

M I N U T E S

KEIZER CITY COUNCIL

Monday, June 18, 1990

Robert L. Simon Council Chambers
Keizer City Hall

CALL TO ORDER Mayor Orcutt called the regular session to order at 7:31 p.m. Roll call was taken as follows:

Present: Andrew J. Orcutt, Mayor
Yvonne Fischer, Councilor
Mike Hart, Councilor
Bob Newton, Councilor
Bob Pritchard, Councilor
Joe Van Meter, Councilor

Absent: Phil Bay, Councilor

Staff: Donald H. Otterman, City Manager
Chuck Stull, Chief of Police
Wally Mull, Public Works Director
John Lien, City Attorney
Shannon Johnson, City Attorney
Skip Wendolowski, Planner
Sue Darby, City Recorder

PUBLIC
TESTIMONY

There was no public testimony to come before the Council.

PUBLIC HEARING/ Mayor Orcutt opened the public hearing on the
PARMELEE/KIDS Parmelee/Kids Time Child Care conditional use
TIME CHILD CARE application (Case No. KCU 90-5).
KCU 90-5

Mr. Otterman stated that the City Attorney and City Planner have met with him to discuss recent changes in State law pertaining to day care facilities. These changes, Mr. Otterman indicated, would preclude cities from regulating these facilities based on their use if they provide care for fewer than 13 individuals, including, in the situation with child care facilities, the owner's own children.

Mr. Johnson stated that ORS Chapter 418 provides that day care facilities may be conducted within a residential home without the requirement to obtain a conditional use permit from the local governing authority. This law requires that such day care facility also be the residence of the day care provider. He stressed that his interpretation of the statute indicates that the

total number of individuals applies regardless of whether they attend the facility on a full or part time basis. Mr. Johnson stated that the applicant's request is for a maximum of 20 children with no more than 12 children attending at any one time. He indicated that if the applicant wishes to change her request to a maximum of 12 children, then she would be able to conduct the facility without approval from the city. However, Mr. Johnson added that the City Council can still consider the current application if the applicant wishes to proceed on the original basis of 20 children.

Responding to a question from Councilor Van Meter, Mr. Johnson clarified that the applicant, should she wish to change her application, may, for example, have a maximum of 10 children if she has two children of her own for which she will provide care. Mr. Johnson added that although State law precludes cities from requiring conditional use approval if there are a maximum of 12 children, the applicant will still need to obtain an occupancy permit. That permit, however, does not come before the governing body.

Mr. Otterman indicated that this change to State law occurred in 1988. The City's zoning ordinances have not been updated to reflect this new legislation, and Marion County Planning is now working on these amendments.

Judy Parmelee, 4727 13th Avenue NE, Keizer, indicated that she would like to withdraw her application and to provide care for a maximum of 12 children. She noted that she does not have any children of her own.

Mr. Wendolowski stated that the applicant will still need to meet certain requirements for the occupancy permit, including fire codes for the protection of the children and the applicant. He indicated that proper procedure would be for the Council to formally dismiss the application in view of the applicant's withdrawal.

Responding to a question from Councilor Hart, Mr. Wendolowski clarified that as long as there are no more than 12 children in a day care facility, the city cannot regulate the location.

Councilor Van Meter asked whether this State law applies only to child care providers. Mr. Wendolowski believed there may be separate provisions for the handicapped or elderly in a residential care facility. The basic concept, he indicated, is similar, but the maximum number of attendees may be different.

Mr. Otterman stated that staff is in the process of making changes to the City's zoning ordinances at this time. Those recommended changes will come before the Council for final approval.

Councilor Van Meter stated that those individuals who appeared tonight to oppose the conditional use permit should see their legislators since the matter is out of the City's control.

Ms. Parmelee stated for the record that she will withdraw her application for a maximum of 20 children and will drop her enrollment to 12 or fewer children. She asked whether her conditional use permit fee will be refunded. Mr. Wendolowski explained that there was a considerable amount of staff time spent on the application, and that the applicant has the right to continue on with the process under the original application. He recommended against a refund unless the Council determines otherwise.

The Council decided to receive testimony from those individuals who appeared tonight, even though the applicant has withdrawn the application.

Responding to a question from Councilor Pritchard, Mayor Orcutt stated that the City has not adopted a noise ordinance because of a lack of financial resources for the staffing and equipment to enforce such an ordinance. Mr. Lien agreed that this was the Council's consensus when the adoption of a noise ordinance was discussed some time ago.

Mr. Otterman clarified that the applicant will still need to obtain a building permit in order to make necessary modifications to the structure, and she will also need to obtain an occupancy permit. He explained that there are certain standards which must be met in order for a structure to be utilized as a day care center.

Steve Waugh, 4757 13th Avenue NE, Keizer, stated that the applicant was modifying the residence without obtaining a building permit. Only after complaints were made by the neighbors did she obtain the necessary permit. Mr. Waugh expressed concern that the neighbors do not trust the applicant because of this past experience. He questioned how noise and traffic concerns will be addressed. He also expressed concern for the children in the day care facility who may cross Dearborn Street in order to get to the park. In closing, Mr. Waugh indicated that the only time the applicant complies with the law is when the law is brought to her attention.

Mr. Otterman responded that if the neighbors find that the number of children has exceeded the maximum allowed, they may make their concern known to Mr. Wendolowski who will conduct an investigation. If a violation is found to have occurred, the applicant will be required to reduce the number of children enrolled or will be required to close the facility.

Responding to a question from Mr. Waugh, Mr. Otterman stressed that the city cannot require a conditional use permit for the facility if it contains fewer than 13 children. He suggested that Ms. Parmelee meet with the neighbors to discuss their concerns. Mr. Waugh stated that Ms. Parmelee has not shown any indication of taking such action.

William Smith, 4748 13th Avenue NE, Keizer, stated that of the 16 neighbors he contacted, 13 were opposed to this facility. The neighbors object to opening up the neighborhood to commercial endeavors. He questioned the occupancy permit requirements. Mr. Wendolowski explained that, although he is not employed by the building department which issues the occupancy permits, he believes the permit will require such modifications to include fire proofing, fire door, etc. If the applicant fails to comply, he believed it may be possible for the county to place a stop work order on the premises.

Terri Burger, 4688 13th Avenue NE, Keizer, questioned whether the applicant will be required to live on the premises. Mr. Johnson responded that State law provides that the day care facilities must be the residence of the

owner.

Ms. Parmelee, 4727 13th Avenue NE, Keizer, stated that if she were a dishonest person, as indicated by a neighbor, she would not have applied for the conditional use permit but would have conducted the day care facility without such approval. She stated that she was not originally aware she needed a building permit to remove two garage doors and enclose the area.

Ms. Parmelee testified that not one of the neighbors - with the exception of young boys - has attempted to make any contact with her. She questioned why the neighbors feel she must obtain their permission to live there and to engage in a legal operation.

Ms. Parmelee read a letter dated May 16, 1990 addressed to the City Council. The letter indicates that she understands her neighbors' concern about the process used by Marion County in that they learned of the potential use only after it was approved by the county. She was required, as a part of her application, to submit the names and addresses of residents within 100 feet of her property. This, she assumed, was to notify those in the area about the permit request. With respect to the neighbors' concern of excessive traffic, Ms. Parmelee did not feel that parents bringing and picking up infants and toddlers between the morning hours of 7 and 9 and the afternoon hours of 4 and 6 should be disturbing for the neighborhood.

Ms. Parmelee testified that the facility has a fenced play area, and that the children will not be running around the neighborhood. In addition, the play yard has been deliberately planned to be out of the view of senior citizens in the area.

Ms. Parmelee indicated that the facility will remain in a residential character; there will be no signs displayed.

In response to a question from Don Kramer, 4747 13th Avenue NE, Keizer, Mayor Orcutt stated that there is a sign ordinance in Keizer and that Mr. Kramer may obtain a copy of it at City Hall.

There being no further testimony, Mayor Orcutt closed the public hearing.

Mayor Orcutt officially accepted the applicant's withdrawal of her conditional use application.

DEVELOPMENT
FEE PACKAGE

Because the development fee package will require some additional staff research, Mr. Otterman requested that this item be delayed until a later meeting.

1990-91
INSURANCE
COVERAGES

Mr. Otterman stated that the insurance quotes for the 1990-91 general liability, property, and workers compensation coverages are included in the Council packets. The insurance agent is obtaining additional information on the CCIS program. Therefore, he indicated that this will return to Council at its late June meeting for review and approval of coverages.

The Council tentatively set a Council meeting for the morning of June 28.

ORDINANCE -
STATE
REVENUES

Councilor Pritchard moved for passage of an ordinance declaring the City's election to receive State Revenues. Councilor Van Meter seconded the motion. The motion was approved by the following vote:

AYES: Orcutt, Fischer, Hart, Newton, Pritchard, Van Meter (6)

NAYS: None (0)

ABSENT: Bay (1)

WATER RATE
INCREASE

Mayor Orcutt indicated that several amendments need to be made to the ordinance to establish water rates for 1990-91. Therefore, staff will bring the corrected ordinance back to the Council at its June 28 meeting.

KEIZER
TOMORROW
COMMITTEE

Mr. Otterman stated that at the last Budget Committee meeting, there was discussion about forming a committee to study the tax base issue. He has prepared a list of those interests he believes should be represented on this committee. They include five members at large, determined by the four quadrants bisected by the River Road/Chemawa Road intersection with a fifth area in Clearlake; business representatives including the Chamber president, KBRAD president and two other business members; the building/real estate industry with Mr. Meurer and one commercial and one residential real estate interest; up to two School District 24J representative; one Keizer Fire District member; one senior citizen representation; and the entire City Council with two members sitting

on each of the three subcommittees.

For the at large population, Councilor Van Meter suggested the School LSAC committees be contacted as a resource for interested representatives. He also suggested that the student population be represented.

Following discussion on the size of the committee, the Council determined to add one developer, to add one member to represent Marion County Fire District No. 1 in the Clearlake area, and to include the ASB president.

Asked whether the citizen Budget Committee members may be offended if they are not represented, Mr. Dennis Koho, a Budget Committee member, stated that there is plenty of opportunity for the Budget Committee members to participate and he, in fact, intends to apply for a position under one of the classifications indicated tonight.

The Council asked the media to get the word out that the City is forming this committee, and that information and application forms may be obtained at City Hall. Mr. Otterman suggested an application cut off date of July 31. This will give the Council the month of August to review applications and make appointments at the second Council meeting in August.

CONSENT
CALENDAR

The Consent Calendar consisted of:

- June 4, 1990 Regular Session minutes
- Resolution - State Revenue Sharing
- Oregon Traffic Safety Grant Update
- Resignation of Judge Bob Cannon

Mayor Orcutt asked that the June 4, 1990 Council minutes be pulled off the Consent Calendar because he was absent from that meeting.

Councilor Pritchard moved for approval of the remainder of the Consent Calendar. Councilor Van Meter seconded the motion.

Councilor Hart asked about the status of appointing a presiding judge in view of Judge Cannon's resignation. Mayor Orcutt explained that he sent a letter to Judge Cannon asking that a replacement be recommended. He has not yet heard back on the request. In the meantime, there are four or five pro tem judges.

Mr. Otterman clarified that Judge Cannon felt it was necessary to resign because of his extremely busy personal calendar. He does not feel he has the time to commit at this point.

The motion was approved by the following vote:

AYES: Orcutt, Fischer, Hart, Newton, Pritchard,
Van Meter (6)
NAYS: None (0)
ABSENT: Bay (1)

Councilor Van Meter moved for approval of the
June 4, 1990 minutes as presented. Councilor
Newton seconded the motion. The motion was
approved by the following vote:

AYES: Fischer, Hart, Newton, Pritchard, Van
Meter (5)
NAYS: None (0)
ABSENT: Bay (1)
ABSTENTION: Orcutt (1)

OTHER
BUSINESS

Keizer
Chamber of
Commerce

Mr. Otterman suggested that the City of Keizer request that it be represented on the Board of Directors for the Keizer Chamber of Commerce. He explained that there are numerous issues which involve both the Chamber and the City and that such representation would provide an automatic tie between the two organizations. He noted that the school district has a representative on the Board.

Mr. Otterman asked that the Council authorize the Mayor to direct a letter to the Chamber requesting the representation. The Council consensus was to do so.

Ordinance -
Street
Closure for
Block Party

Mr. Mull stated that the City has received a request for a neighborhood to hold a block party on July 4 on Moneda Drive. He indicated that staff would support this request, however, certain regulations should be adopted in order to provide for an orderly event. Mr. Mull stated that the Chief of Police, Fire Chief and Public Works Manager would make the determination to approve or disapprove such requests. Considerations such as the neighborhood, traffic patterns, etc. would be taken into consideration in each situation.

A draft ordinance to establish those regulations is before the Council tonight for passage. If the Council approves the ordinance, the

remaining question is whether the City should charge an application fee.

Councilor Van Meter moved for passage of an ordinance for the temporary closure of street for block party with a \$25 application fee. Councilor Fischer seconded the motion.

Responding to a question from Councilor Newton, Mr. Mull stated that staff will take into consideration any bus routes that may be affected by the temporary closure of a street. He has checked with the transit division and they indicate they would like to know in advance of any closures.

The motion was approved by the following vote:

AYES: Orcutt, Fischer, Hart, Newton, Pritchard, Van Meter (6)

NAYS: None (0)

ABSENT: Bay (1)

AGENDA INPUT

June 28
Meeting

Mayor Orcutt indicated that the City Recorder would conduct a poll of the Council to determine the best time for setting the June 28 special session.

July 16
Meeting

Mr. Otterman stated that the July 16 meeting will include a proposal to increase the trash collection rate. The City of Salem has already reviewed and acted on the request.

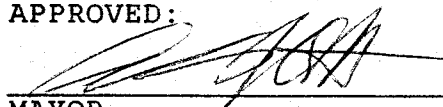
ADJOURNMENT

The meeting adjourned at 8:43 p.m.

Respectfully submitted,


Susan Darby, City Recorder

APPROVED:


MAYOR

(Councilor Bay Absent)

