

**MINUTES
FAIRVIEW CITY COUNCIL REGULAR MEETING
FAIRVIEW CITY HALL
1300 NE VILLAGE STREET
FAIRVIEW, OREGON 97024**

May 19, 2004 -- 7:00pm

**I. CALL TO ORDER/
ROLL CALL**

Mayor Weatherby called the meeting to order at 7:00pm.

PRESENT: Mayor Mike Weatherby
Councilor Darrell Cornelius
Councilor Sherry Lillard
Councilor James Raze
Councilor Larry Cooper
Councilor Jim Trees

ABSENT: Councilor Steve Owen

STAFF PRESENT: Mary Jo Briggs, City Administrator
Ken Johnson, Chief of Police
Bob Cochran, Public Works Director
Melissa Slotemaker, Associate Planner
Pam Beery, City Attorney
Caren Huson, City Recorder

**II. CITIZEN
COMMUNICATIONS**

Mayor Weatherby called for persons wishing to speak on non-agenda items.

Peter Tuomala, 4805 NE 92nd Avenue, Portland, stated that he had spoken before the Council some months ago with the idea of starting a farmers/artists market in Fairview. Mr. Tuomala reported that the first Farmers Market would be held June 3rd from 5:00pm to 8:00pm on NE Village Street, and continue every Thursday evening through mid-October. Mr. Tuomala stated that he was asking the City to contribute to the start-up capital for the market as they were working with a zero budget at this time. Supplemental items need to be taken care of, such as insurance, tents, tables, supplies, etc.

Councilor Raze questioned if the insurance could be added to the City's insurance policy without cost. Pam Beery, City Attorney, responded that it could be added at a cost to the City. Councilor Raze stated that the City had just completed its budget process and that the budget was very lean. Councilor Raze suggested that Mr. Tuomala approach the Fairview Village Business Association for sponsorship funds.

Councilor Trees offered to loan the Farmers Market some 4'x8' tables that he owns. Councilor Trees asked if SDC funds could be used for the Farmers Market. Attorney Beery responded no.

Councilor Lillard questioned what the vendor space rental fee would be. Mr. Tuomala responded that this year, vendor space would be \$20 per event; if someone booked a space several weeks out, they would receive a discount. Councilor Lillard asked if some of the vendor fees could be used for the needed supplies. Mr. Tuomala responded yes, but that the supplies were needed before the funds would be received.

Mr. Tuomala stated that since the Council only had \$400 left in its discretionary fund, that he would pull his request.

III. CONSENT AGENDA

Councilor Cooper moved and Councilor Raze seconded the motion to approve the Consent Agenda, consisting of Resolution 12-2004, A RESOLUTION STATING THE CITY'S QUALIFICATION FOR STATE-SHARED REVENUE FUNDS.

AYES: 6
NOES: 0
ABSTAINED: 0

IV. PUBLIC HEARING

**A. APPEAL OF
CONDITIONAL USE
PERMIT
Christ Light Unity
Church**

Mayor Weatherby read the requirements for a Quasi-Judicial Land Use Hearing into the record which is attached hereto to these minutes and opened the public hearing.

Melissa Slotemaker, Associate Planner, reported that the Christ Light Unity Church has proposed to convert an existing 16'x32' detached garage into a meeting area. The subject site is zoned Low Density Residential R-10) and is located one lot north of Halsey Street on NE 205th Avenue. The proposal includes parking in the front yard and off-site at the Reynolds Middle School parking lot, on the south side of Halsey Street. A public hearing was held on March 9, 2004 before the Planning Commission. Numerous neighbors attended the meeting and voiced concerns about the church use within the residential neighborhood. The Planning Commission approved the application subject to 10 conditions of approval to mitigate the impact on the neighborhood, including landscape requirements, limitation on the freestanding sign, and on-site parking limitations. Christ Light Unity Church appealed the decision on March 26, 2004. Two specific issues were raised on the appeal, conditions of approval one (1) and six (6).

Condition 1 stated that the conditional use permit shall be for a maximum of 31 people. Troutdale Building Inspection had originally indicated to staff that given the size and construction of the detached garage building, the building could have a maximum occupancy of 31 people. However, since the Planning Commission decision, Troutdale Building Inspection and the Gresham Fire Marshall agreed in writing that the building may have a maximum occupancy of 49 people with the condition that the total square footage of the meeting area is not over 343 square feet, excluding the platform/pulpit area. Condition 6 stated that a maximum of 7 vehicles shall be permitted to park on-site at any time. All other cars shall park at the Reynolds Middle School parking lot. One on-site space shall be a van-accessible parking space, which shall meet all ADA requirements. The applicant states in their appeal narrative that the maximum number of cars permitted to park on site could inadvertently be violated by circumstances beyond their control. They want to be able to meet all the conditions of the Conditional Use Permit all of the time. They would appreciate Council's removal of a number that could be innocently exceeded. The Planning Commission had found that by limiting the number of cars to 7 in the front yard, that there would be less impact, visual and otherwise, on the neighborhood. Staff recommends keeping Condition 6 as approved by the Planning Commission.

In conclusion, Planner Slotemaker stated that based upon the original Planning Commission decision and taking the new occupancy information into account, that Council grant the appeal in part and deny the appeal in part, approving the modification to Condition 1, but keeping Condition 6 in place. In addition, Council should approve the application with conditions of approval, adopting the findings as recommended, which will then supersede any prior decision. In addition, the applicant is requesting a refund of the appeal fee.

Councilor Cornelius questioned if the number of vehicles parked on-site exceeded 7, what the possible result would be. Planner Slotemaker responded that it could possibly lead to revoking the Conditional Use Permit.

Councilor Treese asked how many cars could park between the two driveways in the right-of-way. Planner Slotemaker responded two. Councilor Treese questioned what would happen if someone unrelated to the church happened to park in the right-of-way on Sunday during services, thus causing an increase in the number of allowed parked vehicles. Planner Slotemaker responded that staff would not be reviewing the parking situation every Sunday, but would have to respond should complaints be received.

Mayor Weatherby asked how many cars could park at Reynolds

Middle School. Planner Slotemaker responded hundreds. Mayor Weatherby questioned why there was an issue when there were so many parking spaces available at the school. Planner Slotemaker responded that the church would like closer parking spaces.

Councilor Cornelius questioned if there was a stoplight for pedestrians to cross from the Middle School parking lot to the church. Planner Slotemaker responded that there was no stoplight, but the pedestrian crosswalk was clearly marked on the street.

Councilor Raze noted that only 43 persons were allowed to be in the church building, so that would mean that half could park on-site and the other half would park at the Middle School.

Hugh Myers, 5636 SE Bush Street, Portland, stated that he was the Associate Minister of the church and that from what he understood, anyone may park on a city street. Mr. Myers was suggesting that the word "all" be removed from the condition that "all other vehicles must park at Reynolds Middle School". This would allow church goers to use the two on-street parking spaces in front of the property. Mr. Myers commented that if there is empty space on the street to park, how could they possibly keep someone from parking there when parking is allowed on city streets; if their lot has 7 cars parked on-site, and then two vehicles decided to park on the street in front of the church, but were unrelated to the church, then the church would be in violation of their conditions.

Councilor Raze suggested that the church would want to make sure that they comply, but 205th Avenue is a very quiet residential street and the impact would be great to that street on a Sunday morning if cars were allowed to park outside the property on the street. Councilor Raze stated that he was in favor of any recommendation the Fire Marshall had made, but parking on the street causes a lot of anguish for people who have lived in that neighborhood for many years. Seven spaces are being allowed on-site, with everyone else parking at the Middle School is a condition of the Use Permit and that has to be accepted. The biggest problem for the neighborhood is cars parking in front of their homes as many residents on 205th Avenue have landscaping right up to the street. Mr. Myers responded that the church has chosen not to park in front of anyone else's home, and that they should have the right to park in front of their own home on the street. Councilor Raze responded that it was not a matter of "rights", the church is conditioned and he supports it. In addition, Councilor Raze commented that he did not think the church would find residents of 205th Avenue purposely parking on the street in front of the church.

Councilor Lillard stated that she did not know if the church was aware

of regulations for home-based businesses, but the conditions placed by the Planning Commission were not unreasonable.

Councilor Cornelius suggested that one way to monitor the parking situation was to have a parking lot monitor; once 7 vehicles were parked on-site, simply place two sawhorses in front of the driveway to prevent others from parking on the site. This method could also be used for blocking the parking area in front of the property.

Rich Goheen, Fairview, stated that his concern was in terms of parking and emphasized that the Planning Commission had conditioned the project for 7 cars to park on-site and ALL other vehicles to park at Reynolds Middle School.

Councilor Trees questioned if 5 vehicles were parked on-site, and two vehicles were parked in front of the property, would it be legal and meet the conditions. Planner Slotemaker responded that staff needs clarification from Council, as two vehicles could be parked outside of the lot. Mayor Weatherby asked what staff's recommendation was for parking in front of the church lot. Planner Slotemaker responded that two cars could be parked in front of the church lot, off the paved area, in front of the residence. She felt that if the rest of the neighbors could park on the street in front of their homes, that the church should also be allowed to do so.

Councilor Cornelius asked if the Planning Commission had addressed the on-street parking question. Planner Slotemaker responded that it had been brought up but never clarified and resolved. She thought the Planning Commission wished to set a clear limit on the number of on-site parking spaces, but street parking was never discussed. Mr. Goheen commented that 205th Avenue was too narrow to have any cars parked on the street as it would inhibit traffic flow.

Dick Taug, 1625 NE 205th Avenue, Fairview, stated that he had spent two hours replacing his mailbox as a school bus had clipped it because they did not have enough room to pass another vehicle. Mr. Taug commented that he had attended the Planning Commission hearing in which it was clearly stated that there was enough room for 7 vehicles to park on-site and that ALL other vehicles would have to park at the Middle School; they would not even consider adding two parking spaces in front of the church lot. Mr. Taug added that the church use was a non-conforming use for the neighborhood and not consistent with a neighborhood; it was not unreasonable to require all other vehicles to park at Reynolds Middle School.

Mr. Myers stated that he had no rebuttal to the public testimony and that he welcomes the opportunity to work with the neighbors.

Ken Johnson, Chief of Police, stated that you would not find cars parking on the street on NE 205th Avenue as it would be a violation.

Councilor Raze commented that another request of Council was to return the appeal fee. Since it appears that Council will be upholding one of the requests and denying the other, that he would be in favor of returning half the fee. Councilor Cornelius stated that he agreed with the Planning Commission regarding the parking issue and the limitation of 7 vehicles on-site, but would vote to refund the entire appeal fee based on the applicant prevailing on the majority of the issues. Councilor Trees concurred with Councilor Cornelius. Mayor Weatherby indicated that he was only in favor of refunding half the fee.

Receiving no further testimony, Mayor Weatherby closed the public hearing.

Councilor Cornelius moved and Councilor Raze seconded the motion that in regards to Condition 1 of the Planning Commission Final Decision, that it state that there be a maximum of 49 persons with the conditions that the total square footage of the meeting room area be 343 square feet, excluding the area used for the platform and musical instruments, per Fire Marshall requirements.

AYES: 6
NOES: 0
ABSTAINED: 0

Councilor Raze moved and Councilor Cooper seconded the motion to uphold the Planning Commission Condition 6, that 7 parking psaces be designated on-site and all other vehicles to park in the Reynolds Middle School parking lot, with no parking to occur in front of the church property.

AYES: 6
NOES: 0
ABSTAINED: 0

Councilor Raze moved and Councilor Cooper seconded the motion to refund 50% of the appeal fee. Councilor Cornelius indicated that he would vote against that motion as he believed the church was due a refund greater than 50%. Councilor Lillard concurred with Councilor Cornelius. Mayor Weatherby called for the vote.

AYES: 3
NOES: 3 (Cornelius, Lillard, Trees)
ABSTAINED: 0

Motion failed.

Councilor Cornelius moved and Councilor Lillard seconded the motion to refund the entire appeal fee.

AYES: 6
NOES: 0
ABSTAINED: 0

Councilor Lillard moved and Councilor Trees seconded the motion to approve the application with conditions of approval, as modified, and adopt the findings as recommended by staff to supersede the prior decision.

AYES: 6
NOES: 0
ABSTAINED: 0

V. STAFF REPORTS

A. Police

Chief Johnson reported that the Police Department's written report was contained in the Council packet, and that the report was a work in progress.

B. Public Works

Bob Cochran, Public Works Director, reported that Reservoir 3 was continuing on schedule, and that Bonita Plaza Phase 2 was hoped to be in place by July or August of this year. Paving on Park Street occurred last week from Village to Market Streets.

C. City Administrator

Mary Jo Briggs, City Administrator, stated that before the Council was a sheet of paper with the word "Fire" on it. Staff has been working consistently on the fire issue as it is very complicated and they continue to work through the issue. The handout shows several methodologies which could be used to split the fire cost. Gresham's preferred methodology is a uniform tax rate, but no matter what methodology is used, it appears as though Fairview citizens will have to pay more for fire service.

Councilor Cooper questioned if it had been researched how many more officers Fairview would need if the Police were to be the first responders in medical emergencies instead of fire personnel.

Attorney Beery stated that her written report was before the Council.

Administrator Briggs responded that we would need to have secured staffing 24 hours a day which would probably require 4 to 6 more officers.

VI. MAYOR/COMMITTEE REPORTS AND COUNCIL CONCERNS

Councilor Cornelius stated that Administrator Briggs would be leaving on June 18th, and that Council would be conducting a search for a replacement. At this time, an Interim City Administrator was needed.

Councilor Cornelius moved and Councilor Raze seconded the motion to appoint Bob Cochran, Public Works Director, as Interim City Administrator, with his current salary to increase by \$1,000 per month during the time he serves as Interim.

AYES: 6
NOES: 0
ABSTAINED: 0

Director Cochran thanked the Council for considering him, adding that he plans to keep Administrator Briggs' energy going.

Councilor Cornelius reported that his wife, Lidiya, had taken her civics test earlier in the day for citizenship and had passed it with a 100% score; she would be sworn in as a U.S. citizen the following day.

Councilor Raze reported that the porch construction on the Heslin House was moving along, with the Scouts claiming that they will have it completed by the end of June.

Councilor Trees announced that volunteers were needed for the Children's Theatre, Local Talent Showcase, and Anti-Graffiti Committee.

Mayor Weatherby and Councilors Lillard and Cooper had no reports or concerns.

VII. ADJOURNMENT

Councilor Raze moved and Councilor Lillard seconded the motion to adjourn. Mayor Weatherby adjourned the meeting at 8:49pm.

AYES: 6
NOES: 0
ABSTAINED: 0

Mayor Mike Weatherby

Dated:

Caren C. Huson Quiniones
City Recorder