

MINUTES
KEIZER CITY COUNCIL
Monday, June 21, 1999
Keizer City Hall
Robert L. Simon Council Chambers
Keizer, Oregon

CALL TO ORDER

Mayor Newton called the regular meeting to order at 7:03 p.m. Roll Call was taken as follows:

Present:

Bob Newton, Mayor
Craig Campbell, Councilor
Lore Christopher, Councilor
Jim Keller, Councilor
Jerry McGee, Councilor
Jacque Moir, Councilor
Garry Whalen, Councilor

Staff:

Wally Mull, City Manager
Susan Gahlsdorf, Finance Director
Rob Kissler, Public Works Director
Amy Drought, Senior Planner
H. Marc Adams, Chief of Police
Dianne Hunt, Personnel Officer
Shannon Johnson, City Attorney
Tracy Davis, City Recorder

PUBLIC TESTIMONY

There was no public testimony to come before the Council.

**COMMITTEE
REPORTS**

**a. Council Liaison
Reports**

Planning Commission ~ Council President Whalen shared that two topics were covered. The Transportation Plan with a final draft will come before Council in the next couple of months. Verda Lane residents continued to express concerns and the Commission reassured residents that improvements were on the agenda to increase safety to the residents in the area.

Parks Advisory Board ~ Councilor Christopher noted that the Board met on June 15, 1999. They summarized the planning of a summer recreation program to be sponsored by the Parks Department. This would be in partnership with KYBA to possibly take place the last two weeks in July and the first two weeks of August. This program would consist of an open court at various schools in the area. Councilor Christopher shared that the Parks Board is hoping to donate \$500 towards this

FMAGIC

program. The Board will also be participating in the Bicycle Rodeo that takes place at Dayspring Church as well as the Punt Pass and Kick Program.

In addition each Parks Board Member was assigned two to three parks with the idea of visiting these parks to prioritize what they would like seen in their parks and to complete the defined priorities.

Councilor Christopher shared that the Keizer Skate Park will have it's Grand Opening July 10, 1999 from 11:00 a.m. to 4:00 p.m. She noted that the Skate Park was the largest on the west coast with an estimated worth of \$350,000 and a total cost to the City of \$14,000.

Bikeways Committee ~ Mayor Newton was unable to attend the meeting, but would provide a copy of the minutes to the Council.

Library Task Force ~ Mayor Newton shared that the next to the last informational meeting took place. Mayor Newton suggested bringing the matter to the public in a non-binding referendum in November to gather the feelings of the public before the actual election in May or June 2000. Mayor Newton requested that the City Manager locate the cost of putting this issue before the voters and he would bring this information back to the Council at July's meeting.

Keizer Heritage Foundation ~ Councilor Keller introduced the members of the Foundation

Speaking on behalf of the Keizer Heritage Foundation were Les Zaitz, Tom Bauer, Jim Hupy and Al Rasmus.

They gave a history of how the Foundation jump- started the fund raising effort for the Old School House over the past 90 days including all the efforts from various groups and individuals in the City. Mr. Zaitz shared that the Foundation to date had raised \$285,000. It was noted that the project should be completed by November 1999. Each member thanked many of the participants in the fundraising efforts.

Mayor Newton thanked the Foundation for all their work.

OTHER BUSINESS

a. New Business

Councilor Keller recommended that the Council Liaison Reports be limited to anything that may need to be brought forward for Council action. He indicated that minutes from the meetings are available for review of the Council.

Chief Adams distributed a memo and a draft plan on goals and objectives for the new Community Services Specialist position for the next twelve months.

Finance Director, Susan Galhsdorf shared that Marilyn Sherwood was hired as the new Utility Clerk. Next week Karen Sergeant would begin employment as a Utility Billing Clerk.

b. Old Business

➤ Year 2000 Update

Mayor Newton requested that Ms. Hunt document all information received from vendors of the City pertaining to Y2K.

Ms. Hunt indicated that since the finalization of the budget the larger items would be in compliance by September 1, 1999.

Responding to questions Mr. Johnson indicated that the Governor had signed a bill, which would limit the liabilities to municipalities regarding Y2K.

➤ Cost of Making City Records Available.

City Manager shared that there is a Resolution that covers the cost of duplicating material. He indicated that when Ms. Bednarczyk requested copies that the City did not have the capability to duplicate what she was requesting and this had to be done outside of the City. Mr. Mull indicated that there are funds available in the budget to cover copying costs to the neighborhood associations and he would notify each association of the procedure they would need to follow in order to be reimbursed for this.

PUBLIC HEARINGS

a. ORDINANCE-

Regulating Construction and Maintenance of Floating Structures

Mayor Newton opened the public hearing.

Senior Planner, Amy Drought shared her staff report noting in the early 1990's the City granted approval for a Planned Unit Development at Staats Lake. The approval included 21 floating homes. Staff was informed that a developer proposed to construct several floating homes in the near future, and currently there were no regulations adopted governing floating structures.

Ms. Drought stated that staff felt it was important to develop an Ordinance regulating the construction and maintenance of floating structures. She shared that staff worked closely with the Marion County Building Inspection Department and the Keizer Fire District to develop the Ordinance. The model of the Ordinance came from the City of Portland with input from the Department of Environmental Quality, the City of Salem and the Marine Board.

There was discussion of sanitary sewer standards. Ms. Drought indicated that there were no standards in place that discuss the closing off of the pipe into the lake in case of an accidental discharge.

Mayor Newton felt that if any spill should take place it should be contained at that site and not allowed to contaminate Claggett Creek.

Mr. Mull indicated when plans were submitted there would be a discussion with the City of Salem regarding the issues of other alternatives to prevent any type of breakage or overflow problem.

Ms. Drought shared some of the standards to avoid the spilling of sewage which include that the sewage pipes be connected at the dock and not submerged, an alarm system be installed on all sewage connections to alert of a possible overflow and that pipes be built with flexible connectors.

Presenting Public testimony were:

Don Woodley ~ Marion County Building Official- shared that usually a floating structure would have a pump installed in each individual unit that would feed into a larger pump that would go into the City's sewer system.

Councilor McGee requested the possibility of a single-tank above water level with individual lines from each home be researched. He felt this would decrease the size of any accidental exposure.

Responding to questions, Mr. Johnson felt the liability issue would not be of any greater significance than any other issue. He went on to state that diligence in the

completion of the ordinance and the permitting process would be important.

Mr. Kissler indicated that currently Salem's policy is that the individual homeowner is responsible for the sewer line out to the street that locates onto the main. He went on to share that the city would consider in this proposal that the lift station be privately owned up to the city manhole.

Ms. Drought noted as part of the permitting process this information could be attached.

Mr. Woodley noted on Page 7, Line 15 "Maintenance", he suggested that a line be added pertaining to sewage spills.

Responding to questions Mr. Johnson suggested a calendar of the clause for review in a year as opposed to a sunset clause in the ordinance.

Mr. Woodley explained that current standards would be applied on site built homes and off site structures are inspected to a standard by the state which the County does no inspection on.

Responding to questions Mr. Kissler shared that issues of storm water run off are an topic everywhere in Keizer, but there may be differences in this application as the comp roof could shed materials into the water. He felt that this instance is unique and may need to be researched.

The following changes in the ordinance were suggested.

Page seven, line 15 at the end of the last sentence to add, "by the property owner". Also add an additional sentence stating: "The City will not be responsible for any damage, loss or claim whatsoever due to any failure, defect or lack of conformity of any structure or system". **Page seven, line four** to change the chief building official to: "City of Keizer designee". Ms. Drought agreed to research the document to see if the property owner's responsibilities needed further addressing.

Mr. Johnson suggested on **Page five, line nine** that the wording be; "specific exemptions from the requirements from within this ordinance".

There was discussion regarding the required distance between the homes. Mr. Woodley indicated single family homes are required to have six feet between them and other instances could be directed to reference the code.

Joel Stein, Fire Marshall-Keizer Fire District- Mr. Stein noted that separation distances could be dictated by exterior wall construction and whether there are openings in the walls.

Norm Cook-felt that that Council covered all aspects of this and was satisfied with their work.

Bob Krohn, Krohn Homes, 172 Cedar Bluff Circle North, Keizer- Thanked staff for their cooperation in putting the ordinance together. He stressed his concern for the community and making this something that works now and in the long term. Mr. Krohn indicated that the plan is to build 12 homes on the lake to keep aesthetic appeal and livability a high priority.

Mr. Krohn shared that the proposed Lakeshore Landing would need to meet the CC & R's of the associations' east and west of the development. He indicated that ownership would be transferred to the Lakeshore Landing Condominium Association. (the owners of the homes)

Mr. Krohn shared that the codes are very restrictive regarding the terms and laws when developing near a body of water. He described some of the plumbing specialty codes that are required by DEQ.

Addressing the roofing and siding concerns Mr. Krohn indicated that they would be using a standing seam metal roof which would not shed contaminants from it's material. He felt this would be helpful to add to the ordinance. Mr. Krohn went on to share that the distance between the units would be six feet between the floats with the units inside the floats a minimum of three to eight feet. The distance wall to wall would be a minimum of twelve to eighteen feet.

Responding to questions, Mr. Johnson felt roofing issues should be added to the ordinance. It was the consensus of the Council for this to be done.

Mr. Krohn noted that the structure for the dock would begin in August with completion of the homes by next year.

Mr. Johnson requested of the Council that he bring back the ordinance with the suggested changes at the July 19, 1999 Council Meeting.

Responding to questions Mr. Krohn indicated there were no plans for the construction of a floating restaurant and that they would be using boon logs as floats under the homes.

Mr. Krohn shared the site plans for the homes and the access for parking.

Mayor Newton closed the public hearing.

Councilor McGee moved to direct staff to make amendments to the ordinance as recommended and bring back to the Council on July 19, 1999. Councilor Campbell seconded the motion.

The motion passed unanimously as follows:

AYES: Christopher, Campbell, Keller, McGee, Moir, Newton, Whalen (7)

NAYS: None (0)

ABSTENTIONS: None (0)

ABSENT: None (0)

**b. Appeal of Hearings
Officer Decision ~
Conditional Use Case
No. 99-17 ~ Viesko
Quality Concrete Haul
Road**

City Attorney, Shannon Johnson announced the appeal of the Hearings officer decision on Conditional Use Case No 99-17 ~ Viesko Quality Concrete. He noted the applicable criteria of the case as outlined in the Keizer Development Code. He asked that any testimony being presented be directed towards the criteria.

In response to an inquiry by Mr. Johnson pertaining to conflict of interest, bias or ex-parte contacts Council President Whalen stated that he was a property owner adjacent to the proposed haul road and did not feel it would prejudice his opinion and would participate in the debate and the vote.

Councilor Campbell disclosed an ex-parte contact with Scott Erickson a couple of months ago where a copy of the surrounding land map was supplied and Mr. Erickson

identified where the proposed access route would be and identified the items which would be placed along the road. (ie: sound walls) Councilor Moir shared she was at the same meeting as Councilor Campbell and received the same information.

Councilor McGee disclosed that he spoke with Mr. Erickson over a year ago before this was a land use issue. He noted that the information he received at that time is now public record.

Senior Planner, Amy Drought submitted the staff report stating in March, 1999 Viekso Quality Concrete applied for a Conditional Use Permit to develop a "haul road" to serve a planned aggregate extraction site, batch plant and office. Ms. Drought explained that the proposed aggregate extraction site is located entirely within Marion County. The proposed batch plant and office site is located outside of the City limits, but within the Salem-Keizer Urban Growth Boundary. Ms. Drought noted that Viekso proposes to use the former PGE easement in conjunction with Tax Lot 1600 to serve the proposed batch plant, office and aggregate extraction site. Ms. Drought noted a map that outlined the haul road and the tax lots involved.

Ms. Drought noted that the properties involved in the application are zoned Exclusive Farm use. The proposed haul road would be part of the sand and gravel processing operation and according to the Keizer Development Code gravel processing is listed as a Conditional Use. Therefore, staff concluded that approval for the development of the proposed haul road required a Conditional Use Permit.

Ms. Drought shared that the City recommended approval of the CUP to the Hearings Officer with a list of conditions. Some of the conditions were:

- The proposed batch plant and office site be annexed to the City of Keizer prior to the development of the haul road, and
- The proposed haul road be developed as a public street. Ms. Drought noted that this was proposed to adequately serve adjacent property as well as to meet the conductivity standards within the Keizer Development Code. Ms. Drought noted that the City

Traffic Engineer and the Public Works Department recommended that trucks currently using Willow Lake Road from the Keizer Sand and Gravel Operation reroute their traffic to use this new public street as well.

Ms. Drought shared that the Hearings Officer denied the Conditional Use Permit based on the grounds that the proposed "haul road" was not an allowed use in the EFU zone.

Viekso Concrete appealed the decision and after review of the development code the applicant felt that a Conditional Use Permit was not required as definition of a "street" in the Keizer Development Code specifically excludes access to mining operations, and since this is excluded from consideration from a street they felt that no Conditional Use Permit was required and the Hearings Officer decision and the Conditional Use Application should be dismissed.

Ms. Drought shared that staff disagreed with the Hearings Officers conclusion and the applicant's statement of appeal. The Hearing's Officer concluded since the Haul Road was not specifically listed as a use in the EFU zone, it could not be permitted. Ms. Drought noted that staff had always considered access for a proposed used to be part of the use itself for purposes of land use approval.

Ms. Drought stated that staff recommended that the City Council open and conduct a public hearing. Staff recommended that Council deny the appeal, but uphold the Conditional Use approval for 99-17. Staff felt that the applicant had met the criteria for a Conditional Use Permit provided that they meet specific conditions of approval as listed in the staff report.

Ms. Drought shared that an additional condition of approval was added at the time of the hearing stating: that the approval would be given only with the understanding that the proposed batch plan and office would be located on tax lots 1500. If located on any parcel other than the current proposal would require an additional evaluation from the City through a new land use approval process.

Mr. Johnson noted his supplemental staff reports and

asked the Council to note his comments regarding the Hearings Officer's decision and the applicant's theory on appeal. He also explained his suggested terms in order of analysis in reviewing the application.

Mr. Johnson requested that the hearing take place this evening, but be continued until July 19, 1999 in order to respond to issues that the applicant's attorney (Mr. Stein) brought forward. This would also entail the applicant applying for an extension to 120 days.

Responding to questions Ms. Drought declared the City felt the need to review the impacts that the batch plant and office would have, and since these facilities were located within the UGB but not within the City limits it would be appropriate to annex it. Ms. Drought went on to explain the use of a batch plant, and that staff is only looking to annex that piece of property.

Mr. Johnson explained his interpretation of ORS Chapter 215 and counterpart Chapter 227.

There was discussion among the Council whether to expand the annexation area or to review each property on a case by case basis.

Presenting Public testimony were:

Scott Erickson, President of Viesko Quality Concrete- Mr. Erickson gave a brief history of Viesko Concrete and noted they would like to expand the company into Keizer. He indicated that they own property west of Keizer that had been designated a sand and gravel site since 1950's with the only access to the property being down Willow Lake Lane. This street currently carries the traffic of Keizer Sand and Gravel, themselves and the expanding neighborhood traffic. He requested the City's support in separating truck traffic from the neighborhood traffic by allowing the private haul road.

Mr. Erickson shared his plan that would include turning a 40 -foot strip of land west of Lockhaven Drive into a private driveway to service Viesko Concrete. He informed the Council this would remove truck traffic from the neighborhood. Mr. Erickson explained a 10-foot high and 2 1/2 foot thick sound barrier wall would be built along the haul road to screen the neighborhood from

truck traffic and assist with the existing complaints of the noise from the treatment plant. He stressed that they did not have this option on Willow Lake Lane and sited safety concerns in this area as part of the reason for requesting the haul road.

Mr. Erickson noted that the condition of staff by making the driveway a public street would defeat the purpose of their intentions to separate truck and neighborhood traffic. Mr. Erickson stated that the property in which the City is requesting to be annexed is not contiguous and therefore he felt it could not be annexed.

Mr. Erickson stressed his concern for the community and stated he was proceeding with the project to try to do what would be best for the community.

Rick Stein, Land Use Attorney, 1395 Liberty Street SE, Suite 101, Salem - Representing the applicant in the case. Mr. Stein strongly expressed his opinion that the Hearings Officer's decision was incorrect and believed it was a permitted use.

Mr. Stein shared a handout and explained that he felt EFU statutes from Chapter 215 apply to this case. He sited the case of Byrnes vs. the City of Hillsboro and LUBA ruling in the case of the City stating once a city's comprehensive plan and land use regulations are acknowledged, they and not the state goals apply to land use decisions. Mr. Stein sited case law and felt this was clear and that EFU statutes did not apply in the case of the City.

Mr. Stein compared the Keizer Development Code, definitions within the code and the ORS definitions. He went on to state because of the definition of "street" in the Keizer Development Code and that the applicants request is a permitted use already recognized under the Keizer Development Code.

Mr. Stein discussed the staff's position of the application being a conditional use. He expressed his concerns with the conditions requested by staff and shared background from the U.S. Supreme Court and Oregon Courts indicating that a city or county may impose conditions of approval on a land use application that deal with impacts created by the application. Mr. Stein read language from the *Art Piculell Group vs. Clackamas County* ruling and

indicated they felt this quoted language had a direct bearing on their case.

Mr. Stein urged the Council to remember that the application is for a haul road and not a batch plant or mining operation. He reiterated Mr. Erickson's words stating that Viesko had it's mining permits and could begin this process and use Willow Lake Lane, but they were looking at lessening the impacts of commercial trucks on residential streets.

Mr. Stein reviewed the conditions as set forth by the city staff and felt annexation could not take place, as there was no contiguousness with the tax lot in question. He also requested that condition (2) two be deleted, as public policy separating heavy truck traffic from residential areas and traffic are the same, regardless of whether the road is used to haul unprocessed rock or processed rock, if a batch plant WAS approved. Mr. Stein indicated that the batch plant approval was tied to the condition of the annexation and without an annexation this condition would not apply. He shared that Viesko would be willing to place a sound wall as part of the condition, and noted under the Public Works Requirements that the haul road would have no impact on the City's water, and he reiterated their objection to the haul road being a public road. He also restated objection to the requirements for water and sanitary services. He indicated they would be willing to cooperate regarding any storm drainage issues and would be happy to discuss with Public Works the development of the intersection at Windsor Island Road. Mr. Stein indicated their willingness to see that an adequate access was made for fire equipment.

Mr. Stein concluded by stating that Viesko is working to make this a proactive approach and asked for the Council's consideration.

Mayor Newton requested clarification of Mr. Stein's wording of "Willow Lake Lane". It was verified by the map that it is actually "Willow Lake Road".

Councilor Moir questioned since tax lot 1500 and 1600 are not currently in possession by Viesko why a haul road would be considered.

Mr. Stein deferred the question to Mr. Tross.

Jeff Tross, Land Use Consultant, 1720 Liberty Street SE, Salem- Mr. Tross indicated that the proposed access drive was not intended to serve the batch plant, but to act as a long term access to a sand and gravel excavation site located outside of the UGB as an alternative route to using Willow Lake Road.

In response to questions Mr. Erickson shared that they own a strip of land on the north side of tax lot 1500 that does connect to the mine site west of the property.

Mr. Tross noted the report in the packet addressing the conditional use criteria and the applicable goals and policies in the comprehensive plan. Mr. Tross reiterated that this is a voluntary proposal and summarized this as a better way to access the property with reduced conflict between local traffic, pedestrians and commercial traffic. He shared that Viesko Sand and Gravel is listed on the Marion County Comprehensive Plan Inventory as a mineral and aggregate resource site and the intent of the driveway is to establish a limited-use access way. Mr. Tross explained that under LCDC Goal (5) five the requirement of significant sand and gravel resources be protected from conflicting uses. He established that the definition of *street* in the Keizer Development Code and it's specific exclusion of private access ways that serve a mining site from the definition of a *street*. He noted that this exclusion meets the purposes of Goal (5) five in this case and stressed the need for the site to be able to be closed off by a gated entry after business hours to provide for the security and safety of the site.

Mr. Tross noted that the proposal would benefit the neighborhood by removing the truck traffic from Willow Lake Road and placing it on a private single purpose driveway that would be maintained by the property owner.

In response to questions Mr. Erickson clarified by use of a map the lots which he currently owns and how the access road would go through if lots 1500 and 1600 were not purchased. Mr. Erickson also confirmed he owned property on both sides of the UGB.

Mr. Johnson clarified that an annexation must generally be contiguous or connected with a "cherry stem" road. He indicated that staff's recommendation presumed that

Salem agrees to an annexation of the Salem owned strip and would be the only way the annexation would work. Currently there had been no contact with Salem through the City staff.

Responding to questions Mr. Erickson suggested that a haul road by his definition would be a truck that transports gravel to and from the plant, which would be paved and have a sound wall.

Mr. Erickson noted that the aggregate mine would be workable for 20-40 years, and felt the access road would continue to be used for access by the other properties after this time. Mr. Erickson indicated that they had offered the use of their proposed haul road to Keizer Sand and Gravel but could not force them to use it.

Mr. Erickson addressed Council's concerns regarding water and shared that the batch plant would only use one well running 600-1000 gallons per minute, which is considered small for by industrial standards. He acknowledged that their permit had requested 3100 gallons and explained how the site reuses pond water to wash the silt off of the rock and then returns the water back to the pond.

Public Works Director, Rob Kissler stated that a discussion with Viesko's Water Consultant indicated that the drilled well would not go into the City's acqua fir.

There was some discussion regarding hours of operation of the plant and Mr. Erickson commented that their general specified hours are from 6:00 a.m. to 6:00 p.m. Mr. Tross quoted the Marion County Zoning Ordinance which specifies these hours Monday through Friday with special provisions for a limited operation on Saturday.

Responding to questions Mr. Erickson indicated that the plant would not be able to hook up to Salem's sewer system, but Marion County would allow them to use a septic tank system.

Mr. Johnson noted that during the hearing at Council level any issues may be discussed, but the hearing only involved the haul road and specific conditions to the batch plant were not part of the hearing.

Providing Public Testimony were:

John Blake, 5655 Windsor Island Road, Keizer- Shared that his family owned and operated Willow Lake Nursery and their property was across from the batch plant. He detailed instances of increased theft and problems with the residential areas butting up to the agricultural areas and is in favor of the haul road and sound wall as a natural dividing line to cut back on some of these problems.

Dale Pierce, 5455 Windsor Island Road North, Keizer- Resides adjacent to the haul road and indicated that the sound wall would run across the back of his property. Mr. Pierce shared that Mr. Erickson was in contact with him and satisfied his concerns regarding noise, dust and hours of operation and appreciated Mr. Erickson's handling of the situation. Mr. Pierce expressed his preference in favor of the private haul road.

At Mr. Johnson's initiation there was a discussion among the Council whether to continue the hearing until August 2, 1999 or to only leave the record open.

Responding to Council's questions Ms. Drought noted that there were conductivity standards in the new development code which caused them to look at how adjacent properties would be affected. She shared that a large piece of undeveloped property sits to the north, which could be served by the proposed street. Ms. Drought suggested the possibility of working out an agreement with the applicant in allowing access from the property to the north.

Mayor Newton closed the public hearing, but requested the record remain open to be deliberated on July 19, 1999.

Council raised questions regarding the annexation portion of the hearing. Ms Drought indicated that the annexation proposal had been on the table from the beginning and staff had made this a condition of approval with the understanding that the applicant would work with the City of Salem to have that portion of land annex. Ms. Drought stated that since the Hearings Officer's decision this had changed.

City Manager, Wally Mull shared staff's thought

regarding the annexation issue that the City had no control if Marion County allowed a batch plant in the future. Mr. Mull indicated if this was not in the City of Keizer it would be very difficult to regulate and any complaints generated would come to the City and not to the County.

Mr. Erickson reiterated what he thought he and the staff had agreed regarding the annexation process and working with Marion County. He felt that even if the County submitted the permits the City would still have influential input with the County.

Councilor Keller moved to close the hearing and the record and to continue deliberations on July 19, 1999 to come to a final decision at that time. Council President Whalen seconded the motion.

The motion passed unanimously as follows:

AYES: Christopher, Campbell, Keller, McGee, Moir, Newton, Whalen (7)

NAYS: None (0)

ABSTENTIONS: None (0)

ABSENT: None (0)

**c. RESOLUTION -
Authorizing City
Manager to Sale of City
Owned Real Property ~
25 foot strip ~ 1600
Block Chemawa Rd NE**

Mayor Newton opened the public hearing.

Mr. Johnson submitted his staff report indicating that earlier this year the Hearings Officer approved a lot line adjustment and subdivision request for the Chemawa Glen Subdivision. The subdivision is located east of Chemawa Road just beyond the curve east of the intersection of Chemawa and Veda Lane. Mr. Johnson shared that the applicant planned to access the property via Chemawa Road but to do this they would need to purchase the 21-foot by 511-foot strip owned by the City of Keizer.

Mr. Johnson noted that during the pre-application process staff indicated that they would be willing to recommend to Council the sale of the property, but the applicant wanted to be certain that final land use approval was received prior to the purchase of the property.

Mr. Johnson shared that the property was appraised at \$6,800 and recommended that a public hearing be

conducted and adoption of the resolution take place.

Presenting Public Testimony were:

Sylvia Sum-Attorney for Mt. West Investment Corporation-purchaser of the property- Ms. Sum did not have any testimony to add but was willing to answer questions.

Mayor Newton closed the public hearing.

Council President Whalen moved a Resolution Authorizing the City Manager to Enter into a Transaction for the Sale of City Owned Approximate 25-foot strip to the Mountain West Investment Corporation. (Chemawa Glen Subdivision). Councilor Campbell seconded the motion.

The motion passed unanimously as follows:

AYES: Christopher, Campbell, Keller, McGee, Moir, Newton, Whalen (7)

NAYS: None (0)

ABSTENTIONS: None (0)

ABSENT: None (0)

ADMINISTRATIVE ACTION

**a. RESOLUTION -
Adoption of 1999-2000
City of Keizer Budget
and Making
Appropriations**

Responding to questions Ms. Gahlsdorf explained how the budget law is written and how Resolution is broken down to cover the items in question.

Councilor McGee moved adoption of the Resolution Adopting the Fiscal Year 1999 Budget, Making Appropriations and Imposing and Categorizing Taxes. Councilor Campbell seconded the motion.

The motion passed unanimously as follows:

AYES: Christopher, Campbell, Keller, McGee, Moir, Newton, Whalen (7)

NAYS: None (0)

ABSTENTIONS: None (0)

ABSENT: None (0)

**b. ORDINANCE -
Amendments to Provide
for Child Foster Homes**

City Attorney, Shannon Johnson submitted his staff report stating that during the Council's last meeting a public hearing was held on the adoption of amendments to the Keizer Development Code. This issue was brought before the Planning Commission and the City Council to

add childcare foster homes because references were inadvertently left out of the new Development Code.

Mr. Johnson noted at the last Council meeting the Council requested that staff receive further clarification from the Planning Commission regarding the Commission's recommendation for child foster homes in the medium density residential, residential limited and high density residential zones.

At the June 9, 1999 Planning Commission meeting, the Commission considered the issue and recommended that the language remain as it was in the previous Keizer Zoning Ordinance. The Commission felt that the higher density zones could accommodate larger child foster homes and that the requirement that such uses go through the conditional use review process would prevent problems from occurring.

Staff recommended adoption of the Ordinance.

In response to questions Ms. Drought stated that staff would have the ability to add conditions to the application to help mitigate the impact of a child care foster home with more than eight children.

Councilor McGee opposed the direction of the Ordinance and felt there should be a limit set and felt that a conditional use process would not cover this issue adequately.

Councilor McGee moved to adopt a bill for an Ordinance Amending the Keizer Development Code to Allow for Child Foster Homes for six, seven or eight children as Permitted and Conditionally Permitted Uses in Certain Zones Amending Ordinance 98-389 plus adding the Medium Density Residential, Residential Limited and High Density Residential Zones. Councilor Keller seconded the motion.

Councilor Keller requested that Ms. Drought share the Council's concerns regarding the Ordinance with the Planning Commission.

The motion passed unanimously as follows:

AYES: Christopher, Campbell, Keller, McGee, Moir, Newton, Whalen (7)

CONSENT CALENDAR

NAYS: None (0)

ABSTENTIONS: None (0)

ABSENT: None (0)

- a) RESOLUTION - Transferring Appropriations for Fiscal Year 1998-1999
- b) RESOLUTION - Election to Receive State Shared Revenue
- c) RESOLUTION - Certifying City of Keizer Provides Four or More Services
- d) Council Motion to Reschedule July 6, 1999 Regular City Council Meeting
- e) Approval of June 7, 1999 Regular Session Minutes

Councilor McGee removed item "a" from the Consent Calendar.

Councilor Campbell moved for approval of the items on the Consent Calendar with the exception of item "a".
Councilor McGee seconded the Motion.

Council President Whalen shared he would be out of the country at the time of the July 12, 1999 Council Meeting. He indicated he would be discussing the issues with the Council prior to his departure.

The motion passed unanimously as follows:

AYES: Christopher, Campbell, Keller, McGee, Moir, Newton, Whalen (7)

NAYS: None (0)

ABSTENTIONS: None (0)

ABSENT: None (0)

Regarding Item "a" Ms. Gahlsdorf requested an additional fund be added to the Resolution. She shared that the fund would be the utility fund and the expenditure would be increased to \$24,461 and decreased by the same amount in contingency.

Responding to questions Ms. Gahlsdorf informed the Council that the reason for the requested change is that the Council and the Finance Officer are civilly liable if they go over budget.

Councilor McGee challenged the use of the contingency requesting more information.

City Manager Mull indicated that currently they do not foresee going over budget, but they did not wish to get into a situation by appropriating the money they would not be legally in a position that the City has gone over budget. He reiterated that they did not anticipate going over budget.

Councilor Keller moved a Resolution Transferring Appropriations for Fiscal Year 1998-1999 with the recommended addition of the change in the Utility Fund. Councilor Moir seconded the motion.

The motion passed unanimously as follows:

AYES: Christopher, Campbell, Keller, McGee, Moir, Newton, Whalen (7)

NAYS: None (0)

ABSTENTIONS: None (0)

ABSENT: None (0)

WRITTEN COMMUNICATIONS

Mayor Newton shared a letter of appreciation from the Salem-Keizer Schools to Lt. Miranda for the quick response by the Police Department regarding an incident at the Keizer schools.

AGENDA INPUT

July 6, 1999 (Tuesday)

7:00 p.m. City Council Meeting (CANCELLED - Rescheduled for July 12th)

July 12, 1999

6:00 p.m. City Council Meeting

- Salem-Keizer School District Land Use Pubic Hearing

July 19, 1999

7:00 p.m. City Council Meeting

- Traffic Safety Commission - Neighborhood Traffic Management Plan

July 28, 1999 (Wednesday)

5:30 p.m. Special City Council/Keizer Urban Renewal Board/Planning Commission

- Urban Renewal Strategic Plan

August 2, 1999
7:00 p.m. City Council Meeting

August 9, 1999
5:30 p.m. City Council Work Session
➤ Annual City of Keizer Parks Tour

Mayor Newton noted the agenda items.

Mayor Newton recessed the City Council meeting at 10:55 p.m. to assemble in Executive Session.

**EXECUTIVE
SESSION - Pursuant to
ORS 192660(1)(h) -
Potential Litigation**

Mayor Newton reconvened the Council meeting at 11:25 p.m.

Mr. Johnson gave a brief report during the Executive Session the Council discussed LUBA's decision which reversed Keizer's judgment. Mr. Johnson asked the Council whether they wished to appeal the decision to the Court of Appeals.

Councilor Campbell moved that the Council choose to affirm that the City did not wish to exercise the right to appeal the LUBA decision. Councilor Keller seconded the Motion.

The motion passed as follows:

AYES: Christopher, Campbell, Keller, McGee, Moir and Newton (6)

NAYS: None (0)

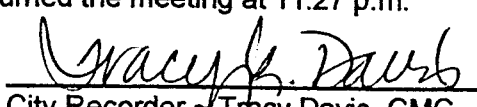
ABSTENTIONS: Whalen (1)

ABSENT: None (0)

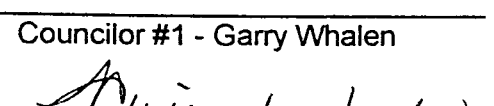
ADJOURNMENT

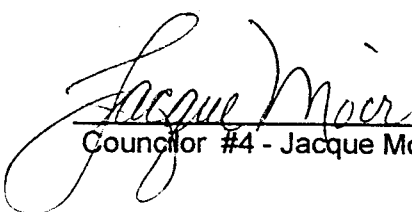
Mayor Newton adjourned the meeting at 11:27 p.m.

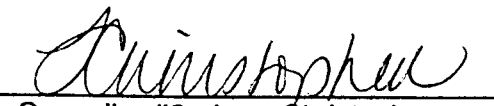

Mayor ~ Bob Newton

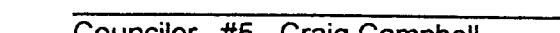

City Recorder ~ Tracy Davis, CMC

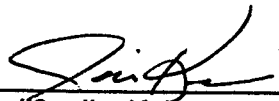
COUNCIL MEMBERS:


Councilor #1 - Garry Whalen


Councilor #4 - Jacque Moir


Councilor #2 - Lore Christopher


Councilor #5 - Craig Campbell



Councilor #3 - Jim Keller

Councilor #6 - Jerry McGee

Minutes approved:

July 19, 1999