MINUTES
KEIZER CITY COUNCIL
Monday, June 20, 2016
Keizer Civic Center, Council Chambers
Keizer, Oregon

CALL TO ORDER

Mayor Clark called the meeting to order at 7:00 pm. Roll Call was taken as follows:

Present:
Cathy Clark, Mayor
Dennis Koho, Council President
Marlene Parsons, Councilor
Kim Freeman, Councilor
Roland Herrera, Councilor
Amy Ryan, Councilor
Bruce Anderson, Councilor

Absent:
Youth Councilor Siri Scales

Staff:
Chris Eppley, City Manager
Shannon Johnson, City Attorney
Nate Brown, Community Development Director
Bill Lawyer, Public Works Director
Tim Wood, Finance Director
John Teague, Police Chief
Machell DePina, Human Resources
Tracy Davis, City Recorder

FLAG SALUTE

Mayor Clark led the pledge of allegiance.

SPECIAL ORDERS OF BUSINESS

None

COMMITTEE REPORTS

David Louden, Keizer, reported that the Parks Board recently discussed developing stabilized funding for the parks. He added that the Willamette Water Trail committee was supportive of the grant request to fund improvements at Keizer Rapids Park; persons requesting funding to improve the skate park have removed their request; the splash park would be opening soon, and Homegrown Theater donated time to clear invasive species from Keizer Rapids Park.

Chuck Fisher, Keizer, reported that the Planning Commission held a Public Hearing to review food cart regulations. The hearing was held over the period of two meetings with testimony from several people. Commissioners unanimously recommended the amendments to Council and suggested a few changes of their own. The issue will be coming to Council in the future.

PUBLIC TESTIMONY

None

PUBLIC HEARINGS

a. Remand of CP/ZC/LLA 2014-11

City Attorney, Shannon Johnson, explained that this matter was before Council in a quasi-judicial hearing for property located at Verda Lane between Dearborn and Chemawa, the Herber Farm. He suggested that the reading of the exact list of criteria set forth in the staff report be waived and asked if anyone objected. There were no objections. He added that any questions could be brought up during testimony and that testimony, arguments, and evidence must be directed toward the criteria in the Comprehensive Plan or land use regulations believed to apply to this decision. Failure to raise an issue accompanied by statements or evidence sufficient to afford the Council and the parties an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals based on that issue. In addition, any failure by the applicant or others to raise constitutional or other issues related to the proposed conditions of approval with sufficient specificity to allow the Council or its designee to respond to that issue precludes an action for damages in Circuit Court. He noted that if anyone had any objection as to conflict of interest, bias, jurisdiction, notice and opportunity to be heard, it should be brought up at the time of testimony and any Council members wanting to disclose conflict of interest, bias or prejudice on this case should do so at this time. Councilors individually stated whether or not they had any of these.

Community Development Director Nate Brown provided background information noting that significant changes have been made to the plans that were originally submitted. He explained that staff is proposing that the application, rezoning, and comprehensive plan change be conditioned so that mitigations can be developed to address the impacts. He went over the differences between this plan and the original one, reviewed the remainder of his staff report and addressed the historical significance of the house.

Mr. Johnson provided additional information and clarification and directed attention to additional materials submitted after publication of the packet.

Mayor Clark opened the Public Hearing.

Mark Grenz, Multi/Tech Engineering, introduced the Herber family and following the testimony of Joe Herber he gave a powerpoint presentation which provided detailed information regarding the proposed development. He then fielded questions regarding the site plan, traffic, landscaping, and the development of design guidelines that would ensure that the project would look like the concept plans shown.

Joe Herber, Keizer, son of Rosalee and Joseph Herber, provided background information about his family noting that his mother was a teacher and always stressed the importance of education. Her intent in leaving the property to the family was so that her grandchildren and great

grandchildren could pay for the best education.

Cori Budrow, Keizer, voiced opposition to the development noting that it would have a detrimental effect on are traffic.

Judith Odle, Keizer, expressed opposition to the development pointing out that there are already many apartments and mobile home parks in the area. She voiced concern that the development would have a harmful effect on traffic in the area. She urged that the City consider buying the property, making it into a park and preserving the house as a center point or bringing in an agricultural educational component.

Laura Scales, Keizer, spoke in opposition of the development suggesting that instead of apartments at the site the house be preserved and designated as a historical structure.

James Bucholz, Keizer, voiced opposition to the development noting that he was not opposed to development of single family structures, but was opposed to the development of apartments because of the negative impact they would have on traffic.

Marilyn Prothero, Keizer, expressed opposition to the development stating that she was concerned about the traffic impact and the potential of flooding and increased crime.

Bobbie Rogers, Keizer, voiced concern regarding the one entrance to the development and suggested that the structures be condominiums that could be purchased rather than apartments.

Jerry Walton, Keizer, spoke in opposition to the development due to the anticipated increase in the traffic and voiced concern regarding whether or not the construction design features would be implemented.

Jeffrey Hernandez, Keizer, indicated he was opposed to the development due to the potential for increased crime, the high concentration of people in the units, and the possible decrease in property value of adjacent homes.

Paul Elder, Keizer, stated that he was opposed to the development because of the negative impact it would have on the city including overcrowding and increased traffic. He suggested that the City reject the property offered for donation because it is in the floodplain and the property owner should pay the taxes on it.

Allen Kendall, Keizer, echoed the testimony of Mr. Hernandez adding that he felt the development would detract from the quality of life in Keizer.

Eamon Bishop, Keizer, spoke in opposition of the development noting that it would adversely affect the school system. He suggested that the house and cow pasture be preserved as a unique and historical feature of the city and urged the City to buy the property and preserve it as it exists.

Maria Bushek, Keizer, voiced opposition to the development reiterating previous testimony including detrimental impact to traffic and property values. She suggested a fundraiser be held to purchase the land and preserve it for the children.

Deanna Fuller, Keizer, indicated that she was opposed to the development of this property and urged that the historical preservation aspect of the property be pursued.

Karen Okada, Keizer, stated that she was opposed to the development noting that the changes from the previous proposal were insignificant and therefore the adverse impacts to traffic, schools and property values were the same. She provided statistics refuting the developer's numbers regarding increases in student population and noted that with increased students, the roadways to the schools would need to be improved to provide safe walkways.

Jessica Davidson, Keizer, speaking on behalf of neighbors and friends, voiced opposition to the development siting increased traffic, high traffic speeds, reduced pedestrian safety, the possibility of overflow parking on residential streets or yards, and reduction in property values.

Larry Odle, Keizer, expressed opposition to this development and suggested that the unique piece of property be preserved. He voiced concern regarding improvements made to Dearborn and Chemawa and suggested that Verda was in greater need of improvement. He urged that something be done to preserve the property and still give the Herber family their money.

Debbie Crux, Keizer, voiced opposition to the development and concern for traffic impacts and property values. She urged that the city not accept the donation of land because it is a wetland.

Dennis Tephal, Keizer, spoke in opposition of the development and the roundabout. He suggested that traffic will be adversely effected and children put in danger and that the development will cause flooding and increase the cost of flood insurance.

Casey Michael Sanders, Keizer, stated that although the plan looks good, it is irrelevant because it is not set in concrete and a developer would not be concerned about the community and would build as many units as possible for the least amount of money. He also voiced concern that residents of the apartments would drive to Claggett Creek Park instead of walk and that would overcrowd the parking areas.

DeAnne Reierson, Keizer, expressed opposition to the development. She read portions of a newspaper article about the property and Rosalie Herber Moore, provided historical information and urged that the property be preserved for the community.

Wally Lien, attorney for the Herber family, asked that due to the lateness

of the hour the oral rebuttal be waived and he requested an open record period to study the new information and provide additional information.

He proposed an open record period for submission of any new evidentiary material until August 1, submission of evidentiary material in relationship to what the applicant submits until August 29 and final rebuttal that does not include any evidence, just argument by the lawyer, through September 6.

Mr. Johnson explained that the rule states that the Council upon request can leave the record open. The hearing is not continued for an oral hearing but the record is left open. If it is requested, it must be granted but does not have to be granted for the same times. Mr. Johnson suggested that the extension be for 120 days.

Mr. Lien stated that this would deal specifically with the historical information received this evening and would allow time to work with staff to see what kind of construction specifications can be put into conditions of approval to alleviate fears expressed about the handoff from the family to a developer and to make sure that what was shown today would be closely represented by what is actually built.

Mr. Brown proposed that this be put on the website and the 76 people who were notified before (all people living within 250 feet of the property and people who testified at the first hearing) would be notified again as well as people who testified tonight. Suggestions for notifications were mail, newspaper, website, and signage.

Council agreed by consensus to accept the timeline proposed by Mr. Lien with the additional 30 days making the extension 120 days.

Mr. Johnson clarified that it was most likely that Council would address this issue at the second meeting in October.

With no further testimony, Mayor Clark closed the Public Hearing and announced that the record will remain open according to the timeline established in this discussion.

b. RESOLUTION – Declaring the City's Election to Receive State Revenues

Finance Director Tim Wood explained that Oregon law requires cities to annually pass a resolution requesting State revenue sharing money. Currently the City receives $325,000 per year in shared revenue. He added that in addition to requesting the money, the City has to certify that it provides at least four municipal types of services which it does.

Mayor Clark opened the Public Hearing. Hearing no testimony, Mayor Clark closed the Public Hearing.

Councilor Koho moved that the Keizer City Council adopt a Resolution Declaring the City's Election to Receive State Revenues. Councilor Parsons seconded. Motion passed unanimously as follows:

AYES: Clark, Koho, Parsons, Ryan, Freeman, Herrera and Anderson (7)
NAYS: None (0)
ABSTENTIONS: None (0)
ABSENT: None (0)

RESOLUTION – Certifying that the City of Keizer Provides Four or More Municipal Services

Councilor Koho moved that the Keizer City Council adopt a Resolution Certifying the City of Keizer Provides Four or More Municipal Services. Councilor Parsons seconded. Motion passed unanimously as follows:

AYES: Clark, Koho, Parsons, Ryan, Freeman, Herrera and Anderson (7)
NAYS: None (0)
ABSTENTIONS: None (0)
ABSENT: None (0)

c. RESOLUTION – Amending the Stormwater Utility Fee; Amending Resolution R2014-2504; Repealing R2015-2578

Mr. Wood reminded Council that this was discussed in the Long Range Planning meeting in April and the Budget Committee in May. Staff recommends a $.50 per ESU rate increase for the Stormwater Fund.

Mayor Clark opened the Public Hearing. Hearing no testimony, Mayor Clark closed the Public Hearing.

Councilor Koho moved that the Keizer City Council adopt a Resolution Amending the Stormwater Utility Fee; Amending Resolution R2014-2504; Repealing R2015-2578. Councilor Parsons seconded. Motion passed unanimously as follows:

AYES: Clark, Koho, Parsons, Ryan, Freeman, Herrera and Anderson (7)
NAYS: None (0)
ABSTENTIONS: None (0)
ABSENT: None (0)

d. ORDINANCE – Setting Water Rates (2017); Repealing Ordinance No. 2015-723

Mr. Wood reminded Council that this was discussed in the Long Range Planning meeting in April and the Budget Committee in May. Staff recommends a 4% rate increase for the water system.

Mayor Clark opened the Public Hearing. Hearing no testimony, Mayor Clark closed the Public Hearing.

Councilor Koho moved that the Keizer City Council adopt a Bill for an Ordinance Setting Water Rates (2017); Repealing Ordinance No. 2015-723. Councilor Parsons seconded. Motion passed unanimously as follows:

AYES: Clark, Koho, Parsons, Ryan, Freeman, Herrera and Anderson (7)
NAYS: None (0)
ABSTENTIONS: None (0)
ABSENT: None (0)

e. RESOLUTION – Adopting the FY16-17 Budget, Making Appropriations and Imposing and Categorizing Taxes

Mr. Wood presented the Budget Committee adopted Budget for fiscal year 2016-17.

Mayor Clark opened the Public Hearing. Hearing no testimony, Mayor Clark closed the Public Hearing.

Councilor Koho moved that the Keizer City Council adopt a Resolution Adopting the FY16-17 Budget, Making Appropriations and Imposing and Categorizing Taxes. Councilor Herrera seconded.

Councilor Ryan stated that due to her original concerns which she brought up in the Budget Committee meetings regarding police and safety she would oppose adoption of this budget.

Motion passed as follows:

AYES: Clark, Koho, Parsons, Freeman, Herrera and Anderson (6)
NAYS: Ryan (1)
ABSTENTIONS: None (0)
ABSENT: None (0)

ADMINISTRATIVE ACTION

a. RESOLUTION – Certification of Delinquent Sewer Accounts

Mr. Wood explained that this is the annual certification of the delinquent 'sewer only' accounts. The delinquent amounts will be added to Marion County property tax statements.

Councilor Koho moved that Keizer City Council adopt a Resolution – Certification of Delinquent Sewer Accounts. Councilor Parsons seconded. Motion passed unanimously as follows:

AYES: Clark, Koho, Parsons, Ryan, Freeman, Herrera and Anderson (7)
NAYS: None (0)
ABSTENTIONS: None (0)
ABSENT: None (0)

b. RESOLUTION – Authorizing Charges for Police Time at Private Events; Repealing Resolution R2009-1960

City Attorney Shannon Johnson explained that this is a 'housekeeping measure' raising the rate charged for private events for police time from $65 per hour per officer to $70 per hour. State requires allowance of public input for this action.

Councilor Koho moved that the Keizer City Council adopt a Resolution Authorizing Charges for Police Time at Private Events; Repealing Resolution R2009-1960. Councilor Parsons seconded. Motion passed unanimously as follows:

AYES: Clark, Koho, Parsons, Ryan, Freeman, Herrera and Anderson (7)
NAYS: None (0)
ABSTENTIONS: None (0)
ABSENT: None (0)

c. Municipal Judge Report – Councilor Check In

Mr. Johnson explained that the adopted process requires that each year two Councilors attend a Municipal Court session to evaluate the judge and report to Council.

Councilors Ryan and Herrera had attended court sessions and agreed that they preferred an informal observation rather than a formal observation. Councilor Herrera indicated that he would be attending tomorrow and would give his report at the next meeting.

Councilor Ryan reported that the judge's communication is excellent; not only does he communicate with people but he lets people show evidence and works with them on payments. He also deals with truancy and the two that she saw were huge successes. He honored, celebrated and encouraged them and set up mentors for them as well. Councilor Ryan concluded her report saying that she couldn't say enough good about how Judge Myers interacts with the public and shows sensitivity. Councilor Koho echoed those remarks.

d. ORDINANCE – Imposing a 3% Tax on the Sale of Marijuana Items by a Marijuana Retailer; Creating New Provisions; and Referring Ordinance; Repealing Ordinance Nos. 2014-706 and 2015-734

Mr. Johnson reminded Council that they had given preliminary direction to staff to send a 3% tax on the sale of recreational marijuana to the voters as allowed under House Bill 3400. He provided background information regarding legislative actions and reviewed the procedure.

Discussion followed regarding the exemption of Medical Marijuana and collection processes.

Councilor Koho moved that the Keizer City Council adopt a Bill for an Ordinance Imposing a Three Percent Tax on the Sale of Marijuana Items by a Marijuana Retailer; Creating New Provisions; and Referring Ordinance; Repealing Ordinance No. 2014-706 and Ordinance No. 2015-734. Councilor Parsons seconded. Motion passed unanimously as follows:

AYES: Clark, Koho, Parsons, Ryan, Freeman, Herrera and Anderson (7)
NAYS: None (0)
ABSTENTIONS: None (0)
ABSENT: None (0)

RESOLUTION – Placing on the Ballot the Question of Imposing a Three Percent Tax on the Sale of Marijuana Items

Councilor Koho moved that the Keizer City Council adopt a Resolution Placing on the Ballot the Question of Imposing a Three Percent Tax on the Sale of Marijuana Items by a Marijuana Retailer Within the City and Authorizing Filing of Explanatory Statement Relating to this Tax. Councilor Parsons seconded. Motion passed unanimously as follows:

AYES: Clark, Koho, Parsons, Ryan, Freeman, Herrera and Anderson (7)
NAYS: None (0)
ABSTENTIONS: None (0)
ABSENT: None (0)

CONSENT CALENDAR

a. RESOLUTION – Granting Cost of Living Adjustment to City Manager
b. RESOLUTION – Granting Cost of Living Adjustment to City Attorney
c. RESOLUTION – Authorizing the City Manager to Sign Pipe Cleaning and Television Inspection Contract with Pacific Int-R-Tek
d. Approval of June 6, 2016 Regular Session Minutes

Mayor Clark pulled item d.

Councilor Koho moved for approval of Items A through C of the Consent Calendar. Councilor Parsons seconded. Motion passed as follows: Motion passed unanimously as follows:

AYES: Clark, Koho, Parsons, Ryan, Freeman, Herrera and Anderson (7)
NAYS: None (0)
ABSTENTIONS: None (0)
ABSENT: None (0)

Councilor Koho moved for approval of Item D of the Consent Calendar. Councilor Herrera seconded. Motion passed as follows:

AYES: Koho, Ryan, Freeman, Herrera and Anderson (5)
NAYS: None (0)
ABSTENTIONS: Clark and Parsons (2)
ABSENT: None (0)

COUNCIL LIAISON REPORTS

Councilor Herrera reported that he had spoken at the promotion ceremony at Kennedy Elementary School, attended the Volunteer Appreciation and graduation ceremonies, the Meet & Greet for the Volcano ball players and the Opening Day celebration where Councilor Koho arrived by helicopter.

Councilor Parsons announced the upcoming Fire lunch and reported that the Marion County Commissioners breakfast was cancelled but she, Councilor Anderson and Sheriff Myers were there.

Councilor Koho expressed regret at having to leave due to health issues. Councilor Clark, on behalf of Keizer, thanked Councilor Koho for his service to the community as mayor, council president, councilor and baseball person.

Councilor Ryan provided an update of the Art Commission mural and thanked the participating volunteers.

Councilor Anderson reported that he and Councilor Parsons had a wonderful breakfast with Sheriff Myers.

Councilor Freeman announced the arrival of her grandson, thanked volunteers who helped with the West Keizer Neighborhood Association street clean-up, reported that the Stormwater Advisory Committee is busy with the new DEQ permit and wished everyone a safe 4th of July.

Mayor Clark reported that she had addressed the regional meeting of the Order of the Purple Heart. She announced the upcoming Council of Governments Board and the Keizer Heritage Board meetings and Salem-Keizer Area Transportation Study public hearing and invited volunteers to participate in the United Way Third Grade Reading program.

OTHER BUSINESS

Public Works Director Bill Lawyer provided an update on the roundabout construction noting that Salem is adjusting the signals on Lockhaven to help alleviate the congestion caused by the Chemawa/Verda intersection closure. Drivers ignoring the detour signs will be ticketed.

Shannon Johnson reminded Council that the Herber Hearing is still open so the ex parte rule still applies. He added that Council cannot declare Councilor Koho's position vacant until the resignation is effective so that will be done at the July 5 meeting.

WRITTEN COMMUNICATIONS

None

AGENDA INPUT

July 5, 2016 (Tuesday)
7:00 p.m. – City Council Regular Session
July 11, 2016
5:45 p.m. – City Council Work Session - Cancelled
July 18, 2016
7:00 p.m. – City Council Regular Session

ADJOURNMENT

Mayor Clark adjourned the meeting at 11:01 pm.

MAYOR:

Cathy Clark
Cathy Clark

APPROVED:

Debbie Lockhart
Debbie Lockhart, Deputy City Recorder

COUNCIL MEMBERS

Councilor #1 – Dennis Koho

Kim Freeman
Councilor #2 – Kim Freeman

Councilor #3 – Marlene Parsons

Councilor #4 – Roland Herrera

Councilor #5 – Amy Ryan

Councilor #6 – Bruce Anderson

Minutes approved: July 5, 2016