



CITY OF
PORTLAND, OREGON

OFFICIAL
MINUTES

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 1ST DAY OF MARCH, 2000 AT 9:30 A.M.

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

OFFICERS IN ATTENDANCE: Britta Olson, Clerk of the Council; Ben Walters, Senior Deputy City Attorney; and Officer Chuck Bolliger, Sergeant at Arms.

Item No. 278 was pulled from Consent and, on a Y-4 roll call, the balance of the Consent Agenda was adopted as follows:

CONSENT AGENDA - NO DISCUSSION

276 Accept bid of 2KG Contractors, Inc. to furnish groundwater pump station seismic strengthening for \$547,776 (Purchasing Report – Bid 99725)

Disposition: Accepted; Prepare Contract.

277 Accept bid of Schlumberger R. M. S., Inc. to furnish small domestic water meters for \$99,269 annually for one year (Purchasing Report - Bid 99745)

Disposition: Accepted; Prepare Contract.

279 Accept bid of F.E. Ward, Inc. for the Steel Bridge pedestrian and bicycle crossing for \$6,162,281 (Purchasing Report - Bid 99673)

Disposition: Accepted; Prepare Contract.

Mayor Vera Katz

***280** Extend legal services agreement with Amburgey & Rubin PC (Ordinance; amend Agreement No. 32286)

Disposition: Ordinance No. 174200. (Y-4)

***281** Extend legal services agreement with Wagner & Miller LLP (Ordinance; amend Agreement No. 32814)

Disposition: Ordinance No. 174201. (Y-4)

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Commissioner Jim Francesconi

*282 Accept contract with Pioneer Waterproofing Company, Inc. for the parking deck surface coating at Third and Alder Garage as complete, authorize the final payment and release retainage (Report; Contract No. 32751)

Disposition: Accepted.

283 Authorize an agreement with Golfgateway.com to furnish the City-owned golf courses with a reservation system (Ordinance)

Disposition: Ordinance No. 174202. (Y-4)

*284 Amend agreement with AGI Technologies for completion of soil remediation for Portland Fire and Rescue for an additional \$16,000 (Ordinance; amend Contract No. 32034)

Disposition: Ordinance No. 174203. (Y-4)

*285 Amend an agreement with the Hoyt Arboretum Friends Foundation (Ordinance; Contract No. 50623)

Disposition: Ordinance No. 174204. (Y-4)

Commissioner Charlie Hales

*286 Revocable permit to Paddy's Bar & Grill to close SW Yamhill between SW Naito and 1st Avenue on March 17 - 18, 2000 (Ordinance; waive Code 14.24)

Disposition: Ordinance No. 174205. (Y-4)

*287 Revocable permit to Jake's Restaurant/Avado Brands, Inc. to close SW Stark Street between SW 12th and 13th Avenues on March 16 through March 18, 2000 (Ordinance; waive Code 14.24)

Disposition: Ordinance No. 174206. (Y-4)

*288 Agreement with the Oregon Department of Transportation to provide for the lower Columbia River Highway (NW St. Helens Road), NW Kittridge Road to St. Johns Bridge, project (Ordinance)

Disposition: Ordinance No. 174207. (Y-4)

289 Terminate an agreement with the Port of Portland to determine future transportation improvement responsibilities of the City and Port in the area around the Cascade Station/Portland International Center Plan District and the Portland International Airport (Second Reading Agenda 254; Contract No. 24922)

Disposition: Ordinance No. 174208. (Y-4)

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Commissioner Dan Saltzman

***290** Authorize a contract with Thomas/Wright, Inc. for design of improvements to Umatilla Pump Station, Project No. 6240 (Ordinance)

Disposition: Ordinance No. 174209. (Y-4)

Commissioner Erik Sten

***291** Authorize a contract and provide for payment to the lowest responsible bidder in the estimated amount of \$450,000 to construct the electrical substation improvements at the Groundwater Pump Station (Ordinance)

Disposition: Ordinance No. 174210. (Y-4)

***292** Contract with the lowest responsible bidder for The Portland Building 6th floor remodel and provide for payment (Ordinance)

Disposition: Ordinance No. 174211. (Y-4)

***293** Accept a \$7,900 grant from the Environmental Protection Agency to promote waste reduction in Portland (Ordinance)

Disposition: Ordinance No. 174212. (Y-4)

***294** Contract with Housing Our Families for \$29,000 for the development of affordable rental housing and provide for payment (Ordinance)

Disposition: Ordinance No. 174213. (Y-4)

295 Amend contract with Jeanne Lawson Associates for planning and public involvement professional services to protect the Columbia South Shore well field, at a cost not to exceed \$45,000 (Second Reading Agenda 265)

Disposition: Ordinance No. 174214. (Y-4)

REGULAR AGENDA

278 Accept bid of JVC Contractors for NE 162nd Avenue pollution reduction facility fencing project for \$64,500 (Purchasing Report - Bid 99653-SMP)

Discussion: Sue Klobertanz, Director, Bureau of Purchases, requested that this item be completely removed from the agenda today as a bid protest has been received. The item will be brought back later.

Disposition: Referred to Purchasing Agent.

Mayor Vera Katz

*296

Authorize intergovernmental agreements to implement Visitor Development Initiative (Ordinance)

Discussion: Mayor Katz said this was the intergovernmental agreement for our and other jurisdictions' role in financing the expansion of the convention center, to pay off the Civic Stadium debt, to have a reserve for the Performing Arts Center improvements and to provide Portland/Oregon Visitors Association (POVA) additional resources. If there is any money left over, the jurisdictions could think big again in terms of what they want to do before the bonds are all paid off. The bond payoff timeline has now expanded another five years.

Sam Adams, Mayor Katz' Chief of Staff, said he provided process facilitation but the challenging, hard work has been the fiscal and legal sides, done by Ken Rust and Linda Meng.

Ken Rust, Director, Financial Management, said, in addition to what the Mayor mentioned, the agreement includes extension of fareless square to the Lloyd Center stop. The financial plan enables additional operation support for an expanded Convention Center once it opens. Five governments and private industry are involved with the entire agreement made it difficult, but to be at this point shows how important it is to all involved. Adopting today the City's financial IGA, commits City to financial obligations that were developed in the Memorandum of Understanding passed by Council in September, 1999. The County has already passed the tax ordinances that increase the vehicle rental tax and the hotel/motel transient lodging tax. Those become effective on April 1st, with revenues really starting to come into the County, which will act as trustee, around the first of the upcoming fiscal year. With those tax ordinances in place, assuming there is not a referral of that action, the City will sell the first piece of the bonds for this project, which is the largest piece, for the Convention Center of about \$96-98 million to sell and close prior to July 1st.

Linda Meng, Chief Deputy City Attorney, said of these two legal agreements, the first establishes the legal relationships between the City, the County and Metro in this unique deal. Her task was to make sure the City was protected. The second, the visitors development services agreement, brings in the transient lodging and vehicle rental industry. The plan is to create a non-profit corporation to contract with the three governments, rather as POVA does, and it will receive some money from the County tax increases. Other, minor, agreements will come to Council; with Metro specifically related to the bond funds, with Tri-Met as to the extension of Fareless Square and with the County for tax collection.

Mr. Adams said, regarding East County, if the annual audit of Civic Stadium shows that East County cities subsidized its operation, that portion would be refunded to the VDFB which would spend those resources, which may average \$50-60,000, in East County, outside the City.

Mr. Rust said if the Civic Stadium did not have sufficient operating revenues to pay that, it would come to the General Fund as a General Fund request. In future years, if Civic Stadium had sufficient revenues in subsequent years, prior to calling bonds, the City is obligated to reimburse the General Fund the amount paid back to East County cities.

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Commissioner Francesconi asked if the City was limiting its ability to use its bonds for other purposes by making this encumbrance.

Mr. Rust said probably not, but it is an issue to be aware of and will be discussed with the rating agencies. The key is that while the bonds are backed by the General Fund, there is a sufficient revenue source to pay the debt service on the bonds, and therefore self-supporting.

Mayor Katz noted that under this arrangement the people paying off the Civic Stadium debt are a combination of tourists and Civic users.

Mr. Rust said the agreement has been worked out to allow for the potential loss of the Portland Family Entertainment deal. Civic Stadium improvements could still move forward but the potential financial impact on the Visitor Development Initiative (VDI) would be limited.

Mr. Adams said the City has agreed to not take any resources that cause harm to the overall VDI financial strategy.

Mark O'Donnell, O'Donnell and Clark attorney representing Tri-County Lodging Association, said this was a difficult assignment and he and Ms. Meng created nine drafts in case the Portland Family Entertainment (PFE) Civic Stadium agreement did not go through.

Mayor Katz said this was a most creative piece of work and deals with jobs, tourism, the arts, recreation, transportation, facility remodeling and the expansion of a convention center at no expense to the taxpayer. She thanked the industries that cooperated with the agreement.

Disposition: Ordinance No. 174215. (Y-4)

***297**

Accept a \$879,929 grant from the Oregon State Police, Criminal Justice Services Division for the Police Corps (Ordinance)

Discussion: Captain Dave Benson, Police Bureau, said the Police Corps program is part of a national program sponsored by the U.S. Department of Justice and is in 26 states which offers \$30,000 college scholarships to qualified students who repay through four years of service as community police officers. They go through 20 weeks of rigorous training between their junior and senior years. Therefore, they are trained and educated prior to hire. The Oregon State Police is the lead agency in the program. About two-thirds are hired by the City.

Commissioner Francesconi suggested looking at the Fire Bureau apprenticeship program, which encourages minorities and women, as a tool along with this.

Commissioner Saltzman asked how the scholarships are awarded and what are the ages. He also asked if the recipients are required to stay with the Police Bureau a minimum amount of time.

Captain Benson said there is an elaborate testing process and a State review team makes the ultimate decision. Testing occurs from the minimum of 18 years of age, with no upward limit and recipients are required to stay with the sponsoring agency for four years. If they

leave before that, they have to pay the federal government back the \$30,000 plus 10 percent interest. In answer to the Mayor's question on its history, he said it began with an aide to Robert Kennedy, Adam Lowensky, who believed in well educated police officers. This program takes into account that those who become police officers will go on to other service as attorneys or judges and have the policing background to draw upon.

Disposition: Ordinance No. 174216. (Y-4)

***298** Accept a \$1,989,534 grant from the U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Assistance, for various law enforcement programs (Ordinance)

Discussion: Rita Drake, Police Bureau, Fiscal Administration Manager, said over four years the block grant has been about \$2 million with a 10 percent match requirement which comes from the Police budget and Police partners, the latter being non-profit agencies, the courts, the school system and local law enforcement jurisdictions.

Mark Parisi, Assistant Chief of Services, Police Bureau, said this is a prime example of the bureau taking a small amount of money to leverage a tremendous amount of federal dollars to address specific livability concerns in the City. There is an Advisory Committee of stakeholders which decides the distribution before the grant is awarded.

Disposition: Ordinance No. 174217. (Y-4)

Commissioner Jim Francesconi

***299** Authorize acquisition of property at 1713 - 1715 SW Skyline Boulevard for the Bureau of Fire and Rescue (Ordinance)

Discussion: Commissioner Francesconi said this involves the Fire Bureau and the Bureau of General Services developing a new station on the west side, with citizen input.

Chief Robert Wall, Fire Bureau, said this location keeps public safety as the primary interest. Siting a fire station is difficult as it is hard to find suitable property within an area to serve the community. This is a first step to serve the west side, which has not been served adequately in the past.

David Kish, Director, Bureau of General Services, said this was a good example of the fire Bureau being responsive to community needs. As Commissioner Francesconi said, when the bond measure was planned, the plan was to build at NW 57th and Barnes. It became obvious that did not fit the neighborhood objectives. Although it took a year longer, it is a better fit.

Mayor Katz asked Chief Wall if he would work with Chief Kroeker and Mr. Kish on co-location of Station 21.

Chief Wall said they already had some discussions to integrate some extra room into the new stations for police officers to use to write up their reports, as well as community meeting space.

Jeff Boly, Chair, Arlington Heights Neighborhood Association, said with the neighborhood involvement process, it is possible for a few, narrow interests to hijack actions. It has worked here because the neighborhoods were involved early on and participation was broad-based.

Sally Knueven, Sylvan-Highlands Neighborhood Association, said she could almost dance on the table. While it is difficult to site a fire station in an established neighborhood, this site answers many needs.

Commissioner Francesconi said this site did come at some additional monetary cost, but was worth it. Paramedics will also be at this station, one of whom has been pulled from North Portland.

Disposition: Ordinance No. 174218. (Y-4)

- *300** Agreement with Multnomah County for Schools Uniting Neighborhoods (SUN) Schools initiative (Second Reading Agenda 240)

Discussion: Ben Walters, Senior Deputy City Attorney, said the asterisk was inadvertently left off when this item came to Council last week, even though it does have an emergency clause. It should pass as such.

Disposition: Ordinance No. 174219. (Y-4)

Commissioner Erik Sten

- *301** Contract with Kurahashi and Associates, Inc. for development of a stormwater management plan for Water Bureau property on Powell Butte at a cost not to exceed \$30,582 (Ordinance)

Disposition: Ordinance No. 174220. (Y-4)

City Auditor Gary Blackmer

- 302** Assess benefited property for the cost of constructing street, storm sewer, water and landscaping improvements in the SE Water Avenue/Caruthers Street Local Improvement District (Hearing; Ordinance; C-9925)

Discussion: Commissioner Hales said this Local Improvement District (LID) was formed in 1996 to finance a new roadway through Portland General Electric (PGE) land. It was developed through a public process and managed by Ms. Caswell, a star public employee. During construction, a number of challenges and opportunities came along, resulting in increased costs. The committee of citizens and property owners worked well with City staff to resolve the cost issues. He noted that PGE has been an outstanding partner. He thanked everyone involved in the project and noted there were no remonstrances.

Jeannie Caswell, previous Project Manager, Bureau of Transportation, said this project helped implement the vision the Portland Development Commission (PDC) developed with the property owners.

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Larry Brown, PDC, said the first leg of this roadway, which opened access to Oregon Museum of Science and Industry (OMSI), is critical to their success and extending this important arterial to the south opens possibilities of additional development and employment in the future.

Carl Talton, PGE, said the Central Eastside is very important to his company and they are pleased to add value to that district.

Disposition: Passed to Second Reading March 8, 2000 at 9:30 a.m.

Communications

303 Request of Norman Garrison to address Council on an issue of dangerous streets in Southwest Portland (Communication)

Discussion: The Council Clerk noted that Mr. Garrison was not there.

Disposition: Continued to May 17, 2000 at 9:30 a.m.

304 Request of Thomas Ifversen to address Council on the issue of parking at Lewis and Clark College (Communication)

Discussion: The Council Clerk said Mr. Ifversen had let her know he could not make it.

Disposition: Placed on File.

At 10:38 a.m., Council recessed.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 1ST DAY OF MARCH, 2000 AT 2:00 P.M.

THOSE PRESENT WERE: Mayor Katz, Presiding; Commissioners Francesconi, Hales, Saltzman and Sten, 5.

OFFICERS IN ATTENDANCE: Britta Olson, Clerk of the Council; Jeffrey Rogers, City Attorney; Madelyn Wessel, Chief Deputy City Attorney; Kathryn Beaumont, Senior Deputy City Attorney; and Officer Larry Siewert, Sergeant at Arms.

305

TIME CERTAIN: 2:00 PM – Appeal of the Sunnyside Centenary United Methodist Church against Hearings Officer's decision to revoke the conditional use permit that allowed Wednesday/Friday evening meals and also established limits on the night shelter, day care center, Sunday/Wednesday worship services and the Indochinese Socialization Center, located at 3520 SE Yamhill and 1030-1035 SE 35th Avenue (Hearing; 99-00768 CU EN)

Discussion: Kathryn Beaumont, Senior Deputy City Attorney, explained the guidelines to offer testimony, noting first that this was an evidentiary hearing, meaning that new evidence can be presented to Council in support of a person's arguments. Any testimony and evidence must be directed toward the applicable approval criteria for this land use review, or other criteria in the City's comprehensive plan or zoning code which the person believes applies to the decision. The staff report will identify the applicable approval criteria as part of their report to Council.

Mayor Katz asked Council for any ex parte contacts. Commissioners Hales, Saltzman and Sten had none and Commissioner Francesconi submitted his in writing after stating them. Mayor Katz outlined hers, which also were submitted in writing for the record. There were no stated conflicts of interest from the Council.

Mike Hayakawa, Office of Planning and Development Review (OPDR), said this was a reconsideration of a conditional use to allow Wednesday and Friday night events – meals, music and counseling. The reconsideration was instigated by the City in response to allegations of failure to comply with conditions of approval and adverse neighborhood impacts. The allegations include trespassing, littering, urination and defecation, public drinking, aggressive and harassing behavior by those using services provided by the church. Sunnyside Methodist Church is on the corner of SE 35th and Yamhill. Staff found that conditions of approval had not been met. In evaluating the cumulative impacts of all uses, there were no concerns about other uses at the church: the worship services, the socialization center, the day care center and the nighttime shelter. There were concerns about the number of children in the day care center and the church has already addressed that with an application to legalize that situation. Staff found a causal relationship between problems and the Wednesday/Friday night dinners. Communication has been a problem. There is a willingness of both church and neighborhood to solve their problems, however they have not been successful. Many changes in the program were implemented a year ago, including an exclusion policy, hiring security guards, establishing foot patrols and a hot line.

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Staff found these changes improved the situation measurably. Staff found the records showed there were regular problem makers, the same folks in the same situations. Staff recommended an 11 person committee, of all parties of interest and professionals, be formed to provide the Hearings Officer with advice on how to run this. The Hearings Officer found substantial evidence that conditions were not meet and there were significant impacts on the neighborhood, although she also found there was some improvement due to the foot patrols. The latter are volunteers but should be professional. Mr. Hayakawa said the Hearings Officer was concerned that the church did not provide specifics as to what might be done to continue to improve the situation.

Mayor Katz said she has asked the City Attorney to address the 70-person limitation recommended by the Hearings Officer and to talk about the City's role in land use cases. She recommended that effort be made throughout the meeting for the sides to propose agreements.

Jeff Rogers, City Attorney, said the two key, legal issues are the 70-person limitation and the remainder of the Hearings Officer's decision. The question is if either of these portions constitutionally infringe on free exercise of religion. The 70-person cap, as presented, would not be defensible against a constitutional challenge, because there is no context given in the decision for that limitation. It could have been based on health and safety, capacity, parking or transportation problems, but was not. There are no apparent constitutional problems with the remainder of the decision as the application of the City's generally applicable zoning rules is a legitimate and routine exercise. Laws which are neutral and of general applicability can regulate religious and non-religious entities in equal measure. Such laws need not be justified by a compelling, governmental interest even if they have an incidental effect of burdening religious practices or institutions. If the object of a law is to infringe upon or restrict religious practices because of their religious content or affiliation, the law is not neutral and would be considered invalid.

Madelyn Wessel, Chief Deputy City Attorney, said as the 70-person limit has been clearly stated, the constitutions of the State of Oregon and the United States say that as long as the laws are applied in equal, even-handed and fair ways it does not create a church and state problem. There are policy interests in dealing with all the issues of applying zoning and planning codes and other civil restrictions on churches, restaurants, shelters and other entities. Such application does not create a constitutional problem.

Commissioner Francesconi said people have said worship is happening during the meal service and, therefore, the church protection should kick in.

Ms. Wessel said the law must be neutral. Basic rules evolve from a number of cases, including one from Oregon where an analogous argument was made about the use of peyote in a religious ceremony. The U.S. Supreme Court ruled that as long as those laws are not targeting a religious practice because it is a religious practice and as long as they are generally applicable, the fact that certain kinds of activities have a religious or sacramental purpose does not immunize them from the rules or laws of general applicability.

Commissioner Francesconi said the brief from the church lawyer stated that livability as the standard in the zoning code weighs against freedom of religion is kind of vague and can create a slippery slope.

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Ms. Wessel said she had widely researched Oregon and U.S. laws regarding questions of livability, such as traffic impact, and found the courts view them as appropriate ways to restrict if they are evenly applied.

Commissioner Hales said, with due respect to the City attorneys, regulation of church attendance through a land-use case is a dumb mistake. Council, as an appeal body, can correct it. He moved to tentatively uphold a portion of the Hearings Officer's decision allowing Sunday and Wednesday worship services to continue and to remove the 70-person attendance limitation on those services.

Britta Olson, the Clerk of the Council, took a role call on the motion, Y-5.

Ed Sullivan, attorney for Sunnyside Centenary United Methodist Church, 222 SW Columbia, Suite 1400, 97201, thanked Council for removing the attendance caps. They also want the attendance limits for the Indo-Chinese Socialization Center looked at. The necessary permits for the day-care occupancy have been filed. Beyond this, he said the Sunnyside neighborhood has a problem with appearance and perception. The church acknowledges that it has not always been successful in reaching out to whomever may be in need, from whatever source, and problems of homelessness, emptying mental institutions or defunding public welfare exist. The Wednesday/Friday worship services and meals is the issue, but they are integral to the doctrine, mission and the very role of the church. These activities were not the subject of the 1988 permit, but were and are a part of the very existence and function of this religious institution. The church wants the help and support of its neighbors, although it has made its mistakes. It has assessed the obligations and resources during a temporary suspension of its activities in late 1998 and early 1999 and instituted program changes to meet neighborhood concerns. Mr. Sullivan said they have tried and will continue to try mediation, reconciliation and negotiation.

Reverend Steven Sprecher, Oregon and Idaho District Superintendent, Methodist Church, 1505 SW 18th Avenue, said there is a sandwich board outside the dining hall that welcomes visitors and also warns that unruly conduct, drugs or alcohol will bring the welcome to an end. The church activities are not only mandated by the church but also make a positive contribution to the fabric of the whole community. They are aware those activities have sometimes had unintended negative effects on the neighbors and they want to lessen those impacts.

Bishop Edward W. Paup, Oregon-Idaho Conference of the United Methodist Church, 1505 SW 18th Avenue, added that this entire matter can be considered an invitation to the entire city to find ways where city government, church organizations, neighborhoods and others can work together to address the complex issues of human life in this place.

Greg Winterowd, 222 SW Columbia Street, 97201, land use planner, said for the past two weeks they have worked to come up with a program to address the issues uncovered during this process. He described the recent meetings with Sunnyside Neighborhood Association (SNA) members and other stakeholders and said they have reached agreement on what are the key problems. Many people have worked for many years on these problems.

Reverend Tim Lewis, Sunnyside Methodist co-Pastor, 3520 SW Lewis, Sunnyside Methodist co-Pastor, 3520 SW Yamhill, 97214, said the good neighbor agreement (GNA) is something they are committed to. He said the past several years have been very difficult for

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them, beginning when the neighbors came to the church to express concerns about their programs. It was hard for the church to see that these ministries, nurtured for over a decade, had some serious flaws – communication within the church was not clear, the policies were inconsistent, people were not excluded consistently and they had not lived up to all of the GNA. During the three month closure, they made a number of changes and, for the past year, have tried to live up to them.

Commissioner Saltzman asked if the new document had been shared with the neighborhood.

Mr. Winterowd said due to schedule conflicts, they were unable to meet with the immediate neighbors.

Reverend Lewis said at the heart of the proposal is the church's desire for the creation of a city-wide, faith-based advisory board. One thing they have discovered is that they are not alone in both the difficulties of these ministries or the opposition encountered. They would like a meeting of faith-based organizations, the police and the Office of Neighborhood Involvement (ONI) to work on livability issues throughout the metro area as a whole.

Mr. Winterowd said for the first time ever, the church devised an organizational chart, which has some top-down elements, foreign to the egalitarian Methodist church. An internal response team was established, composed of key program managers, who will give non-conflicting response to calls coming in. The neighborhood liaison person is from the neighborhood and has a telephone number and a beeper and will check with the church structure before commenting, keep logs and make sure every issue raised is responded to in a consistent manner. They have looked at creating a neighborhood relations committee to meet about once a month to address issues, keep minutes of same and log problems with a feedback process set up.

Commissioner Sten asked for information on Mr. Winterowd's memo on crime statistics.

Mr. Winterowd said, in this document which is secondary to their proposal, they looked at police report data for a smaller area than the 10 square-block area around the church. Comparing 1997-98 to 1998-99 they found only one percent difference in incidents when the church was opened, rather than closed. Still for the smaller area and after the foot patrol was instituted, comparing 1998 to 1999, there was a 30 percent decrease in police calls for that area. They chose the smaller area since the early report included Belmont and Hawthorne. As there is some relationship between the people coming to the services and the incidents, they will take that responsibility.

Commissioner Hales asked how the exclusion policy might work with volunteers enforcing it. Is it a job for volunteers. He also asked if in a couple of years this does not continue working, how would the church deal with that.

Reverend Lewis said they hired a professional security guard on site for Wednesday/Friday nights and or he and other trained people will enforce the exclusionary policies. It is their intention to keep this rather than relying on volunteers. Regarding the long term, they could set up an annual review. He is sure the church will not lose track of the importance of the GNA.

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Reverend Lewis, in answer to Commissioner Francesconi's question about mediation, said the GNA proposes establishing a monthly meeting with the neighborhood.

Mayor Katz remarked that, rather than a mediator, an arbitrator may be best to resolve conflicts.

Mr. Winterowd said they would probably need someone to determine whether or not a complaint were legitimate and City participation would be welcome.

Reverend Lewis, in answer to Commissioner Francesconi's question about referring people to social services such as drug and alcohol treatment, said this was not detailed in the GNA, but they have become aware they need to have better dialogue with these other services.

Commissioner Saltzman said he was curious, as the GNA was dated yesterday and the Hearings Officer's decision came in mid-January and the issue has been around for years, about what the church hopes Council will do regarding the GNA, especially considering that the 70-person limit has been dropped.

Mr. Winterowd said they want the conditional use to be continued, subject to the GNA.

Tom Badrick, President, Sunnyside Neighborhood Association (SNA), 4216 SE Madison, said it was frustrating to have a plan presented to Council, and have it discussed for resolution, which he has not yet seen or knew was in existence. He said Sunnyside Methodist Church needs to show they have complied with the original requirements in the conditional use permit and that the impact of the two specific programs, the Wednesday evening soup kitchen and Friday evening coffee house, were not having an adverse impact on the surrounding neighborhood. Adverse impacts have been denied up to this meeting and complainants categorized as a small number of neighbors who have recently moved to the area. SNA sought closure of the programs, not for a lack of compassion, but after months of meetings, debates, mediation and finally the land-use hearing. Mr. Badrick said this case is about the livability around the church, not religious freedom. The original request, 18 months ago, was for better management of the programs, including seeking technical assistance and oversight from professionals. After that time, with no change, they sought closure of the two programs at the land use hearing and, as a secondary request, if the programs were not closed, they at least be managed with outside supervision.

Katie Bretsch, 3336 SE Yamhill, said the problems have been real, repeated and acute and they include urination, defecation and discarded needles in people's yards and in the park. The meal and coffee attendees have even made death threats against neighbors. Drug dealers come to do business on those days, too. The neighborhood concerns are the same as 12 years ago when the conditional use permit was granted. She said the neighborhood supports the nighttime shelter, day care center and Indo-Chinese Socialization Center, but have grave doubts that the church has the will or ability to effectively manage a meal program serving high-risk patrons. If the City believes the meal programs should stay at the church, it needs to take responsibility to redesign them as neither the church nor the neighborhood knows how. Some citizens have very real, unmet food and housing needs but SNA asked that the services issue be decoupled from the siting issue. Ms. Bretsch asked that the record be kept open for the additional, allowed period.

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Lisa Long, 3536 SE Yamhill, said she lives right next door to the church. The meal programs are a siting issue, not a moral one. The programs attract a high-risk, male, transient population which regularly engages in dangerous and violent behavior in the neighborhood. The neighborhood does not say these people should not be served, but it should not be sited in a residential neighborhood, across the street from the neighborhood park and elementary school. Police data show a higher number of crimes reported in the area near the church as compared to a similar, control neighborhood and police calls decreased significantly during the three months when the meal programs were closed. The same disruptive behavior is addressed by the City chronic nuisance ordinance. SNA has proposed alternative programs such as Meals-On-Wheels, Loaves and Fishes, mentoring with Sisters of the Road, or relocating them to the Clark Center, all of which were dismissed.

Commissioner Francesconi asked if it was true that once the phone line came in it was never used and, if so, why not.

Ms. Bretsch said the response promised from that hotline was that a volunteer would return a call within 48 hours. The volunteers answering the phone line were the same persons who explicitly stated to SNA that neighbors were exaggerating and orchestrating their complaints.

Ms. Long stated she and her husband went to the church with names of individuals who had harassed her and who threatened another woman. The church claimed not to know the individuals, so there was a serious identification problem. Therefore, a call to the hotline would not inspire confidence.

Mr. Badrick, in answer to Mayor Katz' question of what SNA would like to see, said initially they wanted the programs closed but they are open to compromises with conditions. One would be a six month suspension of the programs to give the neighborhood some breathing room and the second would be that the conditions have some teeth, such as the dispute resolution process in Blueprint 2000. In answer to Commissioner Sten's question about mediation effort to date, Mr. Badrick said there had been ongoing meetings with the church for some time and mediation was tried. The initial contact with ONI was positive for awhile but then both the church and neighborhood were dissatisfied with where it was going which, ironically, gave them some common ground. It basically ground to a halt. The sticking point was more the process and the lack of communication between the mediators. This occurred last summer.

Commissioner Sten asked about SNA interaction right now with the Police Bureau and ONI in getting the laws enforced.

Mr. Badrick said the neighborhood liaison police officer comes to the monthly crime prevention meetings. An increase in attention has come about, but this has been such a dysfunctional situation for so long.

Katherine Kirkpatrick, 608 SE 18th, said she represents the Buckman neighborhood, another one heavily impacted by social services. She has personally been menaced by the program patrons. Not only is the City allowed to regulate, but is also obligated to protect the rights of non-believers.

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Ms. Long said there have been many attempts by the neighborhood to find solutions, including mediation talks with Judith Mowry and Anne Rutherford, which have not worked. She quoted from a church pamphlet of May 23, 1999, distributed to the neighborhood, which stated "In recent months the church has encountered increasing oppression from a limited number of local residents for our policies of openness and inclusivity." Three days later, she found a swastika lipsticked on her car in front of her home. The fact she is Jewish is well known to the church pastors and active participants.

Ann Madsen, 908 SE 35th Avenue, 97214, emphasized this was not a "not in my backyard" issue or an issue of religion, but an issue to preserve neighborhood livability and right to safety. The proponents are not close-in neighbors, they go home at the end of the night and do not see the drinking, panhandling, shouting, puking, public urination, street fighting, needles and stolen mail. She has chased defecating, half-dressed drunks from her garden with a shovel since telling them to leave did not work. Ms. Madsen said some of these men have camped on her porch. It is not a coincidence that these activities occur on Wednesday and Friday nights. Those who are excluded still come to the neighborhood and their friends bring them food.

Commissioner Francesconi asked Ms. Madsen if the foot patrol, the security guard and all the changes the church made have made any difference to these complaints.

Ms. Madsen said she has not seen a difference. She has not seen the foot patrol leave the block, they are often at the church entrance, but they do not cross the street and go up her block. Although the patrol says it picks litter up, it has never been picked up in front of her house.

Commissioner Sten asked Ms. Madsen her sense on the transient population with or without the meal program.

Ms. Madsen said she saw a change when the program was shut down for the three months.

Ms. Long said no one in the neighborhood said the church is solely responsible for all the bad behavior, but it does cause a congregating area. When the programs were shut down, people did not congregate around the park.

Mayor Katz said she would ask the church if anyone monitored those excluded so they would not cause a problem in the neighborhood.

Ms. Madsen said that was a big issue for her as once they are excluded where do they go.

Frank Shields, 11111 NE Knott, 97220, State Senator from Senate District 9, mid-Multnomah County, read a letter into the record from 28 State Senators. The last line urges Council to negotiate the issues rather than see them escalate.

Fenix Grange, 2927 SE Grange, 97214, said she and her family have volunteered at the food program for the last two years and she and her husband are the neighborhood liaison. She has seen significant improvement and the beginning of an effective exclusion policy. Ms. Grange, besides walking with her dog in the neighborhood and not seeing any of the described problems, took an informal canvas from those she encountered as well as going door-to-door. Most people did not know about the food program or what days it operated.

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David Leslie, Executive Director, Ecumenical Ministries of Oregon, 0245 SW Bancroft, said religious communities in Portland open their doors to such things as Alcoholics Anonymous, the Oregon Food Bank, subsidized day care, and overnight shelters as well as contributing funds to support religious and secular programs to address people's needs.

Commissioner Sten asked if Ecumenical Ministries had a data base or collected information on which churches in town are offering various services and if they have done any work on best practices to share with members, ways to minimize these types of problems.

Rev. Lewis said they had some data and a lot of anecdotal information. They do run conferences and consultations on best practices.

Commissioner Francesconi asked what the potential is to do even more good.

Rev. Lewis said anecdotal evidence in the State, like Full Gospel Emmanuel Temple, Alder House – First Presbyterian low income housing, the Downtown Chapel -- McDonald Center are a few examples of what the religious community is doing. He recommended including members of the religious community with other community sectors in planning programs.

Commissioner Hales asked for a little more depth in suggestions for common ground in what are reasonable restrictions for this type of service.

Rev. Lewis said many of the problems encountered in our neighborhoods and in life cannot be left with one group of people. The church should have appropriate security and the type of neighbor relations demanded of a county health service. He noted that sometimes the church is too entrenched, but it is difficult to separate out the issue of service from the issue of funerals or weddings.

Commissioner Hales said the national focus on this appeal might be because Portland has abject disdain for the First Amendment, but he thinks the reason is because we are a healthy community. This city does not write off any neighbors or people. Neighborhood activists do not want to dump, or be dumpees, problems on other neighborhoods and the faith- and public-based service organizations trying to help those who need it. Will there be more of these types of programs and will they be managed with security.

Rev. Lewis said there is more service asked of the local communities which creates more pressure. For instance, affordable housing is a heavy burden. It will have to be a combination of non-profits, banks, government and religious communities. These service needs will get more intense and the needs are throughout the nation.

Commissioner Saltzman asked, with the fact the program management plan was given to Council just yesterday, if it were an unreasonable compromise to say there would be a six-month suspension of the Wednesday/Friday meal programs, or until or unless a written GNA was in place.

Rev. Lewis said the church should be asked if it found that reasonable as they understand their ministry, their worship and calling as a congregation. As well as having conversation with those who, from the neighborhood or outside it, depend on this meal

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Rabbi Joseph Wolf, Havurah Shalom, 825 NW 18th Avenue, said Portland has a compact community with the Urban Growth Boundary and these problems will be heightened and more visible. The problem will not go away if the program is suspended.

Father Bob Krueger, 806 NE Alberta, said his church has one meal a year at Thanksgiving, but they have emergency services for people who need food who come to the church door.

Pat Schweibert, 2116 NE 18th, 97212, said she is the program director and has been the program cook for the past 18 years. She noted she should be cooking at the church right now, but is "cooking" here. She presented a video of the program.

Commissioner Sten asked how many they serve each evening. Also, can it be determined how many people are homeless and how many live in the vicinity.

Ms. Schweibert said between 60 to 100 attend. The last Wednesday of the month, there is a larger crowd as people's food stamps run out. The attendees are seniors, employed, underemployed and unemployed, mentally ill and developmentally delayed. Some at times are homeless. Depending on when the statistics are taken, the homeless are between 18-30 percent. About 30 percent live in the vicinity. Most of them go to a food program every night of the week.

Commissioner Francesconi asked if they refer people to other social services, such as drug and alcohol treatment, housing or employment.

Ms. Schweibert said the church does not believe it has to do everything. She said sitting with and listening to people is a big piece of what they offer.

Mayor Katz said one question is what county drug and alcohol programs are available to the church clients.

At this point, the Mayor said the testimony in support and not in support of the appeal would be taken in turn.

Those speaking in support of the Hearings Officer's decision were:

Jon Myers, 928 SE 33rd Avenue, 97214
Allison O'Dell, 922 SE 35th Avenue, 97214
Cassandra O'Dell, 922 SE 35th Avenue, 97214
Renee Pype, 928 SE 33rd Avenue, 97214
Peter Reid, 908 SE 35th Avenue, 97214
Andrew Eisman, 939 SE 17th Avenue, 97214

Issues mentioned by the above were: the fact that the church has had 12 years to correct this problem; drinking; drug use and dealing by people in the program; loitering; fighting; aggressive panhandling by groups (pedestrians cross the street to avoid them); public urination and defecation; an ineffective foot patrol; public sexual behavior; obscene language; sleeping on neighborhood porches and in the back and front yards; littering; theft; and begging at front doors. There was support for the children's daycare, the Multnomah Shelter for families and the Indochinese Center.

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Mayor Katz asked if things had deteriorated too badly to be corrected at this time.

Ms. Allison O'Dell said she concurs with Tom Badrick's statement that there is bad faith at this time and that closing the program for six months would give the neighborhood a chance to build some sort of trusting relationship with the church.

Mr. Eisman noted he lived for over a year near a center in San Francisco serving 400 to 500 meals daily and was not even aware of it until he was told about it. He recommended a facilitated dialogue between the church and the neighborhood and that the City and school district commit some resources so that both the park and school security can be dealt with.

Those speaking in support of the appeal:

Mary Ann Saul, 3645 SE 79th Avenue, 97206
Reverend Mark Reid, 3520 SE Yamhill, 97214
Jan Bone, Metanoia Peace Community, 2116 NE 18th Avenue, 97212
Dave Clark, 6027 NE Cleveland Street, 97212
Valerie Chapman, St. Francis Church, 330 SE 11th Avenue, 97214
Jo Barrett, 3904 NE Hazelfern Street, 97232

Testimony from the above included: the fact there are drug houses in the neighborhood, so not all drug debris is attributable to the church program; there are a number of alcohol bars in the area; the written reports documenting the incidents occurring after the church instituted its program changes were accumulated over a 10-month period by seven neighbors; none of the written records refers to littering of needles, syringes and human body waste; shelter spaces have been cut, notably by the 1990 changes in Old Town; often those involved in running the programs need "wake-up" calls from the neighborhood; the churches administering these kinds of programs need to share information; whether or not this program is closed, the need remains; and the homeless issue itself is the problem.

In answer to Commissioner Saltzman's question, Ms. Chapman said St. Francis Church has a Good Neighbor Agreement and a compliance agreement with the Police Department.

In answer to Commissioner Sten's question regarding the foot patrol, Mr. Clark said they are volunteers and they patrol two hours before and one and one-half hours after meals.

Those further speaking in support of the Hearings Officer's decision:

Katherine Kirkpatrick, 608 SE 18th Avenue, 97214
Katie Bretsch, 3336 SE Yamhill Street, 97214
Robin Mills, 925 SE 33rd Avenue, 97214
Katherine Anderson, 808 SE 28th, 97214
Charles Grant, 1017 SE 34th Avenue and 3354 SE Yamhill Street, 97214
John Noel, 2814 SE Salmon Street, 97214

Testimony from the above included: mediation and arbitration is needed as the church has not evidenced responsibility; the meal services are important but must be run well and safely; before the park was better developed, some attendees gathered in the recessed entrance to the building, right next to the children's club and their behavior was awful; the problems go back over a decade; none of the foot patrol is an immediate neighbor or even a

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Sunnyside neighbor; it took a long time for the church to agree to an exclusion process; Reverend Shields, after the three month closure, pardoned all those who had been excluded which the neighborhood saw as a breach of faith; and some fear retaliation if they report problems.

In answer to Commissioner Sten's question as to why she was more comfortable five years ago when she first moved in and what changed, since the meal service was in place that whole time, Ms. Mills answered that it took a little time to realize the disturbances were not temporary incidents and her neighbors would mention seeing someone sleeping in her yard.

Ms. Kirkpatrick added that, as in her case, new residents begin with a certain idealism about their new house.

Mayor Katz asked why the meal programs were closed for that three months.

Ms. Bretsch said after the community meetings there was an agreement between the church and neighborhood to close the programs for a time. The neighborhood's understanding was there would be conversations about what measures to put in place before it reopened and, at that point, when that did not happen, the neighborhood lost trust in the church.

Commissioner Sten commented that both sides have testified that they want to work together and asked Ms. Anderson, a professional Crime Prevention Specialist, what was going wrong.

Ms. Anderson said when the agreements are not upheld by the other party, trust is eroded. The church has seemed dismissive of neighborhood concerns. Although asked for an organizational chart for whom to contact and who would be responsible for what, the church has not provided it.

Mayor Katz pointed out that a neighborhood foot patrol made up of that neighborhood's residents is far more effective.

Commissioner Francesconi said the church, for the first time, has now acknowledged in writing that it has not fully met its obligation to the neighborhood.

Ms. Anderson said that document was just produced so there has been no time to study it. From what she hears, it contains the very things the neighborhood has recommended all along.

Mayor Katz asked about exclusions and how to handle it when those excluded are in the neighborhood.

Ms. Anderson said the police could talk about that, but an exclusion means a person is excluded from a particular property. One exception is the Hawthorne Boulevard Unified Business Plan whereby an exclusion at one business pertained to all the others. The neighborhood has not been notified of who the excluded people are and other attendees and church staff bring food outside to those excluded.

Those further speaking in support of the appeal:

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William Doering, Kid Care, North Plains Police Department, 8410 SE Flavel, Box 14, 97266
Sarah Taylor, Environmental Middle School, 2421 SE Oregon, 97214
Paul O'Connor, 390 SE 11th
Frodo Okalum, Theater Theater, Sister Spirit, 3430 SE Belmont, No. 209, 97214
Robert Castagna, Oregon Catholic Conference, 2838 E. Burnside Street
Susan Francois, 4025 SE Taylor Street, 97214
Jason Blumklotz, 222 NE Monroe, 97209
Robert White, 475 NE Glisan
Dorothy Swenson, 7434 N. Jordan, 97203
Jeff Day, 10765 SW Butner Road, No. 27
Richard Meyer, 13340 NW Marina Way, 97231
Lois A. Stranahan, 2934 SE 26th Avenue, 97202
Daniel Collins, 2116 NE 18th Avenue
Joan Sears, 3556 SE Salmon Street, 97214
Dan Fiebiger, 6833 N. Haight Avenue, 97217-1719
Jim Whittenburg, 4110 SE Hawthorne Blvd., 97214
Karen Burger-Kimber, 1675 SW Cherry Park Road, Troutdale, 97060
Jada Mae Langloss, 310 NW Flanders, No. 211, 97208
Joe Spinelli, 2524 NE 111th Avenue, 97220
Malachy Grange, 2927 SE Main Street, 97214
Debbie Day, 24005 SW Morgan Lane, Sherwood, 97140
Kathy Martin, 1431 N. Dekum, 97217
Deborah Olson aka Simpson, 133 NW 6th Avenue
John S. Bell, 6100 SW Canby Street, 97219
Ramona Soto Rank, Augustana Lutheran, NE 15th and Knott
Mark Knutson, Augustana Lutheran Church, 4526 NE 27th Avenue, 97211
John Schweibert, 2116 NE 18th Avenue, 97212

Testimony from the above included: the neighborhood should get involved with maintaining order; a teacher at a neighborhood school said nothing about problems with church activities ever came up in staff meetings; a homeless person praised the program as not warehousing the unfortunate and feeding souls as well as bodies; there are only about five people consistently creating the problems; there is a larger relationship between the faith-based community and government for public assistance and it will become more critical in the future; the lessening of problems when the programs were closed was more due to the fact it was during the cold months of November, December and January; programs through such places as Sunnyside and St. Vincent are very necessary for the homeless; public elimination is due to no public restrooms being available in parks anymore; alcohol establishments are not expected to escort "bounced" patrons entirely out of the neighborhood; the homeless meal program has been a model throughout the City and nation; neither the church nor the neighbors are a problem, it is poverty; the commercial stores and bars lend to the alcohol-related problems; shutting this program down will be a negative effect on other organizations' programs; home owners miles from a food program or shelter are impacted by the homeless; only 12 people in the SNA voted to ask the City to shut down the conditional use; no one from the school has spoken against the program; and tending to the needy is an historic church activity.

Commander Stan Grubbs, Police Bureau Southeast Precinct, said he wanted to deal with the here and now, the five months between October 1, 1999 through February 21, 2000.

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Commissioner Hales asked how this neighborhood was patrolled by foot, bicycle or car.

Commander Grubbs said this area has one of the most active neighborhood liaison officer programs. There are still many nuisance crimes while the person-to-person crimes have decreased. There are bike patrols during the nicer weather months. In answer to Commissioner Saltzman's question why the nuisance reports are the highest in Sunnyside, he said it might have to do with the traditional citizen tolerance of needy people.

Commissioner Sten said it looked as if the overall crime statistics were not that much higher than other neighborhoods and that a substantial chunk of complaints had to do with only several of the same people. He asked if objective evidence could be gathered on the Wednesday and Friday nights.

Commander Grubbs said his comparison is only for the past five months. The three month period during the meal closure did not show any large increase or decrease. Officer Jensen on his own time visited the facility. There has been a Police Bureau trespass agreement with Sunnyside Church since September 10, 1997, to authorize the Bureau to act as their agent in exclusions.

Commissioner Sten asked if a trespass approach could be used with the park.

Commander Grubbs answered that it is and has been an option. In answer to Mayor Katz' question about bringing the sides together, he said the tools are there but any GNA must have some sanctions, some results.

Commissioner Saltzman asked if, in his opinion, sanctions would go up to and include suspension of the programs in order for a good agreement to really be reached.

Commander Grubbs said there has to be that level of sanctions, with common ground on both sides. A good part of this is the larger social issues.

Commissioner Sten asked how much of the people's behavior is the church responsible for and what is reasonable for it to get sanction.

Commander Grubbs said there is a causal relationship between programs, but there are successful neighbor agreements where the facility said it would be accountable. That latter is a very important ingredient.

Ms. Bretsch said the neighborhood organization has not seen the statistics cited above. Nevertheless, statistics do not show the impact. The purpose of the Code in conditional uses in residential areas is clear: residential areas will be protected from unreasonable, adverse impacts by institutions and specifically says that even if they provide beneficial services to the community, the Code still provides that residential areas be protected.

Ms. Long said she participated in the mediation talks and noted three reasons why the talks were not successful: 1) it is a difficult population that the church serves; 2) there was denial of the validity of neighborhood complaints; and 3) no one in the position of authority from the church was at the table to make decisions about the program. The neighborhood has been through a lot of process already. She asked that Council lend their expertise and City staff for this process.

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Mr. Badrick said, in answer to Commissioner Sten's question if there is any hope for resolution, the example for hope is that this entire audience laughed together at the jokes. He is upset at the last minute plan, but is glad there is something.

Commissioner Francesconi asked Ms. Bretsch if he heard correctly that she did not want any more conditions, the neighborhood has participated enough and there is not enough good faith. Ms. Bretsch said that was accurate. He asked Ms. Long if she agreed with this.

Ms. Long answered that all the time the neighborhood has invested in this has taken its toll, on the community and individuals. The burden and maintenance of any program should be with the church.

Mr. Badrick said that in answer to the question as to how many people were in a particular meeting, there were a "billion" encouraging emails and phone calls from all over the City. This issue is not about counting heads, it is about what the impacts are. As a die-hard optimist, he believes anything can be worked out.

Mr. Sullivan said some people the church programs attract cause some problems in the neighborhood, but not all. After the Hearings Officer's decision, staff told the church to come up with a plan and, unlike his religion where the bishop would decide, the Methodists talk everything to death. There are people in extreme need, and faith-based organizations are answering that need. The recommendation to decouple the services from the site will not work as any other church trying to fill this need would also need a conditional use permit.

Ms. Schweibert said she was the one to decide to voluntarily shut down for three months last year, which was based on concern about what neighbors were saying. Of the 20-25 organizations in the Portland area who do feed people, only two do it daily. When the ministry for the homeless program that was housed in the church was removed a year ago, a lot of problems have diminished.

Mayor Katz asked whose idea the plan/framework was.

Mr. Sullivan said he emphasized they needed a plan for presentation to Council and suggested hiring Greg Winterowd, a planner.

Mayor Katz asked about a workable cooling-off period and asked if the church and neighborhood would like to consider that.

Ms. Schweibert did not think it would be necessary or helpful as their plan will correct some problems.

Mr. Winterowd said his sense about the first cooling off period was that it was great to do it, but it lacked enough communication about correcting the program. Monitoring and communication are key elements to good changes. A referral program should be in place.

Commissioner Hales said he likes their proposal but what has been done to date in respect to the connection between the church feeding programs and various County service programs. Is anyone from the County there. He also asked about transportation and how the people get there.

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Ms. Schweibert said during the shutdown last year, she met with organizations such as Sisters of the Road, St. Francis and St. Vincent de Paul churches, to explore the problems they all share. Regarding transportation, some come on foot, some by bus and a few drive.

Mayor Katz asked Ms. Beaumont about the limitation for the Indochinese Socialization Center.

Ms. Beaumont said the Office of Planning and Development Review staff confirmed that prior approvals did not impose limitations and lifting that is part of their recommendation as well.

Mayor Katz said a mediation proposal is doable, but the first question is to uphold the Hearings Officer's decision, revoke the programs and get to a mediation program and then come back. Or, defer the final decision to begin work immediately.

Commissioner Hales suggested reversing the Hearings Officer's decision, accept the conditions and require a sanction for non-performance. The church's last minute plan proposes management procedures which could be conditions. He does not want to shut down the feeding program which is so integral to the church's mission, however the neighborhood's complaints are valid. The people here tonight want a decision from Council, not a deferral or another process, and he thinks Council should make a tentative decision.

Mayor Katz said both the neighborhood and church have asked for outside help from other organizations.

Commissioner Hales, in answer to Commissioner Saltzman's proposal to defer the decision and have them come back in two weeks, said this needs to get out of the formal land use process and basically into a good neighbor agreement. The tentative decision can include the sanction that if this founders, Council will uphold the Hearings Officer.

Commissioner Francesconi said the programs need to be managed well.

Commissioner Hales asked Ms. Beaumont about Council's options for enforcement of the conditions both parties come up with, either in the good neighbor agreement or through conditions of approval on this permit.

Ms. Beaumont said two mechanisms currently exist in the City Code: 1) The Council decision overturns the Hearings Officer's decision and imposes additional stiff conditions. If those conditions are not satisfied by some future point in time, the reconsideration process can begin all over again. 2) Complaints can go to the Code Enforcement Hearings Officer for the City Code enforcement process. This process contains a full panoply of remedies from fines to terminating the land use proposal. Other remedies could be written into the proposal.

Mr. Badrick, in answer to the Mayor's question, said his glance at the church's plan holds some hope. He originally favored a cooling off period during which the two sides would develop a plan as a team. At this point, the neighborhood is exhausted. He could pass the church's plan copies to the general membership meeting. He is leery of good neighbor agreements without teeth. It needs to be based on something measurable and fair – not one

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person versus another. Mr. Badrick would like the area businesses to have a seat at the table, too, as they are also impacted.

Mayor Katz said others, such as the police, also need to be there.

Commissioner Hales said Council should not determine who has to be there.

Commissioner Saltzman said this sounded too loosey goosey to him. They need to think of the precedent being set. What if this were an industry operating on a conditional use permit and there was neighborhood concern about its operation and that industry came forward with a management plan the day of the hearing with no neighborhood input. The church's plan has not been reviewed.

Commissioner Hales said taking this approach does not adopt the plan on the spot. When this plan is modified, conditioned and comes back, Council will ensure it has teeth.

Mayor Katz said it was important that all interested parties come to the meeting, such as police.

Ms. Beaumont said to prepare findings, she needed to know what the ultimate conditions will be. A motion needs to be made for a tentative decision to reverse the Hearings Officer's decision as to the Wednesday and Friday meal programs, subject to a set of conditions. A starting point would be the plan submitted by Sunnyside Church and modification of the remainder of the Hearings Officer's decision. As she would need to know what final conditions ought to be included in a written decision, it may take two additional steps to get to the findings.

Mayor Katz suggested that Harry Auerbach, Senior Deputy City Attorney, be included in the neighborhood/church meetings.

Mr. Badrick said it could be argued that the church produced this plan at the last moment, only because they had their back to the wall.

Commissioner Hales said, to use a bad analogy, foxhole conversions sometimes stick.

Ms. Beaumont said if Commissioner Hales made the proposed motion and it carried, the church, as the prevailing party, would write the findings. She and Mr. Sullivan would probably work together. There has been a request to keep the record open.

Commissioner Hales, in answer to Commissioner Saltzman's question of why not postpone, rather than make a tentative decision, said he wanted to put hope on this approach and indicate that Council expects this to work. There is the protection that the neighborhood could always file another complaint if the sanctions do not work.

Commissioner Hales moved that the Council make a tentative decision to reverse the Hearings Officer's decision and to allow the continued operation of the Wednesday and Friday feeding programs, with the previous conditions of approval for other portions of the conditional use approval still in effect, and with findings and conditions based on the church's submittal for operating rules and agreements and lift the participation limit on the Indo-Chinese Cultural Center. This decision is to come back to Council after 60 days, after

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review by Sunnyside NA and Belmont and Hawthorne business associations.

Ms. Beaumont pointed out that the findings would have to be developed once this issue has come back after the 60 days.

Commissioner Hales included in the motion that the City Attorney would impose an enforcement mechanism for the conditions.

The vote on Commissioner Hales' entire motion was Y-5.

Commissioner Francesconi noted that the 1988 conditional use was different. It did not include these programs, but hunger is so up in this country and state. This motion is the best approach to remind us that we are all in this together.

Commissioner Hales said it could be said it is too bad it came to this – a big, contentious discussion in a formal Council setting. In another sense, that is why this chamber is here, for citizens to seek resolution. Those here are people of good will. This hearing has highlighted the need for public agencies, particularly the Police Bureau, to be good partners to make something like this work.

Commissioner Saltzman said he was reluctant to vote for the motion, although he will, as it would set a precedent. He was concerned about circumventing the principle of the conditional use process, whether it is a church or a toxic waste industry.

Commissioner Sten said Council had to agree or not with the Hearings Officer's decision and everything else is how it is done. He is voting for the motion and is hopeful that something good comes from this. It is good to see the neighborhood, under Tom Badrick's leadership, work so hard to address problems and also good that the church does some incredibly important work. Other churches, rather than just standing behind Sunnyside, should be doing a little more themselves. He sees this more as a policing issue, as a small number of the people are causing the majority of the neighborhood's problems.

Mayor Katz acknowledged the church's good work. She noted part of the reason churches historically have been relieved from paying taxes was to provide not only the spiritual services to the community, but also programs to feed the poor and take care of those the community has abandoned. In this case, the church has the burden of proof to make this work and Mr. Badrick has a heavy responsibility. She believes this can become a positive happening. She noted the gap between the rich and poor is increasing and the federal government cannot always help. In addition to the affordable housing and homeless programs it has done, the City should reexamine the shelter configuration plan.

Disposition: Tentatively grant appeal with conditions: Applicant prepare findings for May 3, 2000 at 2:00 p.m.

At 8:42 p.m., Council adjourned.

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At 8:42 p.m., Council adjourned.

GARY BLACKMER
Auditor of the City of Portland

By Britta Olson
Clerk of the Council