



CITY OF
PORTLAND, OREGON

**OFFICIAL
MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 5TH DAY OF FEBRUARY, 1997 AT 9:30 A.M.

THOSE PRESENT WERE: Mayor Katz, Presiding; Commissioners Francesconi, Hales and Sten, 4.

OFFICERS IN ATTENDANCE: Cay Kershner, Clerk of the Council, Ben Walters, Deputy City Attorney, and Officer Chuck Bolliger, Sergeant at Arms.

On a Y-4 roll call, the Consent Agenda was adopted as follows:

CONSENT AGENDA - NO DISCUSSION

- 137** Accept bid of Brant Construction, Inc. for Kenilworth Park improvements for \$134,000 (Purchasing Report - Bid 90)

Disposition: Accepted; prepare contract.

- 138** Accept bid of Peek Traffic-Signal Control Co., Inc. and McCain Traffic Supply Co. for signal control equipment for an estimated annual total of \$227,503 (Purchasing Report - Bid 104-A)

Disposition: Accepted; prepare contract.

Mayor Vera Katz

- 139** Confirm appointment of Terrill Collier and Joseph Poracsky to the Urban Forestry Commission (Report)

Disposition: Confirmed.

- 140** Authorize intervention in lawsuit, Simms v Besaw's Cafe, in which validity of private right of action under City of Portland Civil Rights Code Section 23.01 may be challenged (Resolution)

Disposition: Resolution No. 35586. (Y-4)

- *141** Authorize bonds for Homeless Shelter (Ordinance)

Disposition: Ordinance No. 170884. (Y-4)

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Commissioner Jim Francesconi

142 Accept remodeling of Kerby Garage with 2KG Contractors, Inc. as substantially complete, release retainage except for \$17,500 and make payment (Report; Contract No. 30173)

Disposition: Accepted.

143 Accept contract with Gerding Investment Company as developer for the construction of the new East Portland Community Policing Center as substantially complete and authorize final payment and release of retainage (Report; Contract No. 30354)

Disposition: Accepted.

***144** Authorize the Commissioner of Public Utilities to sign an Earth Smart Commercial Agreement for City Hall (Ordinance)

Disposition: Ordinance No. 170885. (Y-4)

***145** Increase contract with 2KG Contractors, Inc. for remodel of Kerby Garage by Change Order No. 5 for \$16,483 (Ordinance; amend Contract No. 30173)

Disposition: Ordinance No. 170886. (Y-4)

***146** Accept the gift of a "Peacekeeper" armored vehicle from the State of Oregon for use in responding to emergency situations (Ordinance)

Disposition: Ordinance No. 170887. (Y-4)

***147** Accept a grant from the Oregon State Marine Board in the amount of \$581,000 for repairs to Willamette Park boating dock and parking lot (Ordinance)

Disposition: Ordinance No. 170888. (Y-4)

***148** Contract with F.E. Ward Constructors for landslide repair at Hillside Community Center and provide for payment without advertising for bids (Ordinance)

Disposition: Ordinance No. 170889. (Y-4)

Commissioner Erik Sten

149 Contract with the U.S. Geological Survey for streamflow and water quality monitoring without advertising for bids (Ordinance)

Disposition: Passed to Second Reading February 12, 1997 at 9:30 a.m.

***150** Authorize a contract and provide payment for water demand monitoring equipment, software and installation services (Ordinance)

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Disposition: Ordinance No. 170890. (Y-4)

- *151 Authorize an Intergovernmental Agreement with Metro for use of Metro's Geographic Information System (GIS) research services and products (Ordinance)

Disposition: Ordinance No. 170891. (Y-4)

- *152 Authorize a contract and provide for payment for the Tanner Creek stream diversion, Phase 1, Unit 2 (Ordinance; Project 5913)

Disposition: Ordinance No. 170892. (Y-4)

- *153 Authorize a contract and provide for payment for the SW Washington Street, 11th to 13th Avenues sewer reconstruction (Ordinance; Project 5917)

Disposition: Ordinance No. 170893. (Y-4)

- 154 Authorize the appropriation of additional funds for fiscal year 1996/97 for technical services provided by Suzanne Crane Engineering, Inc., dba Crane & Merseth (Ordinance; amend Contract No. 29884)

Disposition: Passed to Second Reading February 12, 1997 at 9:30 a.m.

- 155 Consent to transfer of Progressive Refuse Service, Inc. solid waste and recycling franchise to Cloudburst Recycling, Inc. (Second Reading Agenda 131)

Disposition: Ordinance No. 170894. (Y-4)

City Auditor Barbara Clark

- 156 Transmit Certificate of Completion for the NW 11th Avenue/NW Hoyt Street Local Improvement District (Report; C-9894)

Disposition: Accepted.

REGULAR AGENDA

- 136 **TIME CERTAIN: 9:30 AM** - Further amend City Code Chapter 14.100 to add a drug-free zone (Ordinance introduced by Mayor Katz; amend Title 14)

Discussion: Mayor Katz said there is no question but that some parts of the City have open air drug markets at all times of the day which negatively impact the neighborhoods and the transit mall. In 1992, the City passed its original drug-free zone ordinance and the notion of exclusionary zones has since been tested in the courts, confirming the power of government to limit certain activities in public places if there is a legitimate interest on the part of government, if it acts in a judicial and limited manner and if it provides adequate procedures, such as appeals to hearings officers and requests for variances. The drug-free and prostitution-free zones, as well as the drug house ordinances, have done all of that and so far there has been no real court challenge

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or, if there has, the City has won. The ordinance being considered today concerns the expansion of two drug-free zones and the extension, for the first time, of the zones into residential areas. This ordinance has been limited so that no one is excluded from their homes and some potential exclusions and variances will be permitted as well as appeals to a hearings officer. She feels comfortable about moving this forward as she believes a clear balance has been struck between the public good and people's civil rights. If this does not work, she is committed to bringing it back for review.

Ed May, Police Commander, Central Precinct, said the drug-free zone ordinance has been one of the City's most effective tools in trying to deal with the drug epidemic going on downtown. The street drug-dealing problem on the Westside has impacted vacancy rates, jobs and livability. Businesses are concerned about the safety of their employees coming and going to work. He said he recently observed about 200 people he believes to be drug dealers from NW 6th and Broadway to the Burnside bridge, doing an estimated \$300,000 a day. The money to pay for drugs comes mostly from Part I crimes, impacting crime rates. The City's response to this problem has been Operation Northstar, which started September 15, 1996, and has resulted in 902 arrests during the missions conducted by plainclothes officers. (This does not represent day-to-day arrests by uniformed officers). Arrests are only one tool and the Police have found the drug-free zone ordinance to be another and most effective one, directly related to neighborhood livability. He supports this ordinance because he believes how downtown goes, the rest of the City goes.

Alan Orr, Police Commander, Northeast Precinct, said when Police looked at the number of arrests for possession and distribution of controlled substances, they found a significantly higher number in two areas, the Central Precinct/Central Eastside Industrial area and in certain areas of Northeast. He said the latter is an area with a significantly higher number of drug arrests than other parts of the City. Therefore, they are requesting expansion to the residential areas. He said he has heard many citizens at meetings of Hope and Hardwork testify as to the serious impact of drug dealing on neighborhood livability. Seven neighborhood associations support this as well as four other community organizations. He said only one person at any of the neighborhood meetings voted against the expansion and the only criticism Police heard was that the zone could not be expanded even more. However, to meet constitutional tests, the City must demonstrate that a higher number of drug arrests occur in these geographic areas than elsewhere in the City.

Police Sergeant Greg Hendricks, assigned to the Old Town/Chinatown neighborhood, said the proposed ordinance does three things: 1) expands the existing Westside zone; 2) establishes two drug-free zones in inner North and Northeast, primarily residential areas; and 3) excludes persons convicted of offenses for which they are arrested for a one-year period. He explained the procedures involved. He said currently if an officer observes an individual committing a drug offense he is issued a drug-free exclusion form, which explains that the exclusion period will be for 90 days, from all drug-free zones, and details the appeal procedures. If an individual files an appeal within six days following arrest, an appeals hearing is set before the Hearings Officer and the exclusion is held in abeyance until a decision is issued. A variance program allows access to excluded individuals who live, work or are clients of social service agencies within the drug-free zone.

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Commissioner Francesconi asked if drug arrests are increasing.

Sergeant Hendricks said they are going up because of increased enforcement efforts in the last four months. Police believe a sustained effort is needed over two years to see how successful these zones can be.

Commissioner Hales asked about displacement of drug dealing into other areas.

Commander Orr said there will be some displacement and Police are asking citizen groups to contact them if they see increased drug dealing in their neighborhoods. He said the Police also recognize that the zones will change over time and noted the successful efforts to get drug dealers out of Washington Park. The area just north of the Beech Drug Free Zone will be closely monitored and Police may return to Council if displacement problems develop there. While both Alberta and Irving Parks border the zones, the number of drug arrests there do not justify their inclusion at this time.

Mayor Katz asked about the theory of displacement.

Commander May said dealing on the mall relates to Fareless Square and easy access from Hillsboro and Gresham downtown to buy drugs. The further away from the mall, the harder it is to do business because of natural barriers. Regarding displacement, he said of the 904 arrests made during the Northstar operation, only five individuals have been rearrested for dealing or possession in the zone. Of those arrested, 47 percent were illegal aliens who have had holds placed on them.

Commander Orr said in certain Northeast areas, such as the Beech Street corridor, they have had drug dealers working the same corner for years. When they are displaced, their customers will not know where they've gone. He said while there will be some displacement, they believe a lot of dealers will go away.

Commander May noted that those cited are excluded from all the zones.

Commissioner Sten said he supports the concept and the need but questions the exclusion of those arrested who have not had any conviction for anything. He said he is very nervous about that and asked if most of the people arrested in these areas have history of drug violations.

Commander May said often the people arrested on the distributing side do not although the buyers do.

Commander Orr said what they are really trying to deal with is behavior, to stop people from selling drugs on the streets and offering drive-up drug service. The 90-day civil exclusion period coincides pretty much with the time between arrest and going to court. Otherwise, those cited can continue dealing drugs for the next 90 days without sanctions.

Sergeant Hendricks compared it to having one's license automatically suspended when cited for DUII.

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Commissioner Sten said he has no problem with that if a person has a record or shows a pattern of convictions. However, he is concerned about excluding an innocent person who has no prior record.

Captain Hendricks said the exclusion does not kick in until the appeal process is completed. The Police must convince the Hearings Officer within 24 hours that there was probable cause to make the arrest. If the District Attorney finds this was a bad arrest there is no exclusion.

Commissioner Sten said the burden of proving innocence, however, has been placed on the person arrested.

David Woboril, Deputy City Attorney, said when an exclusion is appealed, the burden is on the Police Bureau to establish to the Code Hearings Officer that some of the listed behaviors occurred in the zone. There may be a parallel criminal case going on at the same time concerning the arrest and in that case, the burden is on the State to prove that a crime was committed. If an excluded person violates the exclusion and is arrested for trespassing, the burden again would be on the State to prove beyond reasonable doubt that the City had the authority to issue the exclusion and that the person violated it.

Commissioner Sten said it is not a question of legal right. However, since mostly the Police are dealing with people who have done this time and time again, he would prefer to have a policy which gives a little more protection to someone who has no record and no convictions. He said he lived in the heart of the proposed Northeast zone and had a lot of trouble with entrenched drug dealers but they knew who these people were and he has no problem excluding them. But innocent people should not lose their protection to get at this problem.

Commander Orr said what this does is tell a person he cannot be in the area without a purpose. Most of those arrested do not live there so they only lose the freedom to drive in and buy drugs. They can still legitimately live and work there.

Commissioner Sten asked if requiring proof in terms of past convictions for the first arrest only would substantially reduce the ordinance's effectiveness.

Commander May said approximately 40 percent of those arrested are illegal aliens with no prior arrest records.

Commissioner Francesconi asked about the appeals process.

Captain Hendricks said the Hearings Officer found for a citizen in one case in two years. Less than 10 appeals have been filed and about half were withdrawn before the hearing.

Jim Hayden, Multnomah County Deputy District Attorney in the Northeast precinct, said they ran the arrest numbers for Alberta/Beech at the request of Hope and Hard Work and found the numbers were substantially higher than any others in the City. The zone boundary was made as narrow as possible and he reviewed the ordinance with the City Attorney to ensure that its provisions were constitutional. He noted the creation of

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an automatic variance for residents, a seven day waiting period and the right to a variance. Mr. Hayden stressed the strong neighborhood support and said this is a community policing tool that deals with this problem other than through incarceration.

Richard Brown, Hope and Hard Work, said if exclusion is limited to those with arrest records, drug dealers will send out younger and younger people because they do not have records. He said citizens need relief, not just from the drug dealing itself, but from the resulting violence. He said people in Northeast are fed up with the drug dealing and support the Police on this despite their poor past relationship.

Lisa Horne, Downtown Community Association, supported expansion of the Westside zone but said the Association would like to have more of the Parks Blocks included. She said the 904 drug arrests downtown last year was outrageous and unacceptable and residents feel uncomfortable walking through the parks or waiting for buses.

Mr. Brown said a few years ago the community was so outraged it called for the National Guard to come in and help.

Commissioner Sten asked if there is some way to deal with the problem without violating the civil rights of potentially innocent people. He said the response he got from the people he called who live in Northeast was mixed.

Mr. Brown said 100 percent of the people do not want any exceptions. He said they do not want youngsters set up for drug dealing because they will not be caught the first time.

Commissioner Sten asked how a person can be protected from false arrest.

Mr. Brown said if an arrest is made in error, he has confidence in the Police to do the right thing.

Commissioner Sten said he would vote for this if the ability to exclude an person without prior convictions is eliminated.

Commissioner Francesconi noted the automatic variances granted to those who work or live or use social services in the area. He asked Mr. Brown if he had any concerns that this would be used to target minorities.

Mr. Brown said he wants drug dealing out of the Northeast neighborhoods.

Mike Hashem, Old Town/China Town Neighborhood Association, supported expansion of the Westside zone. He said the ordinance has been nothing but good for both businesses and residents of Old Town.

Tom Sjostrom, Association for Portland Progress, supported the expansion.

Dan Handelman, Portland Cop Watch, questioned why no one representing the public defenders or legal aid offices was testifying today. He said the City did not fall apart during the five months when the drug ordinances were not in effect and he does not see

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the need now. Displacement is a concern and it is also clear that when police concentrate in certain areas there will be more arrests. Ultimately, what is the point of these exclusions? Is the City trying to push people out instead of giving them another opportunity so they are not dealing or doing drugs? All this does is push people around, especially if they are arrested wrongfully.

Lilli Mandel, 1511 SW Park, said they are trying to fight a drug epidemic on the West side and have to exclude the drug dealers to prevent a further spread.

Irwin Mandel, 1511 SW Park, said the issue is how well the Police will be able to enforce the ordinance, particularly when the City is considering possible Police Bureau budget cuts that would eliminate the horse patrol, the single most effective unit in downtown.

Brynna Sibilla, 4236 N. Albina, described the drug dealing in her neighborhood that has left residents afraid and angry and said the drug-free zone is the best tool available.

Terry Miller, National Association for the Reform of Marijuana Laws, opposed the ordinance and said the City cannot arrest its way out of the drug problem. He also faulted the ordinance for its failure to include a provision for the controlled use of marijuana.

Michael Byerley, Sabin Community Association, said they support this although, as a community on the border of the exclusionary zones, they are concerned about displacement.

Cheryl Roberts, 4520 NE 14th Place, said her community would like the zone extended to Martin Luther King, Jr. Blvd. because they fear displacement will make their area even worse and that drug dealers will be pushed into King School. She said 14th Place, 15th and Prescott, and 14th and Going should also be included in the drug-free zone.

Gary and Anna Barrett, Alternative Health Center, 3926 NE 11th, 97211, said those who use marijuana for health reasons fear arrest or exclusion. They said many of these users have to go to drug dealers to get it.

Rev. Jeanne Walker, Executive Director, Our Garden, said her community is under siege, citing the dangerous corner at Garfield and Failing as a threat to the children in her program.

John Dougal, Links Program, Oregon Food Bank and Our Garden Board member, 2540 NE Riverside Way, 97211, supported this ordinance as a way to remove some of the intimidation and climate of fear that currently exist in this area.

Randy Joyce, Operations Manager, Oregon Food Bank, said his employees are fearful and unable to go off the main arterials.

John Van Gelderen, 3807 NE Grand, 97212, said he sees drug deals occurring every three minutes at Grand and Failing and feels it is unsafe to go into his own home. He said when children cannot play outside that is a civil rights issue too and the area will

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not come back unless the drug dealing can be eliminated.

Mayor Katz asked about extending the zone to Martin Luther King, Jr. Blvd., and to 14th Place.

Charles Moose, Chief of Police, said they prefer to keep the zones narrow in order to meet all the legal guidelines but will take note of this request.

Commissioner Hales moved to remove the emergency clause on the ordinance. Commissioner Francesconi seconded and the motion carried (Y-4).

Commissioner Hales noted that the marijuana issue was not dealt with here. He said these exclusion zones are a livability issue. Neighborhoods must be safe and the City cannot give up on certain parts when people are still willing to try to make them better. He said individual rights are important but community rights are at stake here too.

Commissioner Sten, while voting yes to remove the emergency clause, said it is a false choice here between doing something about drug dealing or doing nothing. He said he believes the ordinance would still be as effective if persons without prior convictions are not given exclusions. He said the way this is now written, if a police officer arrests you once you are then prevented from talking to a neighbor outside his house.

Mayor Katz said this ordinance is needed and, with the right to appeal to the Hearings Officer, has adequate civil rights safeguards. She noted that a lot of illegal aliens have no record here and would escape exclusion if Commissioner Sten's position were adopted. She said she watches drug deals on the transit mall and is appalled because people are beginning to accept this as normal behavior and part of the quality of life in the City. She said this kind of deterioration of the downtown and neighborhoods cannot be allowed. The medical marijuana issues will be dealt with by the legislature. She said the exclusionary ordinances have been written tightly in order to meet constitutionality tests and she is convinced the checks and balances within them will ensure that civil rights are not violated. Mayor Katz noted that a number of neighborhoods have testified in support of further expansion of the zones but, because of the need to have them stand up legally, they have been drawn as narrowly as possible with the clear understanding that other streets not suffer as a result of displacement. This is also one tool that does not impact the criminal justice system by putting more people in jail.

Commissioner Francesconi said Council Commissioner Sten's question is fundamental but he sees this as only one tool, along with education and more support for families. He said this has been narrowly constructed with safeguards, such as automatic variances and a limit of 90 days on the exclusion unless there is a conviction. He said this is an important balancing between the Bill of Rights and the needs of the community. He said he is voting yes because of the epidemic of drugs, the economic interest in keeping downtown and Old Town vital and his belief that the way the neighborhoods go, so goes the downtown. He said he wants to see the exclusion numbers broken down by age, race and gender.

Disposition: Passed to Second Reading as amended February 12, 1997 at 9:30 a.m.

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Mayor Vera Katz

- *157** Agreement with Classical Chinese Garden Society and Classical Chinese Garden Trust for cooperation in the development and construction of a Classical Chinese Garden in the City of Portland (Ordinance)

Discussion: Mayor Katz restated her commitment to going forward with this project.

Andrew Haruyama, Director, Office of International Relations, said the newly formed Classical Chinese Garden Trust will be in charge of fundraising and will be chaired by Bob Naito. This agreement spells out the roles of the three major organizations involved.

Bob Naito, 5 NW Naito Parkway, said the Trust will raise the money and the Garden Society will operate it.

Bing Sheldon, 123 NW 2nd, Garden Society Board, said separating the functions is a good idea and he is convinced the money can be raised to get the garden built.

Commissioner Francesconi asked if the Chinese business community is on board.

Mr. Sheldon said about 99 percent of the community supports this, although a very small, vocal minority still opposes as a matter of principle.

Commissioner Hales said this was an elegant solution to an impasse.

Mayor Katz said this is an opportunity for an urban green space in Old Town/China Town. She said when the Royal Palm (a treatment facility for those with mental disabilities) opens she believes those opposed will realize it will not have a negative impact on the community.

Disposition: Ordinance No. 170895. (Y-4)

Commissioner Charlie Hales

- 158** Consider vacating a portion of NE 70th Avenue between NE Roselawn and NE Emerson Streets at the request of Blaine Frederickson (Hearing; Report; C-9913)

Disposition: Approved; City Engineer prepare ordinance. (Y-4)

- 159** Consider vacating a portion of SE Tenino Street east of SE McLoughlin Boulevard at the request of Pacific/Hoe Saw & Knife Company (Hearing; Report; C-9919)

Disposition: Approved; City Engineer prepare ordinance. (Y-4)

Commissioner Gretchen Miller Kafoury

- *160** Contract with the Portland Development Commission for \$12,045,230 for housing and economic development activities and provide for payment (Ordinance)

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Discussion: Howard Cutler, Housing and Community Development, said this will fund between 900 and 1,000 rental units.

Commissioner Francesconi asked how much is spent on Outer Southeast.

Mr. Cutler said \$340,000 is allocated for economic development in Outer Southeast.

Commissioner Francesconi said he would like to know how the block grants are broken down by geographic area and also the breakout between funds for economic development and for housing.

Mayor Katz said most of the money is going to provide affordable, low-income housing and a relatively small piece is going to targeted neighborhoods. She said all allocation questions will be addressed during the budget process.

Disposition: Ordinance No. 170896. (Y-4)

At 11:55 a.m., Council recessed.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 5TH DAY OF FEBRUARY, 1997 AT 2:00 P.M.

THOSE PRESENT WERE: Mayor Katz, Presiding; Commissioners Francesconi, Hales and Sten, 4.

OFFICERS IN ATTENDANCE: Cay Kershner, Clerk of the Council; Ruth Spetter, Senior Deputy City Attorney; and Officer Chuck Bolliger, Sergeant at Arms.

Commissioner Charlie Hales

- 162** Tentatively grant appeal of Mike and Ardele Obrist, applicant, against Hearings Officer's decision of denial and approve application with conditions for a 25-lot major land division and planned unit development with environmental review located south of SE Foster Road and west of SE Barbara Welch Road (Findings; 95-00661 SU PU EN AD)

Disposition: Continued to February 12, 1997 at 2:00 p.m.

- 161** **TIME CERTAIN: 2:00 PM** - Appeal of Kelly and Barbara Bruun, applicant, against condition C.1 imposed by the Hearings Officer in approving application for a zone change to environmental zone boundaries located north of SW Humphrey Boulevard near SW Humphrey Court, including the abutting Highway 26 right-of-way (Hearing; 95-00427 ZC)

Discussion: Ruth Spetter, Senior Deputy City Attorney, explained the procedures to be followed at this on-the-record hearing.

Duncan Brown, Planning Bureau, said this is an appeal to modify the Hearings Officer's decision regarding the environmental zone boundaries on a 12-acre parcel known as Humphrey Heights and the abutting land within the Canyon Road right-of-way. Appellant seeks modification of a condition requiring the property owner to plat a subdivision and PUD that was the basis for the zone change. Applicant applied for a Planned Unit Development (PUD) in 1989 (CU 121-S47-89) for 38 homes towards the uphill southern portion of the site, accessed by private roads that crossed the drainage way. Environmental zoning was placed on the site in 1992 under the Southwest Hills Resource Protection plan and prior to preliminary approval of the PUD. For this reason, the City could only look at generic conflicting uses under the State Goal 5 Administrative Rule and not at specific conflicting uses, such as the PUD plan. The environmental zone was placed on the site after this generic analysis concluded that development could be clustered along Humphrey Blvd., using attached housing if necessary. Valuable resources include a drainage way that runs diagonally across the southwest corner to the center of the site and a private roadway that would extend to a forested area within the approved PUD. After preliminary approval of the PUD, the property owner requested an amendment to the environmental zone to reflect the now-approved development pattern. That amendment request is what is before Council today. The Planning Bureau also included in the environmental zone abutting land immediately north of the Humphrey Heights site which is in the Canyon Road right-of-

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way and owned by the Oregon Department of Transportation. Mr. Brown listed the applicable approval criteria and showed slides of the site. He said appellant requests modification of the Hearings Officer condition to not only allow the approved PUD but also any other impacts with less impact on the environmental resources. However, there is no explanation of what "less impact" means. The Bureau of Planning is concerned that the proposed language is too vague, allowing proposals that could extend further into the protected resource than the initial PUD which formed the basis for the original zone change. There is also concern that lack of a time limit could create the same situation as has occurred now, where a project is grandfathered in despite future land-use regulations that may place more or fewer restrictions on the site. If Council wishes to modify the condition to allow flexibility for a new PUD or subdivision, staff recommends that it include a restriction that any area of disturbance cannot extend beyond the limits of the approved PUD and that a two-year time limit be imposed in which to obtain preliminary City land-use approval. He noted a staff memo dated February 5, 1997 spelling that out.

Peter Finley Fry, 722 SW 2nd, #330, 97204, representing Kelly and Barbara Bruun, said they believe only what was appealed, in this case a single condition of the Hearings Officer's decision, can be deliberated upon in this on-the-record hearing today.

Ms. Spetter said the appeal itself indicates the scope but on-the-record is a different issue and means no that new evidence can come in to support the application.

Commissioner Hales said the on-the-record issue affects what evidence Council can consider, not what decision is being considered.

Commissioner Francesconi asked if the scope is broader than just Condition C-1.

Ms. Spetter said the appeal ought to be directed to the matter raised by the person who appealed. She said no one else appealed and the period to do so has closed.

Mr. Fry said he got involved 1-1/2 years ago when Mr. Bruun asked him to facilitate the second final plat approval of the subdivision. He felt his client should look at this property in a different way and Mr. Bruun agreed to do so. He said he sees this as an opportunity to do something a little different, rather than being bound by the past.

Mayor Katz asked if he meant a new design.

Mr. Fry said yes. He said they offered this property to the City, Metro and private, non-profit conservation organizations but no one was interested. He said they will use new methods to develop the property in a more environmentally sensitive manner. The applicant argues that the Environmental Zone placed on the property anticipates a single lot and ignores the Comprehensive Plan. The applicant proved the property had economic value and because of that the Planning Commission initiated this, not the Bruuns, and a supplemental ESEE was done. Essentially the Bruuns are arguing that they should be able to bring forward another subdivision proposal that has less environmental impact than what was approved and is part of the Hearings Officer's decision. They discussed with staff a variety of ways to define "less intensive" and are willing to discuss this with Council now. While they support the staff proposal, they

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fear the two-year deadline will preclude the collaborative process they have been begun with the neighborhood.

Michael McCullough, partner with Waterleaf Architecture and Interiors, 620 SW Morrison, #125, 97204, said they were asked to develop an alternative scheme for the site. They believe there is a better way to meet City infill goals with a project that has less environmental impact. They know there are problems with steep slopes, drainage and access issues but believe they can be addressed.

Kelly Bruun, applicant/appellant, 12511 SE Callahan, said he has been working on this project for eight years and supports the redesign but believes the two-year time line will force him to either sell the land or develop too hastily. He needs time to come up with a responsible design that addresses the environmental issues and does not understand why there needs to be a time limit.

John Bartels, 4500 SW Humphrey Court, 97221, representing the Southwest Hills Neighborhood Association, said he has opposed this project for six years. He asked if the staff was recommending that the applicant be allowed to bring forth a new plan and lift the environmental protection zone.

Mr. Brown said the Planning Bureau supports the Hearings Officer's decision but if Council wishes to modify the condition of approval, they recommend that it be slightly modified from what applicant proposes.

Mr. Bartels said this will add more time to the eight years this has already taken. He said the project is being grandfathered in even though it was not approved at the time the environmental zone was applied as part of the Southwest Hills Resource Protection Plan. The new plan should go through regular environmental review and not be tacked on to the end of this process. The question has always been whether the environmental zone could be applied when the applicant is already in the process of getting approval. He said the applicant cannot not now come up with a new plan after the neighborhood spent six years refining this one and making a lot of concessions along the way. He noted that the current plan has been through this Council and two LUBA reviews and contended that with preliminary approval the developer has been given a blank check. He noted that one of Mr. Bruun's consultants is suing him for work on the previous plan and there is a lien on the property. Mr. Bartels said he asked Mr. Bruun at the very first meeting if he had enough money to build this very complicated project. If it is now too costly to build, that is a business mistake, not the neighborhood's problem. This thing should not go on as it will be a clear run around the Southwest Natural Protection Plan. He said this is a very complicated and costly project on land with serious environmental problems as demonstrated by recent landslides. He also objected to the use of ex parte contact rules to wall off decision makers from the public. He said for six years he tried to bring up the Planning Bureau's grievous mistake in assuming the natural drainage would not be plugged up when in fact they were planning to fill the creek. Commissioner Hales said ex parte is an outcome of the Fasano case and is used so that Council makes its land-use decisions in this room, not somewhere else. He asked Mr. Bartels where he thought the environmental protection and conservation zoning should be placed and his opinion of the two-year time limit.

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Mr. Bartels said this is not the place to discuss any of that as it all has to come back as a new plan and it would not be legal to change it. A mistake was made in placing the Environmental Protection zone and it would never fit with the Bureau of Environmental Services' new sense of mission in protecting the drainages. He said Mr. Bruun could submit a new plan and, if it works, he will have no problem. If not, he should give the property to the Friends of Marquam Trail.

Esther O'Grady, 4520 SW Humphrey Ct., 97221, said the neighborhood is very concerned about any activity that may destabilize the hillside and the drainage. They do not see how the drainage can successfully be filled in and are also concerned about noise, which has doubled since so many deciduous trees were downed. She said they are not confident in phrases like "less environmental impact" or "collaborative efforts" as many times they have not been able to figure out what is going on. She said she supports the existing zoning, prior to the Hearings Officer's decision, with the protective piece, including the big drainage. She asked Mr. Brown if that would be left a free-flowing creek.

Mr. Brown said the Hearings Officer's decision did not anticipate preservation of that free-flowing creek and would allow the filling.

Commissioner Sten said the Hearings Officer has approved a change in the zoning subject to certain conditions and now the developer has asked to change one of these conditions. Her decision says the zone change will happen as soon as the applicant meets the conditions of the existing approval for a subdivision. That is what is before Council today. What the applicant is asking for is the ability to do something more environmentally sensitive than what has already been approved. Unfortunately for the neighborhood, the zone change has been approved if the applicant can get subdivision approval.

Ms. O'Grady said the neighborhood did not understand this and feels they were not part of a collaborative process and did not receive proper notification. She said SW Humphrey is beginning to fall off the hill and this seemed a valid reason to look at things again.

Commissioner Hales noted that several neighbors testified at the Hearings Officer's level. Council is now trying to decide whether to uphold, overturn or modify one of the conditions.

Ms. O'Grady said they are concerned with what it means when the builder says he will do something "more environmentally sensitive."

Commissioner Hales said the Planning Bureau has recommended a modification changing that language to read "where the area of disturbance will not extend beyond the limits approved in that previous PUD." The option for Council is to either accept the Hearings Officer's decision to "do no more harm," overturn her decision or adopt the new language recommended by the Planning Bureau. He asked if that language is more or less obnoxious than the Hearings Officer's original decision and what Ms. O'Grady thought about adding the two-year time line. He stressed that the other conditions imposed by the Hearings Officer would not change, only this one.

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Ms. O'Grady said it was a real blow to the neighborhood to allow the drainage to be filled in.

Commissioner Francesconi asked why the neighborhood did not appeal the Hearings Officer's decision.

Ms. O'Grady said she thought the neighborhood association was going to appeal. What the neighborhood said it could live with was drainage with bridges over it, not filled in.

Council asked Mr. Brown to address the drainage and notification issues. Commissioner Hales noted that this appeal did not come from the neighborhood but from the applicant asking for a condition that gives him more flexibility.

Ms. Spetter noted that if the applicant had not appealed this, this matter would not be before Council now.

Mr. Brown explained the notification procedure, including notice to all neighborhood associations. He said the subdivision approved as Humphrey Heights shows a road going onto the northwest corner of the site which then splits and crosses the drainage way. The grading plan also shows a fill across the drainage way with a culvert sized to accept the water now coming down through the drainage way. That was approved in about 1991 but bounced back and forth to LUBA.

Mayor Katz said the 1991 approval occurred before Council raised a lot of additional concerns about drainage, especially in Southwest, and prior to the recent slides in these hilly areas. She asked if Council was precluded from rethinking that decision in light of this.

Mr. Brown said yes, this is an approved subdivision that could be platted and built in spite of the City's new technical knowledge.

Mr. Fry said he asked the Planning Bureau if his client could modify the approved subdivision, for example, to make the roads skinnier so some of the trees could be saved. However, he was told it must match exactly with what was approved or he could file for a new subdivision. He said he and the architect hope to solve the environmental problems through design, not engineering. He said Mr. Bruun originally wanted a bridge over the drainage but his engineer proposed to construct culverts, leading to a conflict between them. He said the approved tentative plan is an approved land-use decision and Mr. Bruun can build it, although they believe it would be costly environmentally. He said he is surprised that the neighborhood supports the prior PUD as that is not what he has heard from them. The hearing lasted three months and the applicant agreed to continue it twice to allow additional neighborhood input. He knows there is a lot of past bitterness and is hoping for more time to begin talking to the neighborhood.

Commissioner Francesconi asked if applicant requested this modification from the Hearings Officer.

Mr. Fry said he is surprised to see this tied to the old subdivision as applicant made it

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clear he wanted something new and believes the current environmental zone is misplaced and that the proposed configuration is better. That proposal would go through a Type III land-use process that would give neighborhoods and everyone else a chance to reexamine all these issues. He said he was surprised at the imposition of the time limit by the Hearings Officer and forced his client to appeal to see if they could do something different.

Commissioner Francesconi asked what he would choose between staying with this condition and having no time limit or having a two-year time limit and the other conditions.

Mr. Fry said he would prefer having more flexibility.

Commissioner Sten said under the Planning Bureau recommendation the two-year time limit would be imposed on the new idea.

Mr. Fry said they were willing to say they would disturb 10 to 15 percent less of the site as a way of describing what "no greater impact" means. He said they filed for the second phase but the City has not delivered yet. Planning's position is probably that the applicant did not file sufficient information while applicant believes the City did not work through this in a timely manner.

Council discussed with Mr. Fry and Mr. Brown the amount of time it would take to prepare and obtain approval of a new plan.

Mr. Brown said the two-year time limit would mean that final City approval would have to be obtained within two years. Practically, the applicant would have to file before then and then the onus would fall on the City to approve it. Since the final plat is already filed with the City, it can languish almost indefinitely because some final piece of information is not complete.

Commissioner Hales said the City has other Code provisions, concerning such matters as site stability and geological hazards, and asked how those come into play if the applicant goes forward.

Mr. Fry said they are talking about a new land-use process under the current Code. He said their new plan will now be constrained by two drainage ways on the site because the new tentative subdivision would have to meet current Code regulations. He said the percentage of property that will not be used to build on is fairly dramatic.

Mayor Katz said the issue of filling in the drainage would not apply.

Mr. Brown said filling the drainage would be addressed under the new Code and, absent the approved subdivision, the City would still have the existing environmental protection zone on the drainage way because of its value. Applicant would have to work around the large expanse of environmental protection zone.

Mayor Katz said while the neighborhood is frustrated about drainage, more is known about it now than when this was approved and there are new Codes, which should make

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them feel more comfortable. Giving the applicant more flexibility will probably benefit the design. If a new proposal with less environmental impact can be made, she believes that is a reasonable request. She has no personal feelings about the time limit.

Mr. Brown said staff anticipates changes to Title 34, the subdivision regulations, and to the PUD regulations in Title 33 in the very near future and this could conflict with any development allowed under this action. Planning does not want to get stuck with having to resurrect old requirements that may cause problems or conflict with future regulations. He said they came up with two years because that is when approval of the new subdivision and PUD Code regulations is expected.

Ms. Spetter noted that the regulations in effect at the time the application is deemed complete are those that are imposed.

Mr. Fry clarified that there is no application now for a new subdivision. The language would say a "subdivision that will not extend beyond the limits" and that is the only effect it would have.

Commissioner Francesconi asked how many other subdivisions are out there that languish like this.

Mr. Brown said perhaps six a year languish out of several 100.

Mayor Katz asked if new subdivisions have tougher requirements.

Mr. Brown said the applicant could argue that he was granted the ability to disturb a potential larger area through this approval.

John Peterson, 4647 SW Humphrey Court, said the real issue is land stability and the time frame does not matter as the neighborhood wants to get reinolved because of what has happened to the hillside in the last two years.

Commissioner Francesconi asked if it was true that the requirements will be more stringent if the applicant waits longer.

Nancy Green, 5036 SW Hilltop Lane, 97221, asked if this change will allow the applicant to use more land or put in 80 condominiums instead of 40 houses. She said they do not know the impact of letting them come in with a "less harmful" proposal.

Commissioner Hales asked how this would affect the number of units.

Mr. Brown said they could build more if the zoning allowed it and they could possibly have a few more units. The zoning allows a maximum of 48 units; 38 have been approved although that is not the issue today.

Ms. Spetter said that could all be discussed at the hearing on the new application. She said the applicant has a right to a PUD and now wishes to propose another design that will be more reflective of environmental issues.

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Mr. Bruun said he does not want to fill the drainage way. He wants to build a bridge to allow free-flowing water.

Mr. Fry said they could add language making it clear that the condition does not vest any rights in the new plan beyond what the current Zoning Code allows.

Commissioner Hales moved to tentatively uphold the Hearings Officer's decision, deny the appeal and apply the change recommended by the Planning Bureau but with deletion of the phrase "within two years." Commissioner Francesconi seconded.

Commissioner Hales said what is important is what happens on the land, not the time table.

Commissioner Hales noted that an ordinance would be needed for the zone change as well as findings. (Note: this information is not correct as the zone change does not amend the Comprehensive Plan.

Disposition: Tentatively deny appeal and uphold Hearings Officer's approval as modified; applicant prepare findings for March 19, 1997 at 2:00 p.m.

At 3:25 p.m., Council recessed.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 6TH DAY OF FEBRUARY, 1997 AT 2:00 P.M.

THOSE PRESENT WERE: Mayor Katz, Presiding; Commissioners Francesconi, Hales and Sten, 4.

OFFICERS IN ATTENDANCE: Cay Kershner, Clerk of the Council; Linda Meng, Senior Deputy City Attorney; and Officer Chuck Bolliger, Sergeant at Arms.

165 Liquor license application for Ok Chul Kim and Yong Ha Kim, dba Sub King, 2821 NW St. Helens Road, Restaurant license (new outlet); Favorable recommendation (Report)

Discussion: Mike Sanderson, License Bureau, said this small restauanat caters to the lunch trade, closes at 9:00 p.m. and is not open on weekends. he said the real reason the applicant is applying for a liquor license is to allow him to apply for a video poker license. He said the Bureau does not believe there will be an undue impact on the neighborhood and has no basis on which to deny it.

Richard Meso, 1026 N. Oswego, said he resides in the area of Mr. Kim's former business in the Shamrock Shopping Center. He said Mr. Kim was responsive to community needs and quick to get rid of graffiti.

Ok Chul Kim, applicant, said he does not understand why the Northwest District Neighborhood Association (NWDA) opposes this.

Dan Anderson, NWDA Alcohol License Committee Chair, asked Council to deny this because of its emphasis on video poker and because of the adverse effect of allowing fast food vendors to sell alcohol to operators of commercial vehicles. He said there are too many liquor and video poker outlets already in the Northwest area and staff made no effort to determine the effect on public safety and peace. He asked Council to remand this to the Bureau to address these issues.

Commissioner Francesconi asked if he advocated that the City never grant any more liquor licenses in Northwest Portland.

Mr. Anderson said that will vary from case to case.

Mayor Katz said she did not believe this is within the NWDA boundaries and it is also not within Council's jurisdiction to place limits on the number of liquor licenses in certain areas.

Mr. Anderson said the statutes say they may be "liberally construed" to protect public safety.

Frank Bird, NWDA Prescient, said they are concerned with the increasing number of

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liquor licensees in this area, driven by the desire for video poker machines. He said NWDA has taken no position but did hear from two senior level trucking managers of their concern about the extension of hours for this licensee.

Commissioner Francesconi moved to approve the application. Commissioner Hales seconded.

Commissioner Francesconi said he shares the concerns about video poker but that cannot be put on the back of this applicant.

Commissioner Hales said Council has been particularly tough on liquor license applications for package stores but has been more willing to give people a chance when they sell food.

Disposition: Favorably recommended. (Y-4)

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TIME CERTAIN: 2:00 PM - Appeal of Lents Neighborhood Association against Hearings Officer's decision to deny application of Lents Seventh Day Adventist Church for a conditional use to expand its 48-space parking lot to 63 spaces at 8835 SE Woodstock Boulevard (Hearing; 96-00843 CU)

Discussion: Linda Meng, Senior Deputy City Attorney, described the procedures to be followed. No ex parte contacts were declared.

Nan Stark, Planning Bureau, described the church's proposal for a conditional use to expand its parking lot from 58 to 63 spaces, using the vacant 9,000 square foot lot north of the church. The site is in a split zone - the church and fellowship hall are in the CM (Mixed Commercial) zone and the parking lot is in the R1 zone. She showed slides of the site and noted the relevant approval criteria, some but not all of which have been met. Those not met included the proportion of household living uses, physical compatibility and the relevant policies of the Transportation Element. That is what formed the basis for denial. The balance between household and non-household living uses was not achieved and an expansion of parking into the R1a zone lessens the residential appearance and function of the area. The church indicates that parking is needed only on Saturday mornings for the weekly service and staff believes this does not justify expanding the parking lot into a residential area. The Transportation Element policy encourages citizens to use alternative modes of travel and reduce parking. A policy shift has been effected that calls for providing adequate, but not excessive, parking. Based on the application, there is no compelling need for additional parking for the two-hour Saturday morning service. Staff also found that some alternatives are available through Transportation Demand Management programs and that off-street parking is available on three sides of the site which does not appear to be causing negative impacts to the area. Opportunities for shared parking may exist and the applicant could benefit by upgrading the existing lot to increase its efficiency and reduce drainage problems. The expansion of the fellowship hall never came up as part of the proposal before the Hearings Officer and while it was raised during that hearing, the church indicated it was not financially read to commit to such an expansion.

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Commissioner Francesconi asked if the shift in transportation policy was explained to the applicant.

Ms. Stark said it was raised at the preapplication conference, before they even applied.

Raymond Hites, Land Use Chair, Lents Neighborhood Association, said neighbors asked him to do something about this denial because they have been having problems with on-street parking by church attendees. He said the Hearings Officer assumed that the church was not growing despite repeated testimony to the contrary, one reason why they want to expand the parking lot and have plans to expand their fellowship hall. Church activities are not confined entirely to Saturday, either. He said the Hearings Officer's statement that there was no Transportation Demand Management plan in place came despite testimony about a van pool, carpooling and transit information displays. The church shows that it now has over three people per vehicle and it has been his experience that Transportation Demand Management plans are a condition for approval, not the sole basis of denial. He said this is an area where a small residential zone is wedged in between a substantial amount of commercial zone. The residential area is fairly limited and the main concern is mitigating the effect of non-household uses, in this case on-street parking, on residents.

Commissioner Hales said the critical issue is the amount of on-street parking during church activities. He asked why it was a problem to have the street full of cars on Sunday.

Mayor Katz asked if they had discussed using the parking lot at St. Peters since the Adventists worship on Saturday.

Mr. Hites said they approached St. Peters but that did not appear to be a practical solution.

Duane Petersen, 29781 SW Town Center Lane, Wilsonville, OR, architect representing the applicant, said what causes the problem is when church members end up having to park in front of someone's house. He said he does not believe the Hearings Officer had actually seen their data reports which show that most church members do not live nearby and cannot walk to church. He said if the church regularly has 85 cars using the parking lot, a lot of cars will end up on the street. He said the reason they did not include the possible expansion of the fellowship hall in their application is because they did not believe they would need a conditional use approval to expand it. They did have a conditional use approval for an expansion in 1989 but did not have the funds to carry it out. He said as part of any phased expansion, the first thing they would need to do is build the parking lot because the fellowship hall expansion would take parking places away. Their plan was to expand the parking lot as part of the first phase and then do the fellowship hall when they had to funds to do so.

Commissioner Hales asked when they thought they would expand the parish hall.

Mr. Peterson said in five to seven years.

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Dale Mathews, Pastor, Baptist Church, said the neighborhood is disturbed when churchgoers cannot find places to park.

Warren Dick, Lents Seventh Day Adventist church member, said the church considers the expansion of the parking lot as part of the total development project. He said a recent survey showed 57 cars in the parking lot and 10 on the street. He said parking at St. Peters Catholic Church, as suggested by Mayor Katz, is impractical as most parishioners would consider it inaccessible.

Commissioner Hales said he finds no good policy basis for overturning the Hearings Officer's decision but is reluctant to deny this after all the good work that has been done on the design. He asked if it would be possible to deny the appeal but give the applicant credit on permit approval for the fellowship hall.

Ms. Stark said that would not give the City a chance to respond to church expansion and would be giving de facto conditional use approval.

Commissioner Hales said he assumes that the portion deemed CM would not require that.

Ms. Stark said that is not correct as all the site is treated as a whole.

Commissioner Hales asked if there is any way to protect the church investment toward the eventuality of building.

Commissioner Sten said staff made the right decision, given the City's policy. However, the church acted in good faith and did not realize the change in policy. He asked if an exception could be made without setting a precedent.

Commissioner Francesconi said he is still confused as to why the policy was not explained to the applicant sooner.

Commissioner Hales said Council is not bound by precedent but needs to be consistent. Unless Council can come up with something creative, it should oppose this.

Ms. Stark noted that the applicant has spent roughly \$10,000 on plans and the process so far.

Mayor Katz agreed that granting approval could set a precedent, with neighborhood after neighborhood coming in with similar requests.

Commissioner Francesconi asked the applicant if they understood the change in policy and that this would not work.

Mr. Peterson said no, they believe they have to build the parking lot first.

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Commissioner Hales moved to continue this one week to see if a way can be found to give them credit for their good design if and when the fellowship hall is expanded. He asked applicant to waive the 120-day rule.

Mr. Peterson agreed.

Disposition: Continued to February 12, 1997 at 2:00 p.m.

REGULAR AGENDA

Commissioner Jim Francesconi

164 Liquor license application for Million Dollar Saloon, Inc., 15920 SE Division Street, Dispenser Class A liquor license (change of owner); Unfavorable recommendation (Report)

Discussion: Mike Sanderson, License Bureau, said in August, 1995 Council forwarded an unfavorable recommendation to the OLCC for the prior operation at this location, The Bank, Division Branch. The Police and License Bureau recommend an unfavorable recommendation on this application as well, based on the tavern's history of problems under multiple managers.

Larry Sievert, Police Drug and Vice, said the applicant is not operating as proposed and there have been complaints from neighbors.

Jim Neill, attorney representing the Million Dollar Saloon, Inc., said this is a screwed up and controversial case. He described the circumstances leading to the change in ownership, noting that in February, 1996, Joe Sheirbon, president of the company that owns The Bank, Division Branch, considered selling his business versus pursuing a long fight with the City and OLCC for non-renewal because it had not been operating as proposed. What had been proposed three years earlier by the then president never happened and he was fired by the other shareholders, all farmers from Hood River, including Mr. Sheirbon. Rather than try to operate it himself, in March, 1996, he sold it to Don Hunter, a successful restaurateur and nightclub operator, subject to OLCC approval. The buyer thought he would get approval within 60 to 90 days but for unknown reasons the City and the OLCC began a very complex investigation, asking for lots and lots of information. Mr. Hunter provided that information but months passed and no decision was made. Mr. Sheirbon then asked Mr. Hunter for assurance that the sale would still go through and at that point Mr. Hunter agreed to buy the building. Because Mr. Sheirbon was having trouble managing the business, he hired Jay Wilson who had been recommended by Mr. Hunter. Mr. Wilson found the operation to be in a bad state and suggested that a number of employees be fired. These employees went to the OLCC and said a lot of bad things about Mr. Wilson. The OLCC report is unfair as Mr. Wilson and other employees of The Bank were never asked if the charges were true. This, however, is irrelevant as he was an employee of The Bank.

Commissioner Francesconi said you are saying it is irrelevant even though he was recommended by the applicant.

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Mr. Neill said he was not an employee of Mr. Hunter's at the time as Mr. Hunter was not in business there yet. It is not Mr. Hunter's doing if someone served a minor or did some of the other things alleged in the report.

Commissioner Sten asked if Mr. Wilson was a business associate of Mr. Hunter's.

Mr. Neill said yes. The staff report states that they were allowed a interest in a licensed business without prior approval of the Commission, stating that applicant installed Mr. Wilson even though not licensed at that location. Mr. Neill said the applicants did not install Mr. Wilson as a manager; he was hired by Mr. Sheirbon's company. The report says a \$10,000 loan was given to The Bank by Don Hunter who invested in improvements. A loan was given from Mr. Hunter to Mr. Sheirbon who used it to pay for attorney fees and other improvements. Mr. Sheirbon still owns The Bank. The report is unclear and in many cases inaccurate, making its case against The Bank, not the Million Dollar Saloon. The only reference to the Saloon is a one page copy of the liquor license application. Council does not know anything about what kind of operation this is going to be. This should either be sent back to get that information or a favorable recommendation should be forwarded to the OLCC.

Commissioner Francesconi noted that the report states that Mr. Sheirbon received over 50 complaints from employees about Mr. Wilson. Had all these disgruntled employees been terminated.

Mr. Neill said he did not know for sure. He said he thought the complaints were about codes Mr. Wilson was trying to enforce, rather than the reverse. He said the first time he heard anything negative at all was when he and Mr. Sheirbon attended a December OLCC meeting. Mr. Wilson was terminated within two days.

Commissioner Francesconi asked about the business relationships between Mr. Wilson and Mr. Hunter.

Mr. Neill said they first got to know each other in Salt Lake City where Mr. Hunter had purchased a tavern. Mr. Hunter had a business opportunity at Cathy's in Portland and Mr. Wilson owns a piece of that business. The tax lien was paid by Mr. Wilson.

Louise Cody, Treasurer, Centennial Neighborhood Association, supported the unfavorable recommendation. She said this tavern has a history of neighborhood complaints and does not enhance the neighborhood.

Jim Worthington, Land-use Chair, Centennial Neighborhood Association, said this building has had problems going way back. While there is now a new owner, he is the one who recommended Mr. Wilson as Manager of the Bank and even though Mr. Wilson left in December there are still problems here.

Commissioner Francesconi moved to accept the unfavorable recommendation.
Commissioner Hales seconded.

Disposition: Unfavorably recommended. (Y-4)

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At 3:45 p.m., Council adjourned.

BARBARA CLARK
Auditor of the City of Portland

Cay Kershner

By **Cay Kershner**
Clerk of the Council