MINUTES
KEIZER CITY COUNCIL
Monday, July 1, 1991
Robert L. Simon Council Chambers
Keizer City Hall

CALL TO ORDER

Mayor Orcutt called the regular session to order at 7:32 p.m. Roll call was taken as follows:

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

Absent
Bob Newton, Councilor

Staff
Don Otterman, City Manager
Shannon Johnson, City Attorney
Wally Mull, Public Works Director
Susan Darby, City Recorder

PUBLIC TESTIMONY

There was no public testimony to come before the Council.

COMMITTEE REPORTS

There were no committee reports to come before the Council.

PUBLIC HEARING - MCNARY ACTIVITY CENTER PLAN

Mayor Orcutt opened the public hearing on the McNary Activity Center Plan. Councilor Van Meter indicated that he has had conversations with Sandy Staats and Ernie Fish regarding the McNary Activity Center plan and specifically how it affects their properties. Councilor Miller declared a potential conflict of interest in that he resides within McNary Estates.

Mr. Otterman indicated that this item was continued from the last City Council meeting to give the public an opportunity to comment on the draft plan. The Council will be receiving testimony tonight, and staff is requesting that the

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Council give staff the opportunity to draft responses to tonight's comments and return at the August 5 meeting. Mr. Otterman also recommended that the Council not close the public hearing tonight so that if any questions remain after the August 5 discussion, responses may be offered to the City Council while the record is open.

Ken Sherman, Jr., Attorney at Law representing Sandy Staats and her family, 687 Court Street, Salem, testified that he began working with Sandy and her family last year on this project. Mr. Sherman commented on the complex document, and the fact that the plan is not yet complete. He agreed with Mr. Otterman's recommendation to leave the record open at this point in time. Mr. Sherman stated that he has circulated the draft plan to some local developers but he has not yet heard back from all of them.

Mr. Sherman indicated that the owners hope to turn the property into something active. The draft plan creates new zones, and is very complex and intricate. The owners are ready to move forward to obtain development proposals, although some fine tuning may need to be done at a later time.

Mr. Sherman commented on the work performed by the Planning Commission and staff to date in producing this draft plan. He noted that some changes requested by the property owners have been included in this draft. He explained that there are a number of things about this draft which the property owners like. Those include the predominance of single family property use, the minimum density standards which were reduced from eight units per acre to six, the provision for some element of commercial development at the southeast end of the lake, and the willingness of the Planning Commission to create a new zoning tool in which to integrate commercial and residential uses.

Mr. Sherman questioned the basis upon which the public may feel that Staats' Lake should be in public use. To do so would be very detrimental to its development. He agreed with the draft's recommendation against such use. The owners also agreed with the draft in that it does not mandate that public access to the lake be provided. He believed this is necessary because of the configuration of the lake along with the steep walls. The current version of the plan provides for a smaller public park and for using a part of the school grounds as park land.
Mr. Sherman identified four areas of concern, including General, Community Relations, Planning and Zoning, and Site Development.

With respect to the general aspect, Mr. Sherman questioned whether it is appropriate to use the activity center approach on this project. He indicated that such a designation could be overwhelming from a developer's perspective with the many regulations that must be followed.

On the community relationship issues, Mr. Sherman noted that the lake is a private piece of property and is not a "community asset." He indicated that the lake is manmade and the public has never had access to the lake, nor has the public ever made known any wish to acquire ownership of the lake. He expressed concern with the casual, careless use of the language which might be interpreted as giving the community a great stake in this private property. Mr. Sherman used the analogy of the McNary golf course as an example. He indicated that the owners of the course may, at some future time, wish to make the club private. He questioned whether the community could stop such action under the assertion that it has a great stake in that property.

The second community relationship issue involves geese who migrate to the lake. An earlier version of the plan provided for some type of wildlife study. The latest draft is much stronger and, if that language remains, it would preclude development of the lake altogether. Mr. Sherman indicated that, in his opinion, such language would make the lake a wildlife preserve and for the City to impose this on the owner would be unprecedented. He noted that it would be impossible to develop a piece of property to a density of six to eight units per acre and still maintain a wildlife preserve.

The third community relationship issue involves the park land. He questioned whether this is the appropriate location for a public park, and whether the City has adequate funds to develop and operate the park. With City finances being strapped by Measure 5, Mr. Sherman questioned whether this would be feasible. He believes Mr. Morgan quoted a reserve of about $50,000, at a developer fee of $100 per lot, over the past several years to put towards development and maintenance of the park. After discussing this further, Mr. Sherman indicated that Morgan agreed with him on the lack of funds to establish this as a park, including tennis courts and other improvements. Mr. Sherman also questioned the location of the park, in the midst of an adults only mobile home park, McNary Estates on another side, Staats property on yet another side, and a filbert orchard to the west. He questioned whether there are other, more suitable locations for a public park, especially considering the availability of open space in the immediate vicinity within other developments. He asked whether a park at this location is the best use of public money. If the answer to this question is in the affirmative, then he questioned whether this property is best suited or whether another piece, which would otherwise not be developed, might be more appropriate. If the park is developed to the west where the filbert orchard is located, this would be within the sewer plant area of influence where other development cannot occur.

On the planning and zoning issues, Mr. Sherman questioned whether the Staats' property should be developed as a planned unit development (PUD). He noted that the property owners will develop the property in much the same fashion as a PUD, however, to require the PUD will take away some development potential. Mr. Sherman indicated that the owners may find it impractical to lay out a single, uniform PUD. The property may need to be parceled off and developed in phases, or it may need to be developed by different developers. The property owners do not wish to be forced into developing the property as a PUD. Mr. Sherman stated that he believes Mr. Morgan feels that there are other, adequate controls on development and that the PUD approach is not necessary. He suggested that the City give the developer as much flexibility as possible.

The second planning and zoning issue involved the use of the MHDR and MU zones. He indicated there is no text amendment to the comprehensive plan, which he pointed out to Mr. Morgan. Mr. Sherman indicated that Mr. Morgan said he forgot to include this. Another approach might be not to amend the comprehensive plan but just to adopt a new zone in the MU and MHDR zones. Mr. Sherman stated that Mr. Morgan agreed that this would be a viable alternative.

Another planning and zoning issue involved the double jointed process necessary for rezoning the property from UT to residential. He indicated that the RL zone would fit in this case. Mr. Sherman stated that, for the most part, the approach is great and is worth trying to have a mix of commercial and residential uses. However, he questioned the prohibition of personal care facilities, such as the one at Hidden Lakes. Mr. Sherman quoted the Standard Industrial Classification and the manner in which it relates to the Hidden Lakes facility. He does not believe it was Mr. Morgan's or the Planning Commission's intent to preclude such use.
Mr. Sherman indicated that the draft plan prohibits any ground floor residential use. With current handicapped requirements, Mr. Sherman believed it might be prohibitively expensive to install elevators. He also questioned whether it is necessary to impose such hard and fast rules at this point in time with respect to the residential development.

Mr. Sherman also questioned the term "single development." He indicated that this may mean a single building, or it may mean the entire development. If it does mean a single building, he believed such an approach would be totally unworkable and imposes a very sharp restriction on the development opportunities. The plan is to create a mix of commercial and residential uses, however, he sees no reason to severely restrict residential development options at this point in time.

Mr. Sherman also inquired about the necessity for staggered setbacks. He questioned whether this is one individual's viewpoint on aesthetics. In any case, Mr. Sherman termed this as design review which should be considered at a later point in the development. In addition, the minimum interior landscaping in the parking lot as provided in the draft plan requires four times the amount of land area required in commercial developments and is too restrictive.

With respect to site development issues, Mr. Sherman questioned the draft plan's provision for density along the north shore of the lake, although this issue is not as critical as it was when the density was eight units per acre. He noted that the new density limits give more flexibility in planning the overall project. In the mixed use zone, the developer will be given credits for every unit to go towards the residential zone.

Mr. Sherman stated that according to the engineers he has talked with, there is no traffic engineering reason to provide a continuous internal street pattern within the development. Integrating neighbors does not occur with cars driving down the street. He believes this provision came from the Planning Commission. There are other options which are much more effective in attempting social engineering. Another aspect involves the loss of property for development with the requirement for paved areas and setbacks. Mr. Sherman stated that if McClure ever goes through and connects to McNary Estates Drive, that street would become a thoroughfare through a neighborhood. He believed it should become a collector street.

A similar requirement for a pedestrian/bicycle path linking key components of the activity center is not feasible, especially with River Road and Lockhaven running through the middle. While he does not have any objection to the path, he indicated the owners do not wish to be saddled with something that is unclear. In addition, the road system may eventually be privatized and it would be incompatible to have a public pedestrian/bicycle path running through the project.

Mr. Sherman stated that his perspective on the project is that the Staats' Lake is the focal point of the activity center. He noted that the process has been and will continue to be very long and involved. Even if the Council adopted the plan tonight, it would be twelve to eighteen months before any development begins. Mr. Sherman stated that this will be a first class development that can be of benefit and be an asset to the community. It will bring financial as well as other benefits to Keizer, however, the developers need enough flexibility to foster development of the property. He noted that the Staats are interested in moving forward with the development, and are encouraged by the improvements made to the revised plan.

Don Nissen, 650 Snead Drive, Keizer, testified that to be called a "lake," a body of water must be comprised of fresh water and salt water. Mr. Nissen stated that the Staats property is a quarry. Mr. Nissen indicated that use of the property has been badly planned by Staats in the past. He noted that developers do the development, profit from it, and then move on. Mr. Nissen indicated that he favors responsible development, however, the Staats are against the bike path, and are against anybody using their lake. They do not wish to develop a continuous system of streets which will give emergency personnel fits. He urged the City not to issue a blank check to the developers at this time. Mr. Nissen noted that the property was developed once for profit and that the community does not have to guarantee a second profit.

Mark Grenz, Multi-Tech Engineering representing the McNary Estates developers, Hillman Properties, testified that a great deal of effort has gone into the planning of this project. He noted that while the mixed use zone may be a good idea for the property, there are some issues which need to be clarified. He highlighted the issue of the Claggett Creek wetlands corridor and how the development may effect the McNary property. Another concern is the encouragement of public access from the development onto the McNary golf course. In 1988-89 there was considerable discussion on the second access from McNary Estates, and Hillman Properties funded a traffic study to determine whether McClure would be the appropriate location for that access point. The engineer's report indicated that McClure Street would be the most appropriate point and McNary has been representing this to prospective property owners and has conducted extensive planning towards the use of McClure Street. Mr. Grenz distributed a paper titled "Suggested Wording for McNary Activity Center Plan" and preliminary McClure access plan. This was labeled as Exhibit "A". The plan provides for a full size cul-de-sac turn around extension off of McClure Street and a gated access. Such a gate would be operated probably by a card system.

Al Lambert, property owner of 5640 North River Road, testified that he has been in and out of Keizer since 1946. He stated that whoever developed McNary Estates, and the Staats, deserve a medal. Mr. Lambert indicated that for the last 40 years it has been feast and famine, but usually famine. Now that there is the opportunity for a little feast, cold water is thrown on the project. Mr. Lambert stated that the lake will be a future mosquito hole if development does not occur. The neighbors are begging to allow this development.

Jim Cockrell, 2525 Niagara N., Keizer, indicated he is a property owner in the city. He said that while the legal counsel for the petitioner has some good ideas of which he would endorse, there needs to be a rudimentary idea of what is desired for the property. Mr. Cockrell expressed concern about potential ground water pollution and how it will materially impact the people of Keizer. He stated that the runoff, pesticide and fertilizer use, as well as boats and houseboats on the lake, will impact the aquifer. He questioned whether there will be a homeowners association who will be liable for maintenance. Mr. Cockrell stressed the need for a concerted effort to look at the entire picture. He also suggested that the developer's track record or lack of it be investigated as well as that of any financial backers. Mr. Cockrell indicated that $100 per lot is insufficient to build a park and should instead by $500. He also believed that the mixed use zone needs some further study. Mr. Cockrell opposed using Keizer School property for parks land. In summary, Mr. Cockrell hoped that something beautiful would come out of this and that the development will enhance the community rather than become a liability.

Mr. Johnson indicated that Mr. Morgan will be listening to the tape recordings of tonight's meeting and will be providing written responses to the Council.

There being no further testimony to come before the Council tonight, Mayor Orcutt recess the public hearing and deliberation to the August 5, 1991 meeting. He indicated that any final comments from the public will be taken at that time. He also asked the audience to place their name on the sign-up sheet if they wished to receive a copy of the final determination.

RESTROOM REMODEL

Mr. Mull addressed the bid award for the remodel of the restrooms in the City Hall and Police buildings. The low bidder, Coleman Construction, submitted a bid of $39,167.

Councilor Hart moved to approve the staff recommendation and award the bid for restroom remodel to Coleman Construction. Councilor Koho seconded the motion.

Councilor McGee asked whether volunteers could perform the painting. Mr. Mull responded that there is little painting to be done, and that the contractor put this work in his bid. To now remove that work may require a new bid. Councilor McGee indicated that he headed up a committee to paint the entire Police Department building several years ago and that he received a great deal of praise for their efforts.

Councilor Koho indicated that while he considers this to be a good point, he recommended that the Council accept the bid as submitted, and that perhaps volunteers be considered to paint the outside of the buildings.

The motion passed unanimously by the following vote:

AYES: Orcutt, Hart, Koho, McGee, Miller, Van Meter (6)
NAYS: None (0)
ABSENT: Newton (1)

RESURFACING BID AWARD

Mr. Mull reviewed the staff report regarding the 1991-92 program for street resurfacing. D & D Paving was low bidder on all projects, for a total of $243,110.50. The budgeted amount was $300,000. There will be sufficient funds remaining in the budget to overlay Lockhaven Drive.

Councilor Koho moved to accept the four bids submitted by D & D Paving for the 1991-92 street resurfacing program. Councilor Van Meter seconded the motion.

Councilor Hart asked about the availability of funds to complete the construction of the bike path along Wheatland Road. Mr. Mull responded that the Lockhaven project is in dire need of an overlay prior to the school year. The project will cost $170,000 to $180,000, some of which has already been budgeted. Bids for the bike path will be opened on July 17. Mr. Mull indicated that there may be sufficient money to do the bike path project from those funds previously reserved for Lockhaven Drive (Olson Street) in the amount of $350,000.

Councilor McGee indicated that the Lockhaven overlay clearly outweighs the bike path need. Councilor Hart noted the accidents that have occurred on Wheatland Road because of the lack of a bike path.

The motion passed unanimously by the following vote:

AYES: Orcutt, Hart, Koho, McGee, Miller, Van Meter (6)
NAYS: None (0)
ABSENT: Newton (1)

SYSTEMS DEVELOPMENT CHARGE

Mr. Mull reviewed the staff report regarding the sewer systems development charge ordinance. He noted that there are no changes included in the ordinance.

Councilor Van Meter moved for passage of a bill for an ordinance establishing a sewer system development charge for wastewater treatment facilities; repealing Ordinance 90-162. Councilor Hart seconded the motion. The motion passed unanimously on first reading by the following vote:

AYES: Orcutt, Hart, Koho, McGee, Miller, Van Meter (6)
NAYS: None (0)
ABSENT: Newton (1)

TEAM BUILDING FACILITATOR

Mr. Otterman provided to the City Council a list of facilitators who may be available for the City Council's team building session. The Council discussed the different facilitators, and the possibility of a military facilitator. Mayor Orcutt urged that the Council act quickly to select the facilitator because their

Saturdays are being booked up with other commitments. The Council asked Mr. Otterman to provide resumes on the various facilitators. The Council also discussed whether team building is a generic term and whether they need to look at someone who specializes in this area.

Councilor Hart moved that the selection of a facilitator be delayed until the next City Council meeting. Councilor Miller seconded the motion. The motion passed by the following vote:

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

SURPLUS PROPERTY

Mr. Otterman reviewed the staff report regarding appropriation of unclaimed personal property for public purposes. He explained that 12 items were pulled from the police department's semi-annual auction. Mr. Otterman indicated that these items could be of use to City Hall. He explained that the bolt cutters, for example, will be distributed to the sergeant's unit and the water department. The microwave will be put in the Auditorium which will cut down on the number of visitors who use the police department's break room when attending classes in that building.

Councilor Koho moved for appropriation of 12 items for public purposes by the City, in accordance with Ordinance No. 88-117. Councilor Van Meter seconded the motion.

Councilor McGee suggested that the items be placed for public auction and if they are not sold, then the City could use them for public purposes. He was concerned that if the microwave burnt out, for example, that it would automatically be replaced by staff. He believed this is an item that should be handled in the budgetary process. Mr. Otterman indicated that these items will be inventoried separately and will be under his direct control. Councilor McGee suggested an administrative policy for monitoring the property.

The motion passed unanimously by the following vote:

AYES: Orcutt, Hart, Koho, McGee, Miller, Van Meter (6)
NAYS: None (0)
ABSENT: Newton (1)

OTHER BUSINESS

Councilor Koho expressed concern with a potential conflict by Mark Grenz, a Planning Commission member. While he does not wish to imply a lack of integrity on Mr. Grenz' part, Councilor Koho believed there were enough conflicts between Mr. Grenz and developers who come before the Planning Commission that it should be of concern. Councilor Koho indicated that he has spoken with Mr. Grenz regarding this and that it would agree to give Mr. Grenz any forum in which he feels comfortable to address the Council on this issue. Mayor Orcutt indicated that this could be placed on the next City Council agenda. Mr. Grenz indicated that he would be happy to address the Council's concerns at that time.

Councilor Hart indicated that another Planning Commission member, Dave Siegel, who has a professional planning background, tends to dominate the Commission. Councilor Hart stated that Mr. Siegel probably makes 85% of the motions which are put on the floor.

Mayor Orcutt indicated that Mr. Grenz' situation is different in that there is a public perception of conflicts because of Mr. Grenz' association with Hillman Properties and other developers. Councilor Hart stated that if a conflict arises, he has observed Mr. Grenz declare a conflict and not participate in the discussion. Mayor Orcutt indicated that Councilor Koho's concerns focus on the fact that these conflicts are coming up more and more, while the City loses the input of a member of the community on the Commission.

Councilor McGee indicated that if Mr. Siegel is domineering, that is an issue which he feels should be handled by the Chairman of the Commission. Councilor Hart noted that Mr. Siegel is using his professional career to do this while the other Commission members do not have that background. Mayor Orcutt suggested that the Planning Commission Chairman discuss this situation with Mr. Siegel. If a resolution cannot be found, then the matter can come back to the City Council for further discussion. Mr. Otterman indicated that he would meet with Jerry Watson, Dave Siegel and Councilor Hart to discuss the situation.

Councilor McGee indicated that the Council did not approve any minutes tonight. He said that it helps him to have the earlier minutes available to him for the next meeting. Mr. Otterman stated that because of staff work loads and illnesses, there has not been time to prepare the minutes. He indicated that staff will be working on them prior to the next meeting.

WRITTEN COMMUNICATIONS

Councilor Van Meter asked about a newspaper article regarding a water leak on Dennis Lane. He noted that the Water Department did a wonderful job in repairing the leak.

Councilor Miller said that he has had people talk to him about Fir Cone being a dangerous street. Mr. Mull stated that he is aware of only one accident where a concrete truck ran off onto a soft shoulder and tipped. He explained that drivers are not slowing down enough. Mr. Otterman added that there is quite a bit of speed enforcement along this stretch of the road. Councilor Hart was aware of two accidents, one at Fir Cone and the other just beyond Fir Cone.

AGENDA INPUT

Mr. Otterman indicated that the appeal has been withdrawn on the Lydon Subdivision, therefore, a public hearing will not be held at the next Council meeting. Mayor Orcutt questioned whether others who were contemplating filing an appeal have been notified of the withdrawal. He was concerned that they may have relied on the original appellant in order to give their input to the City Council. Mr. Otterman explained the decision of the Hearings Officer and the fact that the SKATS plan is silent on the matter of Rivercrest Drive and, therefore, the status of the street is within the local government's jurisdiction.

ADJOURNMENT

The meeting adjourned at 9:49 p.m.

Susan Darby

Susan Biasi Darby
City Recorder

APPROVED:

MAYOR