MINUTES

KEIZER CITY COUNCIL
Monday, May 19, 1997
Keizer City Hall
Robert L. Simon Council Chambers
Keizer, Oregon

CALL TO ORDER

Mayor Koho called the regular meeting to order at 7:10 p.m. Roll call was taken as follows:

Present:
Dennis Koho, Mayor
Carl Beach, Councilor
Jim Keller, Councilor
Jerry McGee, Councilor
Dawn Meier, Councilor
Garry Whalen, Councilor

Absent:
Al Miller, Councilor

Staff:
John Morgan, Community Development Director
Wally Mull, Public Works Director
Shannon Johnson, City Attorney
Pat Bowe, Lieutenant, Keizer Police Department
Tracy L. Davis, City Recorder

Mayor Koho announced that Councilor Miller was absent due to illness.

PUBLIC TESTIMONY

Frederic George, 974 Koala Street N, Keizer from the Traffic Safety Commission proposed a revision to the Zoning Ordinance Section 17.18 dealing with vision hazards. He distributed an outline of the major points differing from the present ordinance, and presented them to the Council.

The Traffic Safety Commission believed the ordinance should be amended to require vision clearance at stop signs as well as including a fee increase for failing to trim or remove vision hazards. Mr. George said the current ordinance does not include an enforcement tool, which would be changed by the proposed revision.

Mayor Koho asked for an outline of the proposed changes. Mr. George used the colored exhibit to explain the revisions. He noted the shrubbery maximum height was basically the only measurement addition to the ordinance. He reviewed the other limits.

Councilor Meier asked if the ordinance pertained to permanent fixtures or only to landscaping. Mr. George answered that the original ordinance under paragraph "d" discusses permanent fixtures such as fences. Those must correspond with the heights and diameters in the ordinance. He did say utility poles, street signs, etc. were exempt.

Councilor Meier wondered if the new store for Daisy Maze was too close to the street. John Morgan, City Development Director, said the existing ordinance says no vision clearance was required because of the stop sign on Linda. Under the new proposal, vision clearance would be required for any construction following the date of approval for the changes.

Mr. Morgan elaborated on the process behind the Traffic Safety Commission's proposal. He explained Mike Kirby and Ernest Smyres, members of the Traffic Safety Commission, testified before the Planning Commission regarding the Development Code. Mr. Morgan's suggestion was to include Section 18 as testimony in the Code, and then make the remaining Zoning Code information into a different ordinance type. He recommended the Council offer direction regarding their desire.

Councilor Whalen asked if vision clearance was required at stop signs in residential areas. Mr. Morgan said yes, under the present ordinance. Councilor Meier asked whether present landscaping would be acceptable, with the ordinance change to apply only to new landscaping. Mr. Morgan said the Council would have to make a decision whether to "grandfather" in present landscaping. The City of Salem did not when they approved their vision clearance provisions. They hired a code enforcement officer to make residents comply with the new rules.

Councilor Whalen asked if the Public Works department had reviewed the changes. Wally Mull, Public Works Director, answered that the changes had not been reviewed by Public Works. He voiced a concern about vision hazard situations where no sidewalks are present. He also said right-of-ways and property lines are difficult to determine in some Keizer neighborhoods.

Regarding enforcement, Councilor Keller asked for clarification that the regional park director would correct the problem. Mr. George said that would be the case. Councilor McGee believed wordsmithing was still needed on the ordinance. He disagreed with

Mr. Morgan and preferred an ordinance that would stand alone. If the Planning Commission needed, they could extract language to include in the Development Code.

Councilor McGee continued, saying he did not believe that anything could be done at less expense to increase city safety than to pass the ordinance. He believed the City's liability would be decreased, especially in situations where stop signs are presently covered.

On the issue of education, Councilor McGee asked if the Traffic Safety Commission had plans for public dissemination. Mr. George answered that preliminary discussions on the subject have begun. He said enforcement could not begin without citizens being notified first. Pamphlets for the City offices, use of the newspaper and mailings with the water bills are all initial ideas. Councilor McGee believed the average lay person would see the sense of the ordinance through the drawing. Mr. George said the pamphlet was planned to include the art work and an actual complaint form.

Councilor Beach discussed the procedure for enforcement. He asked who will notify the property owner. Mayor Koho suggested the nuisance abatement process already in use might be a possibility. Mr. George clarified that if the property owner neglects or refuses to make a change, then the regional parks director will give notice and then 10 business days will be allowed for compliance.

Mayor Koho suggested that staff take the ordinance, work up needed revisions and then send the document to the Neighborhood Associations for their review and input. Councilor Beach agreed broad community involvement will result in endorsement.

The Council agreed by consensus to direct staff to take the Ordinance, make the necessary revisions and distribute to the neighborhood associations for comment.

Mayor Koho thanked the Traffic Safety Commission for their work.

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

COMMITTEE REPORTS

COUNCIL LIAISON REPORTS

Due to Councilor Miller's absence, no **Parks Advisory Board** report was given.

Council President Keller reported the **Planning Commission** began review of the Development Code at their last meeting. He said the majority of the time was spent reviewing proposed revisions from the business community. Discussion on the sign code and vision clearance filled the remaining time.

Neither Mayor Koho or Councilor Meier were able to attend the **Claggett Creek Task Force** meeting, therefore no report was available.

OTHER BUSINESS

*Councilor Beach introduced an item from the League of Oregon Cities' newsletter regarding the idea of using phone payment for parking fines. He said some cities accept credit cards and suggested this system might accommodate citizens. The Councilor requested the option be considered for Keizer.

*Mayor Koho stated the Welcome to Keizer sign was damaged again. Lieutenant Pat Bowe, Keizer Police Department, said he would research the issue. Mr. Morgan reported the City paid $5,000 on the original sign effort and asked if the Council objected to a contribution of $500 for repairs if no settlement is received from a private party.

Councilor McGee suggested the City remain silent on the issue at this point until the insurance decision is made. Councilor Meier asked if maintenance was completed by NW Natural Gas. Mayor Koho said maintenance takes place when the area becomes an eyesore. He would like to see a service club adopt the area for upkeep. Councilor Meier was concerned about the long term damage and encouraged reporting of any destruction sighted.

*Regarding revenue received from the baseball stadium, Councilor McGee introduced the need for designation of the money. He said that property tax and other bills will be received. He suggested the moneys received should not be intermingled with the General Funds. He preferred the expenses be prioritized and connected to the revenue.

Mayor Koho did not believe the origination of the money would matter in the final analysis. Mr. Mull stated systems are in place to put the revenue specifically into a baseball account and code the expenses. He also would like to present a plan for fund repayment within a few weeks. Councilor McGee wanted income to be placed against expenses and was pleased with Mr. Mull's idea. Councilor Keller remembered that the accounting system to do that had been mentioned prior, along with tracking of the systems development charges received for the Chemawa Activity Center.

Councilor Meier asked a clarifying question regarding the property tax responsibility. Councilor McGee clarified the City pays taxes on the stadium less $6,000 and the owners are responsible for the parking lot taxes.

*Lieutenant Bowe from the Police Department reported Keizerfest '97 was a quiet weekend for the Department. He noted a few incidents happened at the end of the parade including an officer being hit by a drunk driver on the wrist. Six official complaints resulted from the Keizerfest noise variance along with several voice mail messages. The noise was monitored and flyers were distributed to the nearby neighborhoods with a pager number for noise complaints. No word was received from irate citizens.

*On another subject, the Lieutenant reported May is Bicycle Awareness Month and a presentation will be put on by officers from the Department.

*Councilor Keller inquired if Karen Trucke from the Gubser Neighborhood Association made contact with the Community Service Officer to see how the noise monitors worked. Lieutenant Bowe said that did not happen. Councilor Keller reported language regarding the Gubser Noise Ordinance for the baseball stadium needed to be tightened. At this point, no cap is included for variances.

*Wally Mull reported on discussions with residents of unimproved streets. Some did not want any action taken but others will receive grading. He also reported a July 4th parade will be held by the Veterans Associations and the Police Department will be participating.

*Mr. Morgan distributed a flyer on an upcoming wetlands workshop. A wetlands inventory of the urban area was just distributed. Potential wetland "banking" sites where wetlands could be built were included. He said the consultants also found flood mitigation sites. A Council work session, on the issue, will take place in July.

*The Planning Commission will hold a meeting June 4 at 7:00 p.m. regarding preparation of a local transportation plan. Many city groups will be invited to bring information, especially any work done in their neighborhood.

*Mr. Morgan announced with the Clear Lake subdivision development moving so rapidly, appeals to the Council may be forthcoming.

*Finally, Mr. Morgan reported an initiative for class size limit was filed which raises the need for a single subject issue determination by City legal counsel.

OLD BUSINESS

Councilor McGee was pleased with the Old Business report and hoped it will continue in that format.

PUBLIC HEARING
COMP PLAN AMENDMENT/ ZONE CHANGE - CASE NO. 97-02 (McCawley)

Mayor Koho opened the public hearing.

Shannon Johnson, City Attorney, suggested waiving the reading of applicable criteria from the Zone Code and the Comprehensive Plan due to their length. No objections were raised. He also gave the procedures for the Public hearing. No objections or comments were received from the audience regarding the procedure, nor were announcements made from Councilors on the conflict of interest issue.

Mr. Morgan gave the staff report. He stated the matter originated from a homeowner who found her property was zoned commercial retail. She has been unable to receive refinancing due to the present zone designation.

The maps in the staff report, Mr. Morgan stated, clarify the issue. He noted the home accesses Faymar Drive and has no access to Creekside Shopping Center. He recommended the Council give staff direction to return on June 2nd for action.

Mayor Koho noted the inclusion of a supportive letter from the Claggett Creek Neighborhood Association in the packet for the record.

There was no public testimony.

Mayor Koho closed the Hearing.

<u>Council President Keller moved to direct staff to return on June 2, 1997 with the appropriate ordinance approving the zone change and comprehensive plan. Councilor McGee seconded the Motion.</u>

Councilor Meier clarified an adjacent property was developed as commercial and had access to the west. Mr. Morgan confirmed that.

<u>The motion passed with the following votes:</u>

<u>AYES:</u> Beach, Keller, Koho, McGee, Meier and Whalen (6)
<u>NAYS:</u> None (0)
<u>ABSTENTIONS:</u> None (0)
<u>ABSENT:</u> Miller (1)

ADMINISTRATIVE ACTION

ORDER - CONDITIONAL USE - CASE NO. 96-7 - CITY OF KEIZER WATER RESERVOIR

Mr. Johnson gave an update from previous discussion. He reviewed the history of the issue, saying the Council had asked for an order to be returned to the April 21st meeting. The counsel prepared the order but objections were filed by Mr. Beck's attorney. He met with the attorney to discuss the objections. As a result small changes were made to the order. The main part of the discussions, as stated by Mr. Johnson, were not substantive but concerns regarding procedure.

Following the meeting, Mr. Johnson viewed the video tape of the meeting in question. In the tape, he said the Mayor closed the hearing but several minutes later, a Councilor asked additional questions and requested the staff return with a report. At that point, legal counsel noted a specific date must be attached for the staff report return. Eventually, the Council determined Public Works would bring the report on March 30 and the opposition would have until April 21 to respond.

Mr. Johnson continued, saying the opposition's complaint stated the report was not completed by March 30 and when they did receive it, time was not adequate to prepare for the meeting on the 21st. They also said their information was not allowed to be included. In a discussion with the CO-City Managers, a decision was made to accept information until the close of Council packet preparation on May 15 at 5:00 p.m. Mr. Beck and his attorney, Mrs. Barnhouse, agreed to waive appeal of the procedural defect with the concession of accepting information. Mr. Johnson noted only Mrs. Barnhouse's clients were included in the waiving of the defect.

The Council, in tonight's meeting, must determine the procedure in regards to the record. Mr. Johnson discussed the recommendation options. He said no further testimony could be allowed, having action either decided tonight or postponing to the next meeting. The second option would be to allow written testimony only to be submitted in time for the June 2, 1997 Council packet. Mr. Johnson recommended the Council could chose to allow written and oral testimony at the June 2, 1997 meeting.

Mayor Koho disagreed with Mr. Johnson's review of the record, stating the hearing was closed. No further testimony was to be allowed but the record was left open for the receipt of material on the feasibility of placing the water facility underground. He said the issue was limited to undergrounding.

Councilor McGee asked about the timeline. Mr. Mull said since the tank is already built, the building season will not be lost. Councilor McGee agreed with the Mayor's recollection of the events, but asked if any harm would come from allowing additional, new testimony.

Mr. Johnson said since the applicant is the City a waiver of the 120 deadline is implied. No legal reason would keep the Council from hearing additional testimony. He also clarified that the Mayor was correct, in that the Hearing was closed. The record was left open for Mr. Mull's staff report. He said a great deal of confusion surrounded the completion of the staff report, but opponents need to be allowed to respond to additional testimony. He reiterated the choices before the Council.

Mayor Koho believed time had been allowed for adequate response. Councilor Meier asked if the Site Specific Review, included in the present Council packet, would be considered new testimony. Mr. Johnson said yes. He stated the report was in the works in the last meeting but would not be included as part of the record if the Council chooses to exclude all new testimony.

Councilor Keller stated his choice to agree with the Council majority. He had no problem with accepting new information, such as the height of the tank. Councilor Beach believed that although the issue had been discussed for several months, he wanted the neighborhood to be treated fairly in the process. He recollected information not being given in a timely manner to the opponent, which made quick response difficult. He recommended the Council agree to accept written and new testimony until the June 2nd meeting because of the impact on the area.

Councilor McGee noted one issue in the information submitted by Mr. Beck was new to him which he would like to have entered in the record. In his brief discussion with staff, he thought the option for two tanks to supplant the three needed further discussion. To accomplish this, his only option would be to agree with the June 2nd plan, look at all possible options and then have a vote. Mayor Koho thought the Council receiving the additional information in their packets had poisoned the record, although no discussion took place. He asked legal counsel for suggestions in putting the matter right.

Mr. Johnson had suggested to the Co-City Managers the safest option would be to re-notice and ask for submission of material. He said, at a minimum, he believed the items in the present packet would have to be included in the record. Since the main opponent had agreed with a waiver on the procedural issue, he did not believe the record was poisoned. He did note the information in the packets would have to be included in the record for the waiver to stand.

Councilor Whalen asked, if the information in the Council packet were made part of the written record, could action be taken in the present meeting. Mr. Johnson said action could be taken.

Continuing, Councilor Whalen asked if a date for further written testimony is set, what would be the timeline. Mr. Johnson said action could be taken at the next meeting.

Returning to the Site Specific Review - Seismic Hazard Study, Councilor Meier asked if testimony could be taken in the present meeting. Mr. Johnson said although the safer course would be to extend the deadline for written testimony, the main opponent had agreed to a waiver which would include the information in tonight's packet but allow for closing the record. Mayor Koho believed the next meetings have full agendas and action would realistically take place later than June 2nd.

<u>Councilor Whalen moved to acknowledge the new documentation, making it part of the record and to move forward tonight.</u>

<u>The motion died for lack of a second.</u>

<u>Councilor McGee moved to leave the record open for written testimony on new issues until the next meeting on May 29, 1997. Mayor Koho seconded the motion.</u>

<u>The motion failed with the following votes:</u>

<u>AYES:</u> Keller, McGee, and Whalen (3)
<u>NAYS:</u> Beach, Koho, Meier (3)
<u>ABSTENTIONS:</u> None (0)
<u>ABSENT:</u> Miller (1)

<u>Councilor Meier moved to leave the record open for written testimony on new issues until the June 2, 1997 meeting. Council President Keller seconded the motion.</u>

Councilor McGee noted the Council had a very busy schedule on May 29 and June 2. Mr. Johnson pointed out May 29 would be the packet deadline for the June 2 meeting. He asked Councilor Meier for clarification of her motion. She said her preference would be for including written or oral testimony of new information. Mr. Johnson pointed out that a practical problem arises if written statements are received at the June 2nd meeting and must be reviewed before action. Councilor McGee believed the Council wished to have the information in the packet.

<u>Councilor McGee requested a friendly amendment to the motion to add the material would be written testimony only and shall be received by noon on Thursday, May 29, 1997 in order to be placed in the Council packet for a decision at the June 2, 1997 meeting</u>

Both Councilor Meier and Council President Keller accepted the amendment.

The amended motion passed with the following votes:

AYES: Beach, Keller, McGee, Meier, and Whalen (5)
NAYS: Koho (1)
ABSTENTIONS: None (0)
ABSENT: Miller (1)

Councilor Beach began to pose an informational question and Mr. Johnson suggested no further discussion should take place until the June 2nd meeting. After saying the question did not apply to the tank, Councilor Beach began to ask about a water shortage. Councilor McGee called a point of order and stated the question should be answered in the written documents.

ORDINANCE - COMP PLAN AMENDMENT/ZONE CHANGE/ SUBDIVISION CASE NO. 96-05

Mr. Morgan asked if the Council wished to postpone the item until after the Executive Session.

The Council agreed by consensus to discuss this matter upon conclusion of the Executive Session.

(Upon conclusion of the Executive Session, the Council agreed by consensus to hold this matter over for discussion until June 2, 1997.)

ORDER - VARIANCE - CASE NO. 97-01 (Roemer, Culps and Gilleland)

Mr. Morgan gave the staff report, stating this case related to a variance for the minimum lot size on a Mixed Use zoned property. Staff recommended approval of the variance.

Mayor Koho moved adoption of an Order in the Matter of the Application by Rick and Sarah Roemer for a Variance to Allow Commercial Development on Less than One Acre in the Mixed Use (MU) Zone. Council President Keller seconded the Motion.

Councilor Meier remembered the Council as suggesting an exit on Chemawa not be approved. Mr. Morgan said that item was debated previously. The City Engineer worked with the applicant to allow the driveway to exit onto Chemawa but still be as far as possible from 7th Street. Mr. Morgan said if the building remained in the same location on the site, there would be no practical way to exit traffic onto 7th Street.

Councilor Meier asked the distances from the driveway to 7th and from the driveway to the adjacent lot's exit. Mr. Morgan replied that the driveway was approximately 45 feet from the corner of 7th Street and about 10 feet from the lot's driveway. He noted both exits are low traffic generators. Councilor Meier voiced her dissatisfaction with the solution.

The motion passed with the following votes:

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

MOTION - APPROVING THE COPS PROBLEM SOLVING PARTNERSHIP PROGRAM

Lieutenant Bowe introduced Jodi Sherwood who gave information on a grant recently awarded to the Keizer Police Department.

Ms. Sherwood stated the Keizer Police Department applied last August for a grant through the US Department of Justice under their COPS Problem Solving Program. Keizer was one of three Oregon Police Departments selected to receive funds. Overall 900 applications were received with only 400 to receive funding through this process. The amount to be received by Keizer, $58,033.00, was the total amount requested. Ms. Sherwood indicated Larceny will be the focus of the program. At present 44% of the larceny takes place in District 1. The grant will cover payroll, benefits, office materials and a required 5% for community surveys.

Councilor Beach commended Ms. Sherwood on the work of the Department. He asked if larceny included both businesses and residences. Ms. Sherwood stated that was the case and clarified that the remaining larceny cases took place in District 2 and 3.

Responding to a question from Councilor McGee Ms. Sherwood indicated if other needs resulted during this time period, they be addressed. Councilor McGee also mentioned his pleasure at the inclusion of a time limit in the job description.

Council President Keller moved to approve the acceptance of the COPS Problem Solving Partnership Grant. Mayor Koho seconded the Motion.

The motion passed with the following votes:

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

CONSENT CALENDAR

The consent calendar consisted of the following:

a. Approval of March 17, 1997 Regular Session Minutes

b. Approval of April 7, 1997 Regular Session Minutes

c. Approval of April 21, 1997 Regular Session Minutes

<u>Council President Keller moved for approval of the items on the consent calendar. Mayor Koho seconded the Motion.</u>

<u>The motion passed with the following votes:</u>

<u>AYES:</u> Beach, Keller, Koho, McGee, Meier and Whalen (6)
<u>NAYS:</u> None (0)
<u>ABSTENTIONS:</u> None (0)
<u>ABSENT:</u> Miller (1)

WRITTEN COMMUNICATION

Mayor Koho noted the City also received a letter from US Senator Gordon Smith regarding Keizer's grant approval and offering any needed assistance.

AGENDA INPUT

Councilor Keller asked if the Labish Ditch Public Hearing will include information on the Parkersville Dam. Mr. Mull stated that will be included. In answer to a related question, he said nothing was planned regarding briefing on the Claggett Creek area or the Keizer Dike but he could include an update at the Hearing.

Councilor Meier questioned how the wetland inventory project will affect some needed widening on the Labish Ditch. Mr. Mull stated all those issues will be addressed by the State since a permit is now required to do any work.

Mayor Koho added Tuesday, May 27 at 1:00 p.m. as a Special Session for the Council.

Mr. Morgan said the Budget Committee meetings need to be scheduled and suggested the work could be done in two meetings with the Public Hearing planned for June 23.

Mayor Koho thought allocating three hours the first night and two hours the second meeting might be adequate. The meetings were set for **Tuesday, May 27 at 7:00 p.m. and Wednesday, May 28 at 4:00 p.m**. The Management Committee will meet at 3:00 p.m. on Wednesday.

The meeting was recessed at 8:53 for Executive Session.

EXECUTIVE SESSION

The Council moved into Executive Session pursuant to ORS 192.660(1)(h) - Possible Litigation at 9:06 p.m.

Councilor Whalen declared he was a party to the application and excused himself. The Council discusses the Willow Lake Treatment Plant in the session.

Executive Session was adjourned at 9:47 p.m.

RETURN TO OPEN SESSION

The Council returned to Regular session at 9:47 p.m.

Mayor Koho announced the Willow Lake treatment plan issue would be held over until the June 2, 1997 meeting. There was no other action necessary as a result of the Executive Session.

ADJOURNMENT

The meeting was adjourned at 9:48 p.m.

Tracy L. Davis

Tracy L. Davis
City Recorder

APPROVED:

Dennis Koho

Dennis Koho-Mayor

COUNCIL MEMBERS:

Garry Whalen

Councilor #1 - Garry Whalen

Carl E. Beach

Councilor #4 - Carl Beach

Dawn Meier

Councilor #2 - Dawn Meier

(absent)

Councilor #5 - Al Miller

Jerry McGee

Councilor #6 - Jerry McGee

Council President - Jim Keller

Minutes approved:

August 4, 1997