Development Agreement. Additional discussion followed regarding the water storage tank.

Councilor Walsh moved to adopt Resolution R2005 Authorizing the City Manager to Enter into Development Agreement and Easements with Chemawa Station LLC for Keizer Station Area D. The motion passed unanimously as follows:

AYES: Christopher, Nichols, Moir, McKane, Taylor and Walsh (6)

NAYS: None (0)

ABSTENTIONS: None (0)

ABSENT: Lee (1)

OTHER BUSINESS

Nate Brown explained that a special oar will be presented to the Governor on June 4, commemorating the opening of the Water Trail and asked council members to sign the paddle.

Mayor Christopher encouraged Council members to complete the annual City Manager Review by June 5.

Councilor Walsh

- Inquired if Council would be willing to add their voice in favor of keeping the Oregon City locks open. Councilors supported this by consensus.
- The judge evaluations have all been returned and the ratings were 100% acceptable. He recommended that business continue as usual adding that he would advise the judge accordingly.
- Invited everyone to attend the Willamette River Float on June 4.

Councilor Taylor invited everyone to the Keizer Points of Interest ceremony dedicating the signs at Claggett Cemetery.

ADJOURNMENT

The meeting was adjourned at 12:45 p.m.

APPROVED:

MAYOR:

Debbie Lockhart, Deputy City Recorder

Lore Christopher

COUNCIL MEMBERS

Councilor #1 – David McKane

Councilor #4 – Jacque Moir

Councilor #2 – Troy Nichols

Councilor #5 – Richard Walsh

~ Absent ~

Councilor #3 – Charles E. Lee

Councilor #6 – James Taylor

Minutes approved:



MINUTES
KEIZER CITY COUNCIL
Monday, June 6, 2005
Keizer City Hall
Robert L. Simon Council Chambers
Keizer, Oregon

CALL TO ORDER Mayor Christopher called the regular meeting to order at 7:18 pm. Roll Call was taken as follows:

Present:

Lore Christopher, Mayor
Jacque Moir, Councilor
Troy Nichols, Councilor
Chuck Lee, Councilor
Jim Taylor, Councilor
David McKane, Councilor
Delilah Calhoun, Youth Councilor

Staff:

John Lien, City Attorney
John Teague, Police Department
Nate Brown, Community Development
Chris Eppley, City Manager
Tracy Davis, City Recorder

Absent:

Richard Walsh, Council President

FLAG SALUTE

Dan Carroll led the flag salute.

PUBLIC TESTIMONY

Mona Dozler, 782 Cummings Lane, Keizer, explained that on May 21 at 9 p.m. a drunken man looked in her window so she called 911. He was in and out of her vision before the police responded to the call. She explained her concerns and asked why the man was not taken away. Mayor Christopher thanked Ms. Dozler and promised that her concerns would be addressed.

**COMMITTEE
REPORTS**

a. **Oath of Office ~
Dan Carroll**

City Attorney, John Lien, issued the oath of office to Dan Carroll.

b. **Presentation by
McNary High
School Science
Class – Garry
Miller**

Garry Miller, teacher at McNary High School, and 8 students presented the plant design for the bio-swales at Claggett Creek Park which they developed as a class project. They explained wetlands and how they function, a brief history of constructed wetlands, the goals of the plan and the proposal for a constructed wetland in Claggett Creek Park.

PUBLIC HEARINGS

a. RESOLUTION ~ Keizer Station Boulevard Rail Undercrossing Construction Exemption

City Attorney John Lien reviewed this history of this issue explaining that because of the requirement of working closely with the railroad it is proposed to work with them directly in order to expedite the project. Mr. Lien and City Engineer Bill Peterson then fielded questions.

Mayor Christopher opened the public hearing.

Hearing no testimony. Mayor Christopher closed the public hearing.

Councilor Moir moved to adopt Resolution R2005 Exemption of Keizer Station Boulevard and Tepper Lane Railroad Undercrossing Contracts from Competitive Billing and Authorizing contract with Portland and Western Railroad to Construct the Keizer station Boulevard and Tepper Lane Railroad Undercrossings. Councilor Taylor seconded. Motion passed unanimously as follows:

AYES: Christopher, Nichols, Lee, Moir, McKane and Taylor (6)

NAYS: None (0)

ABSTENTIONS: None (0)

ABSENT: Walsh (1)

OTHER BUSINESS

Referring to Neighborhood Associations, Councilor McKane explained that he had compared Keizer with other cities of the same size, gotten some ideas and developed some of his own. He voiced the opinion that Neighborhood Associations are of great importance because this is how people get involved in city government and added that he would like to get a group together to focus on activating neighborhood associations. Councilor McKane volunteered to Chair the Neighborhood Association Task Force and Councilor Taylor volunteered to serve. Mayor Christopher encouraged those interested in serving on the committee to contact City Hall.

Councilor Moir thanked city staff, Youth Councilor Calhoun and Willow Lake Nursery for support at the Iris Festival information booth.

Councilor Taylor reported that the Keizer Points of Interest Committee had unveiled a sign at Claggett Cemetery.

Mayor Christopher reported on events which took place on the Willamette River Float with Governor Kulongoski and thanked all the participants. She concluded her report noting that 420 McNary Seniors would be graduating at Volcano Stadium on Saturday.

Youth Councilor Delilah Calhoun pointed out that Seniors have two more days of school.

ADMINISTRATIVE ACTION

a. ORDINANCE ~ Comprehensive Plan Map Amendment and Zone Change (Teets)

Mayor Christopher reported that this matter had been before Council at a previous meeting and was now ready for adoption

Councilor Moir moved for adoption of Ordinance 2005 in the matter of the application of Stan K. Teets for a Comprehensive Plan Map Amendment from Low Density Residential (LDR) to Medium High Density Residential (MHDR) and a Zone Change from Residential Single Family (RS) to Medium Density Residential (RM) for Property located at 800 and 840 Chemawa Road NE – Case No. 2005-06. Councilor Taylor seconded.

AYES: Christopher, Nichols, Lee, Moir, McKane and Taylor (6)

NAYS: None (0)

ABSTENTIONS: None (0)

ABSENT: Walsh (1)

CONSENT CALENDAR

- a. **RESOLUTION – Extending Workers Compensation Insurance to City of Keizer Volunteers**
- b. **Approval of May 4, 2005 Special Session Minutes**

Councilor Moir moved to approve all items on the Consent Calendar. Councilor Lee seconded. The motion passed unanimously as follows:

AYES: Christopher, Nichols, Lee, Moir, McKane and Taylor (6)

NAYS: None (0)

ABSTENTIONS: None (0)

ABSENT: Walsh (1)

WRITTEN COMMUNICATIONS

None

AGENDA INPUT

June 13, 2005

5:30 p.m. City Council Work Session – No topic – Cancelled.

June 20, 2005

6:30 p.m. Urban Renewal Agency Meeting

➤ 2005-2006 Urban Renewal Budget

➤ 2004-2005 Supplemental Budget

7:00 p.m. City Council Regular Session

➤ 2005-2006 Budget Public Hearing

➤ Adoption of 2005-2006 Budget and Various Other Budget Related Resolutions

➤ 2004-2005 Supplemental Budget

July 5, 2005

7:00 p.m. City Council Regular Session

ADJOURNMENT Mayor Christopher adjourned the meeting at 8:03 p.m.

APPROVED:

MAYOR:

Debbie Lockhart, Deputy City Recorder

Lore Christopher

COUNCIL MEMBERS

Councilor #1 – David McKane

Councilor #4 – Jacque Moir

Councilor #2 – Troy Nichols

~ Absent ~
Councilor #5 – Richard Walsh

Councilor #3 – Charles E. Lee

Councilor #6 – James Taylor

Minutes approved:



MINUTES
KEIZER CITY COUNCIL
Monday, June 20, 2005
Keizer City Hall
Robert L. Simon Council Chambers
Keizer, Oregon

CALL TO ORDER Mayor Christopher called the regular meeting to order at 7:02 pm. Roll Call was taken as follows:

Present:

Lore Christopher, Mayor
Jacque Moir, Councilor
Troy Nichols, Councilor
Chuck Lee, Councilor
Jim Taylor, Councilor
David McKane, Councilor
Delilah Calhoun, Youth Councilor

Staff:

Shannon Johnson, City Attorney
John Teague, Police Department
Nate Brown, Community Development
Chris Eppley, City Manager
Tracy Davis, City Recorder

Absent:

Richard Walsh, Council President

FLAG SALUTE

Youth Councilor Delilah Calhoun led the flag salute.

PUBLIC TESTIMONY

Garry Epperly, 5050 River Road North, Keizer, addressed Council regarding excessive noise from Bray's Lounge. He explained that his residence is the upper story at "A Storage Place" and during the summer the noise from Bray's makes it impossible to sleep. He reviewed the history of this problem and appealed to city officials for help. Mr. Epperly added that if Bray's would keep their doors closed it would alleviate this problem.

City Manager Chris Eppley asked the Police Department to use the decibel reader to measure the level of noise coming from Bray's so that it could be determined if the establishment was violating the noise ordinance.

Bill Lawyer, City of Keizer Public Works pointed out that Rob Kissler had begun a program recognizing employees of the Public Works Department who had served the city for over ten years. He noted that Public Works staff decided that Mr. Kissler should be recognized for his 20+ years of service, reviewed Mr. Kissler's history with the city and presented him with a plaque. Mr. Kissler expressed his thanks.

**COMMITTEE
REPORTS**

Councilor Nichols reported that his recommendation to the Volunteer Coordinating Committee, Lois Anderson, had resigned so he

recommended Brian Stephan to fill the vacancy.

Lore Christopher read the proclamation appointing Mr. Stephan to the committee.

Councilor Taylor reported that Bikeways Committee has elected Ron Anderson as Chair and Darlene Taylor as Vice Chair.

Councilor Lee reported that the Keizer No Meth Task Force will meet on Wednesday, June 22 at City Hall and a community Meth Awareness program will be presented on Thursday, June 30 at 7 p.m. in the Police auditorium. He invited all interested citizens to attend.

PUBLIC HEARINGS

a. RESOLUTION ~ Adopting City of Keizer 2005-06 Fiscal Year Budget and Making Appropriations

Finance Director, Susan Gahlsdorf, reported that the Budget Committee had met, received the City Manager's Budget Message for Fiscal Year 2005-2006, took public testimony, held deliberations and approved the Recommended Budget as amended. The public hearing scheduled for this meeting was to receive additional public input.

Additional information available since the Committee approved Budget passed affects the General Fund, the Street Fund and the Water Fund. Staff requests the approval to:

- Receive up to \$5,000 in grant funds from ODOT
- Receive up to \$6,000 in matching grant funds for the purchase of \$12,000 in police protective vests.
- Carry over \$40,000 in the Water Fund for the purchase of a public works vehicle which was budgeted in FY2005 but will not be delivered until the FY2006
- Carry over \$30,000 in the Street Fund for completion of the Labish Area Bridge because portions of the work will not be completed until fiscal year 2006.
- Receive \$110,000 in a federal grant for computer equipment for the vehicles.

Staff recommendation is that after all testimony has been received the recommended Budget be adopted.

Mayor Christopher opened the public hearing.

Anna Peterson, Salem, Chair of "No Meth, Not in My Neighborhood", thanked Council for support which has enabled the opening of an office and the hiring of a half-time director. She also thanked the Keizer Police Department, the Chamber of Commerce, McNary students, Walmart and Chuck Lee for their ongoing efforts in fighting against meth.

Bill Adams, Keizer, added that he is the half-time director of "No Meth, Not in My Neighborhood" and thanked the Police Department and the faith community for their support. He encouraged Council to continue working closely with neighborhoods in all areas.

Discussion followed regarding the continued vision of the group, coordination and partnering goals and the roll of neighborhoods and other government entities in the continuation of the effort.

Hearing no further testimony, Mayor Christopher closed the public hearing.

Councilor Moir moved to adopt Resolution R2005 Adopting the Fiscal Year 2005 budget, Making Appropriations and Imposing and Categorizing Taxes. Councilor McKane seconded. Motion passed unanimously as follows:

AYES: Christopher, Nichols, Lee, Moir, McKane and Taylor (6)

NAYS: None (0)

ABSTENTIONS: None (0)

ABSENT: Walsh (1)

OTHER BUSINESS

Mayor Christopher reported that she and Councilor Moir had attended the graduation of Delilah Calhoun from Leadership Youth at the conference center. Delilah added that there was a total of 22 graduates.

Susan Gahlsdorf reported that after meetings with the Police Department and receipt of a waiver from Marion County allowing the Keizer Municipal Court to refer eligible helmet ordinance offenders to Peer Court the judge is now authorized to direct the offenders to Peer Court.

Chief Adams reported that

- There has been a resurgence of gang activity and The department is working with agencies in Marion County and FBI to address the problem.
- The Homeland Security Grant (\$110,000) will be used to upgrade all mobile data computers. Bill Hopkins is coordinating the hardware and software equipment.

Rob Kissler presented an application to designate a tree as a heritage tree. The tree is located on Windsor Island Road close to the Willow Lake Treatment Plant and will be affected by the expansion of the plant. Planned road and gutter improvements go through the base of the tree but realigning the roadway on the east side would allow the tree to remain intact. Mr. Kissler noted that he will be meeting with the Salem City Engineer to explore this possibility. With this in mind he explained that it was not necessary to designate at this time because there were many other older trees in the area that might be impacted as future development continues.

Council agreed by consensus to allow staff to work around the trees in order to avoid designation as a Heritage Tree.

Nate Brown reported that staff would be attending a meeting with the Marine Board for a grant on the Keizer Rapids Park project and that he hoped to have positive news at the next Council meeting.

ADMINISTRATIVE ACTION

a. RESOLUTION ~ Declaring Public Necessity and Purpose for Obtaining Property in the Keizer Station Area (Nopp and Tiersma Property)

City Attorney Shannon Johnson referred to the staff report adding that negotiations were underway with the two property owners to reach an agreement on the purchase of the property. Staff recommendation is to pass the resolution so the process can move forward.

Councilor Moir moved to adopt Resolution R2005 Declaring the Public Necessity and Purpose for Obtaining a Portion of the Property Commonly Known as 2335 Chemawa Road Northeast (Tiersma) and Vacant Land in the 2200 Block of Lockhaven Drive Northeast (Nopp), Keizer, Oregon for the Purpose of Improving Keizer Station Boulevard and Constructing the Keizer Station Plan Public Improvements. Councilor Taylor seconded. Motion passed unanimously as follows:

AYES: Christopher, Nichols, Lee, Moir, McKane and Taylor (6)

NAYS: None (0)

ABSTENTIONS: None (0)

ABSENT: Walsh (1)

b. RESOLUTION ~ Authorization for Resolution Transfer – Supplemental Budget 2004- 2005

Finance Director Susan Gahlsdorf explained that during the year several items came to staff attention that were not anticipated during preparation of the budget and staff requests a supplemental budget for those items which she explained in detail.

Councilor Moir moved to adopt Resolution R2005 Authorization for Resolution Transfer. Councilor Taylor seconded. Motion passed unanimously as follows:

AYES: Christopher, Nichols, Lee, Moir, McKane and Taylor (6)

NAYS: None (0)

ABSTENTIONS: None (0)

ABSENT: Walsh (1)

c. RESOLUTION ~ Amending Updated Methodology (2000) for Parks System Development Charge

Finance Director Susan Gahlsdorf explained that staff is requesting that both the Water and Park SDCs be set to change on July 1 consistent with the fiscal year, and that they be rounded to even \$5 increments.

Councilor Moir moved to adopt Resolution R2005 A Resolution Amending the Update Methodology (2000) for a Parks System Development Charge; Amending Resolution R2000-1230. Councilor Lee seconded. Motion passed unanimously as follows:

AYES: Christopher, Nichols, Lee, Moir, McKane and Taylor (6)

NAYS: None (0)

ABSTENTIONS: None (0)

ABSENT: Walsh (1)

**RESOLUTION ~
Amending Parks
System
Development
Charge**

Councilor Moir moved to Adopt Resolution R2005 A Resolution Amending the Parks System Development Charge (2000); Amending Resolution R2000-1231; Repealing R2001-1239. Councilor Lee seconded. Motion passed unanimously as follows:

AYES: Christopher, Nichols, Lee, Moir, McKane and Taylor (6)
NAYS: None (0)
ABSTENTIONS: None (0)
ABSENT: Walsh (1)

**RESOLUTION ~
Amending
System
Development
Improvement
Fee**

Councilor Moir moved to adopt Resolution R2005 a Resolution Amending the System Development Charge Improvement Fee for the Keizer Water Supply, Treatment and Distribution System; Amending Resolution R2002-1367. Councilor Nichols seconded. Motion passed unanimously as follows:

AYES: Christopher, Nichols, Lee, Moir, McKane and Taylor (6)
NAYS: None (0)
ABSTENTIONS: None (0)
ABSENT: Walsh (1)

**CONSENT
CALENDAR**

- a. **RESOLUTION – Authorizing the City Manager to Sign Amendment to RPS Agreement**
- b. **RESOLUTION – Declaring the City’s election to Receive State Shared Revenues**
- c. **RESOLUTION – Certifying the City of Keizer Provides Four or More Services**
- d. **El Buen Gusto/Angel Mare Italian Restaurant Liquor License – Approval of Change of Ownership/Trade Name**
- e. **Bray’s Hideaway Restaurant and Lounge – Approval of Change of Ownership**
- f. **Approval of May 16, 2005 Regular Session Minutes**

Councilor Taylor pulled items d and e from the Consent Calendar.

Councilor Moir moved to approve items a, b, c and f on the Consent Calendar. Councilor Lee seconded. The motion passed unanimously as follows:

AYES: Christopher, Nichols, Lee, Moir, McKane and Taylor (6)
NAYS: None (0)
ABSTENTIONS: None (0)
ABSENT: Walsh (1)

Councilor Taylor stated that he would vote against these to items because the new owners did not attend the meeting.

Councilor Moir moved to approve items d and e on the Consent

Calendar. Councilor Lee seconded. The motion passed as follows:

AYES: Christopher, Nichols, Lee, Moir and McKane (5)

NAYS: Taylor (1)

ABSTENTIONS: None (0)

ABSENT: Walsh (1)

**WRITTEN
COMMUNICATIONS**

Mayor Christopher reminded everyone that the Marion County Fair would take place July 7 through 10.

AGENDA INPUT

July 5, 2005

7:00 p.m. City Council Regular Session

July 18, 2005

7:00 p.m. City Council Regular Session

August 1, 2005

7:00 p.m. City Council Regular Session

ADJOURNMENT

Mayor Christopher adjourned the meeting at 8:27 p.m.

APPROVED:

MAYOR:

Debbie Lockhart, Deputy City Recorder

Lore Christopher

COUNCIL MEMBERS

Councilor #1 – David McKane

Councilor #4 – Jacque Moir

Councilor #2 – Troy Nichols

~ Absent ~
Councilor #5 – Richard Walsh

Councilor #3 – Charles E. Lee

Councilor #6 – James Taylor

Minutes approved:
