# MINUTES

**KEIZER CITY COUNCIL**
**Monday, June 3, 1996**
**Keizer City Hall**
**Robert L. Simon Council Chambers**
**Keizer, Oregon**

## CALL TO ORDER

Mayor Koho called the regular meeting to order at 7:00 p.m. Roll call was taken as follows:

**Present:**
Dennis Koho, Mayor
Carl Beach, Councilor
Jim Keller, Councilor
Jerry McGee, Councilor
Bob Newton, Councilor
Jerry Watson, Councilor

**Absent:**
Al Miller, Councilor

**Staff:**
Dotty Tryk, City Manager
John Morgan, Community Development Director
Charles R. Stull, Chief of Police
Wally Mull, Public Works Director
Kim Krause, Finance Officer
Shannon Johnson, City Attorney
Tracy L. Davis, City Recorder

## PUBLIC TESTIMONY

**Mike Hart, 6955 9th Court NE, Keizer** pointed out during his testimony at the May 20th meeting, he believed the levy request would not be approved by the voters. However, he was mistaken with the outcome of the election being positive and the voters approving the levy amount. Mr. Hart assumed the outcome was based upon the high percentage of absentee voters in this election.

Mr. Hart stressed the Council utilize the abundance of volunteers to support the possible future request of an updated tax base. These include members of the neighborhood associations, community policing districts and other various volunteers. Based on past budget experiences, Mr. Hart is confident all financial requests will be reviewed carefully and this message can then be carried out by these volunteers.

Responding to a comment by Councilor Keller, Mr. Hart indicated he would be interested in being involved in any upcoming campaigns.

**There was no further public testimony to come before the Council.**

## COMMITTEE REPORTS

Charles Stull, Chief of Police announced one full time police officer and five reserve officers were present to receive the oath of office.

### SWEARING IN CEREMONY FOR KEIZER POLICE OFFICER AND KEIZER POLICE RESERVES

Shannon Johnson, City Attorney issued the oath of office to Officer Terry Teets who was hired by the department on November 20, 1995.

Mr. Johnson then issued the oath of office to Reserve Officers James Young, Jeremie Fletcher, Jeff Branson and Clint Prevett.

The Mayor and Council welcomed these individuals to the Keizer Police Department.

## COUNCIL LIAISON REPORTS

Councilor Beach reported the **River Road Redevelopment Board** met on Wednesday, May 22, 1996. The agenda included discussion on the Sign Code and the Cherry Avenue Design Plan. Testimony was presented from area merchants who disputed some of the restrictions of the sign code. The board determined the sign grant program should be terminated in the near future with notice to the 40-50 non-complying businesses being sent prior to termination. During the discussion of the Cherry Avenue Design Plan, John Spencer, consultant covered the revisions to the sidewalk plan, time delays in the improvements, the trailer parks and the east/west connector street. Councilor Beach indicated the board's prioritized recommendation for the east/west connector is Iris Lane, followed by Cade Avenue, Plymouth Drive and Sunset Avenue.

Councilor Beach also pointed out the board voiced their opposition to using urban renewal funds to improve the civic center area.

Responding to an inquiry from Councilor Newton, John Morgan Community Development Director reported the bus turnouts along River Road are scheduled to be completed during the 1996/97 fiscal year.

**There were no further committee reports to come before the Council.**

## ADMINISTRATIVE ACTION

**ORDINANCE - SOLID WASTE MANAGEMENT AMENDMENTS**

Dotty Tryk, City Manager reminded the Council of the two solid waste franchisees request to amend the solid waste ordinance and their individual agreements discussed during the May work session. These changes include an update of the language to include recyclables and also a request for a "rolling" term to the franchise.

Shannon Johnson, City Attorney added the changes are consistent with recent changes in the state statutes and the "rolling" term allows the franchisee to make long-range financing and business plans.

Mayor Koho moved a bill for an Ordinance Relating to Solid Waste Management in the City of Keizer; and Declaring an Emergency. Councilor Beach seconded the Motion.

The Motion passed as follows:

AYES: Beach, Keller, Koho, McGee, Newton and Watson 6)
NAYS: None (0)
ABSTENTIONS: None (0)
ABSENT: Miller (1)

**RESOLUTION - AUTHORIZING EXECUTION OF SOLID WASTE MANAGEMENT AGREEMENTS WITH LOREN'S SANITATION AND VALLEY GARBAGE SERVICE**

Shannon Johnson, City Attorney reported the resolutions authorizing the Mayor to execute amendments to the agreements were based on the anticipated passage of the amendments to the Ordinance. Mr. Johnson recommended the agreement should begin on June 3, 1996 and should expire on December 31, 2005 as stated in Section 2a of the agreement. Furthermore, he also recommended the words eleventh and twelfth be added to Section 2b.

Councilor Watson pointed out the existing franchise agreements include language for termination for cause.

Mr. Johnson noted the revised Ordinance also includes language for termination for cause, however there may be a gray area in determining some violations. Therefore, there are provisions for a "no cause" termination contained in the document. Any future changes in the Ordinance would not apply to these agreements during the ten year terms.

Mayor Koho pointed out on page 36 of the Ordinance it speaks to modification of the Ordinance.

Councilor Watson indicated this is a long term agreement which will bind the City for a long period of time.

Councilor McGee stated the strength of a rolling agreement will cause adjustments or modifications to occur during the length of the contract.

Councilor Keller announced he is very comfortable with this process because of the franchisees. Both are very capable businessmen, community leaders and contributors to the community. Upon any changes in ownership, the agreements do allow a recourse to assure the same type of quality in the future.

Councilor Beach pointed out having a long term agreement will allow the franchisee to make substantial financial investments in their businesses.

Mayor Koho moved a Resolution Authorizing the Mayor to Sign the Amendment to the Solid Waste Collection Franchise Agreement for Loren's Sanitation Service, Inc. Including the dates as recommended by City Attorney Johnson. Councilor Keller seconded the Motion.

The Motion passed as follows:

AYES: Beach, Keller, Koho, McGee, Newton and Watson 6)
NAYS: None (0)
ABSTENTIONS: None (0)
ABSENT: Miller (1)

Mayor Koho moved a Resolution Authorizing the Mayor to Sign the Amendment to the Solid Waste Collection Franchise Agreement for Valley Solid Waste Management Corp., dba Valley Garbage Service including the dates as recommended by City Attorney Johnson. Councilor Keller seconded the Motion.

The Motion passed as follows:

AYES: Beach, Keller, Koho, McGee, Newton and Watson (6)
NAYS: None (0)
ABSTENTIONS: None (0)
ABSENT: Miller (1)

**ORDINANCE - ZONE CHANGE/COMP PLAN AMENDMENT CASE NO. 95-04/ 3-H CONSTRUCTION (second reading)**

Mayor Koho announced a Bill for an Ordinance in the Matter of the Application of 3-H Construction, Inc. for a Zone Change from RS (Single Family Residential) to RM (Medium Density Residential) on a 5.5 Acre Parcel Located South of Fir Cone Terrace Between River Road and Wheatland Road; Declaring an Emergency (Case No. 95-04) is before the Council for second reading due to the lack of a unanimous vote at the May 20, 1996 meeting.

Councilor Watson and Mayor Koho announced they would be abstaining from the vote due to their absence at the public hearing.

The second reading of the Ordinance passed as follows:

AYES: Beach, Keller, McGee and Newton (4)
NAYS: None (0)
ABSTENTIONS: Koho and Watson (2)
ABSENT: Miller (1)

**CONSENT CALENDAR**

**The consent calendar consisted of the following:**

a. Adoption of Consortium Cooperation Agreement (HOME Consortium Update)

b. RESOLUTION - Awarding Bid for Lockhaven Improvements

c. RESOLUTION - Approving Engineer's Report for Tecumseh Estates Street Lighting LID

d. RESOLUTION - Approving Engineer's Report for Jacobe Estates Street Lighting LID

e. RESOLUTION - Initiating O'Neil Road Subdivision Street Lighting LID

Councilor Keller requested item "a" be removed from the Consent Calendar.

Mayor Koho moved for approval of the remaining items on the consent calendar. Councilor Beach seconded the Motion.

The Motion passed as follows:

AYES: Beach, Keller, Koho, McGee, Newton and Watson (6)
NAYS: None (0)
ABSTENTIONS: None (0)
ABSENT: Miller (1)

item "a"

Responding to a question from Councilor Keller, John Morgan Community Development Director, reported the there are not any HOME funded projects ongoing in Keizer. There is a 105-unit elderly housing project being constructed on the south of Shangrila Street that was funded by HOME. Funds in Keizer have gone to rehabilitation of several group care facilities operated by Shangrila Corporation. Mr. Morgan was not aware of any large pending projects at this time.

Furthermore, Mr. Morgan pointed out the HOME program does provide funds for first time home buyers to assist in the down payment. This program is administered by the local banks. Mr. Morgan was not aware of the number of applicants for this program.

Councilor Keller confirmed Keizer residents will have the same opportunities in being granted these funds as those in Salem.

Councilor Keller moved to approve the new HOME Consortium Agreement and Authorize the Mayor to Sign It. Mayor Koho seconded the Motion.

The Motion passed as follows:

AYES: Beach, Keller, Koho, McGee, Newton and Watson (6)
NAYS: None (0)
ABSTENTIONS: None (0)
ABSENT: Miller (1)

**OTHER BUSINESS**

●Mayor Koho pointed out the construction of the bike racks outside of the Council Chambers were built with donated money, materials and labors from Salem and Keizer area bicycles advisory committees.

●Councilor McGee requested the Keizer Community Policing Committee research the anti-prostitution ordinance and prepare a report for the Council. Based upon a recent newspaper article, Councilor McGee hoped these recommendations could be considered prior to any prostitution related occurrences in Keizer. He suggested this be placed on the agenda immediately.

Councilor Keller, liaison to the Community Policing Committee advised he will contact the chair to schedule this for the next meeting.

●Councilor McGee further requested the zoning ordinance pertaining to adult bookstores, topless or exotic dancing be reviewed by the City Attorney. He realized these types of establishments cannot be excluded from Keizer, however with strict zoning guidelines it may prohibit establishment of these businesses in Keizer.

John Morgan, Community Development Director distributed copies of the Adult Entertainment Business section of the Zoning Ordinance. He commented these are stringent restrictions defining location and activities allowed.

Shannon Johnson, City Attorney pointed out with recent case law it has become difficult to restrict these establishments by zoning laws. In the upcoming changes to the development code, the guidelines will probably become less restrictive.

Mayor Koho suggested finding a community standard to make prohibitions or limitations on this type of business.

Mr. Johnson noted it was difficult to successfully use these type of standards.

Councilor Watson pointed out restrictive zoning regulations will aid in alienation of these types of economic activity in our community. The efforts of redevelopment along River Road will further assist in distancing the establishing of adult related businesses in Keizer.

Councilor Newton indicated these guidelines have worked well over the last 14 years and if the changes will be more permissive, he will not be supportive.

●Referring to Mr. William Cauley's testimony at the May 20th meeting, Councilor McGee noted during recent conversations with Mr. Cauley, he assured him of the Council's concern even though there was not considerable verbal responses at the time. In addition, Mr. Cauley has obtained 32 other signatures on a petition who also felt the noise was intrusive and made sleep difficult. Councilor McGee pointed out the City Manager has suggested Mr. Cauley voice his objections during next years consideration of the variance or to suggest amendments to the noise variance. However, he does not feel this is the correct course of action.

Councilor McGee suggested the Mayor appoint a committee to gather input from the staff on the effectiveness and guidelines in the noise ordinance. This is very important to the livability of the community and especially to these neighboring residents.

Councilor McGee believes all parties can come to a compromise on this matter.

Mayor Koho pointed out at the meeting Mr. Cauley was told the proper time to share his concerns was at the time of the variance request. He did not feel the Council was unresponsive to his concerns.

Councilor Keller reported he had discussed Mr. Cauley's concerns with the chairman of the Keizerfest. He added the noise during the festival was within the guidelines of the ordinance. Councilor Keller pointed out during the fifteen year existence of the Keizerfest, additional restrictions have been instituted with compliance always being obtained. He fears placing additional restrictions may force the festival to end.

Councilor McGee responded the noise may have been within the legal limits, however it did cause distress to several members of the community.

Councilor Beach hoped the residents and the organizers of this annual event will be able to cooperate together to find a reasonable solution.

Mayor Koho announced he and Councilor McGee will review the guidelines in the Ordinance and this situation and report back to the Council in the near future.

✱Councilor McGee reported in April he distributed a memo to the Council requesting an explanation of the fund available to the City Manager to use at her discretion. Since he has not received a reply to this memo, he requested answers to the questions regarding the location of this fund in the budget, the amount in the fund, what expenditures have been made from this fund and who provides the authorization of expenditures from this fund. Councilor McGee noted this has been a significant concern of his since he became aware of the funds existence.

Mayor Koho thanked Councilor McGee for his tactfulness in bring this issue before the Council. He apologized for his lack of timely response on this matter. Mayor Koho explained there are funds delegated to the City Manager with authorization to spend, however there is not a "slush" fund or a pool of money entitled as the City Manager's discretionary fund.

Dotty Tryk, City Manager further explained according to Oregon Budgetary law, the Council adopts the budget and makes appropriations. Once these appropriations are made, the City Manager and Department Heads are bound by law to stay within these appropriations. This provides her with the discretion to manage the organization as she sees fit.

Councilor McGee requested the fund location of the $1000 expenditure for volunteer pins. He was told this expense was taken from the Manager's discretionary fund.

Responding to this request, Kim Krause, Finance Officer stated it was taken from the Administrative miscellaneous account.

Councilor McGee relayed his disappointment the appropriate response was not more timely after receipt of the memo.

Councilor Keller added there may be some confusion in using the term discretionary to describe the authorization to expend funds by the City Manager.

Councilor McGee noted miscellaneous is not discretionary, there are a number of approved uses listed in Oregon law to use this fund for. Furthermore, expenditures under the miscellaneous fund are easily tracked.

Councilor Watson questioned the appropriateness of raising this issue under this portion of the meeting. He suggested these matters be included on the agenda in the future.

Mayor Koho announced he will prepare a response to Councilor McGee's memo. Furthermore, this may be an appropriate subject to cover in depth at an upcoming work session.

*Councilor Newton requested copies of the correspondence between the City and the Department of Land Conservation and Development regarding the Chemawa Activity Center. He believes this will be helpful prior to the continuation of the hearing on June 17th.

*Councilor Newton thanked CCTV - Channel 25 for their community forum coverage on the Iris Festival. He added this program will air one more time on June 5th at 11:00 a.m.

*Councilor Newton requested the City Manager prepare a report on the advantages and disadvantages for requesting an updated tax base at the November 1996 election.

Mayor Koho asked this be scheduled as the topic of discussion for the July work session.

✱Councilor Beach complimented Lt. Pat Bowe of the Keizer Police Department for his letter of explanation on the traffic stop which was the subject of a recent letter to the editor. The response covered all areas of concern in regards to this instance.

✱John Morgan, Community Development Director announced there will be a public forum on the Cherry Avenue Design Plan on Tuesday, June 11 at 7:00 p.m. at the Salem Mennonite Church.

✱Furthermore, Mr. Morgan asked the Council to be prepared for the June 17th City Council meeting which will be the continuation of the Chemawa Activity Center hearing. The fundamental question of what the Council would like for the community will be the main topic of discussion.

Councilor Keller announced the Chamber of Commerce will be holding a special board meeting to discuss their position on this issue. However, as Chamber President, he will not be partaking in the meeting.

In response to a question by Mayor Koho, Mr. Morgan stated the City of Salem and Marion County have been meeting to discuss the Chemawa Interchange area. This is dealing primarily with the sewer service and other improvements on the north side of Lockhaven and near Hayesville intersection.

✱City Manager Tryk announced the Salem-Keizer School District will be holding a 7:00 a.m. meeting on Tuesday, June 4th for the community summit on education. She urged all Council members to attend.

**WRITTEN COMMUNICATION** — **There was no written communication to come before the Council.**

**AGENDA INPUT** — **Mayor Koho noted the agenda input items.**

**ADJOURNMENT** — **The meeting was adjourned at 8:21 p.m.**

Tracy L. Davis
City Recorder

APPROVED:

Dennis Koho-Mayor

COUNCIL MEMBERS:

Councilor #1 - Jerry Watson

Councilor #4 - Carl Beach

Councilor #2 - Bob Newton

(absent)
Councilor #5 - Al Miller

Councilor # 3 - Jim Keller

Councilor #6 - Jerry McGee

Minutes approved: