

A regular meeting of the Astoria Common Council was held at the above place at the hour of 7:00 p.m.

Councilors Present: LaMear, Herzig, Warr, Mellin, Mayor Van Dusen

Staff Present: City Manager Benoit, Community Development Director Estes, Finance Director Carlson, Public Works Director Cook, Police Chief Curzon, Deputy Chief Johnson, Parks and Recreation Director Cosby, Fire Chief Ames, City Support Engineer Moore, and City Attorney Henningsgaard. The meeting is recorded and will be transcribed by ABC Transcription Services, Inc.

REPORTS OF COUNCILORS:

Item 3(a): Councilor Mellin reported that she learned about logging on the forestry tour. She also attended the Transportation System Plan (TSP) Update meeting, Arts Night Out, and a meeting conducted by Parks Director Cosby where the 9th Street Park was discussed. She also introduced Representative Suzanne Bonamici at a town hall meeting, where she learned about several new issues. The meeting was packed with attendees, showing the need for a bigger room in the library. She announced that the celebration of the formation of the Ghadar Party has been well advertised and several events are planned. At 9:00 p.m. on Saturday, October 5, 2013, Jim Defeo of the Astoria Coffee House will host a party at the coffee shop where Punjabi music will be featured.

City Manager Benoit distributed photos of the Sikh and Scandinavian communities in Alderbrook to the audience.

Mayor Van Dusen added that the formation of the Ghadar Party is significant to Alderbrook and the country of India. The party was formed in Alderbrook and India has created a commemorative stamp to recognize the 100th year anniversary of the party.

Item 3(b): Councilor Warr reported that his company recently finished several projects for the City of Astoria, including engraved pavers for the Column and created and engraved 15 timeline planks for the Garden of Surging Waves. He provided some details of the engravings on the timeline planks. He reported on the TSP public open house held September 11th at the Liberty Theatre. The committee will meet two more times before a completed plan is presented to City Council early in 2014. He is a member of ODOT's Northwest Area Commission on Transportation and has been asked to serve on a technical advisory board to help rate a number of projects that have applied for funding. Rating the projects will enable the board to award funding within the funding cap of about \$13 million. Not all projects will be funded. Funds will be used to widen a half-mile section of Highway 101 through the center of Seaside and build a sidewalk from the Astoria High School to 7th street along Highway 202.

Item 3(c): Councilor Herzig reported that the Lower Columbia Diversity Project held an event about the Chinese in Astoria, which received great coverage in the *Daily Astorian* and was well attended. The next event will be on Tuesday, October 1st on teen substance abuse in Clatsop County. Flyers with the agenda were made available. He announced that Dr. Jasmit Singh of Seattle, who previously spoke at a Diversity Project event about Sikh history and religion, would participate in the Ghadar Party Centennial celebration. Stanley Marcus, a prominent sculptor from Massachusetts, donated the sculptures in the Liberty Theatre. Mr. Marcus has also loaned another sculpture to the City that is currently in the lobby of City Hall and will be displayed at the Sunday Market on October 6, 2013. Councilor Herzig sought public input on these sculptures as Mr. Marcus would like to donate more sculptures to the City. Astoria has the opportunity to become more of an arts destination. A press release with more details will be published.

Item 3(d): Councilor LaMear reported that she attended the Oregon Coast Economic Summit in Lincoln City where a variety of issues were discussed. Several members of the Coastal Caucus attended. The Coastal Caucus is a group of Senators that discuss coastal issues and suggest solutions to the legislature. She reported that there have been many meetings and events regarding the library renovations, including a booth at the Sunday Market and community meetings.

Item 3(e): Mayor Van Dusen reported that the former United States Coast Guard cutter *Ironwood* has been donated to the Tongue Point Job Corps and will be used as a training vessel. He would represent the City on Wednesday, September 25th at the Oregon Renewable Energy Conference being held at the Liberty Theatre. The League of Oregon Cities Conference will be September 26th and 27th this year.

Dulcye Taylor, President, Astoria Downtown Historic District Association (ADHDA), introduced Alana Garner, new Executive Director of the ADHDA, and Paul Tutor, ADHDA board member. She noted that a member of the ADHDA always attends City Council meetings. The Oregon Mainstreet Conference will be held October 2-4, 2013. The conference is open to the public but internet registration is required. Attendees as well as speakers will be coming from throughout the region. Ms. Taylor said she was excited about welcoming people to Astoria and hopes that the City will win some awards.

Mayor Van Dusen introduced former City Council member Tom Potter, who recently moved back to Astoria and currently works as an architect.

City Council proceeded to Item 5(a): Jake Kaup, Eagle Scout.

CHANGES TO AGENDA:

Changes to the Agenda were discussed immediately following Item 6: Consent Calendar.

City Manager Benoit requested the addition of Item 7(i): Mutual Agreement and Order Amendment

The City Council proceeded to address Item 7(i) at this time. (Page 9)

PRESENTATIONS:

Item 5(a): Jake Kaup – Astoria Student who Achieved the Rank of Eagle Scout, the Highest Rank of the Boy Scouting Program

This presentation was given immediately following Item 3: Reports of Councilors.

Mayor Van Dusen noted that the United States Coast Guard (USCG) makes up an important part of the community. The quality of the Coast Guard members and their families makes Astoria a better place to live. Eagle Scout Jake Kaup would not be a part of the community without the Coast Guard. Mayor Van Dusen added that he and Councilor LaMear attended the Eagle Scout ceremony at the Kaup residence on Saturday, September 21st. A lot of work is required to achieve the rank of Eagle Scout, which is earned by very few Boy Scouts. Many notable people, like presidents and astronauts, are Eagle Scouts.

Mayor Van Dusen read a proclamation declaring September 21, 2013 Jake Kaup Day.

Jake Kaup thanked his parents, Mr. Elkins, and everyone who helped him complete his Eagle Scout projects. He described the work he did on the Cathedral Tree Trail.

Mayor Van Dusen and City Council presented Mr. Kaup with a commemorative plate honoring his achievements.

Item 5(b): Armory Building

City Manager Benoit provided a verbal update on plans to acquire the Armory Building and adjacent parking area, noting the subject has been covered well in the media. His key comments were as follows:

- The building is currently owned by the Columbia River Maritime Museum, who purchased the building more than 10 years ago to store artifacts close to the museum. The Museum recently purchased the Astoria Builder's Supply building with the intent of relocating artifacts from the Armory. The Museum plans to sell the Armory building and the adjacent vacant lot.
- The City would like to purchase this property to protect parking for the USCG. The Coast Guard is a tenant of the City at the 17th Street Pier and relies on parking on both sides of the highway to support the two cutters docked at the pier.

- The City and Museum have developed a tentative agreement, which includes a land exchange and cash exchange. The agreement proposes that the City give the Museum about 150 feet of a parcel almost two acres large that extends east from the Maritime Museum's train depot. This would alleviate summertime parking congestion at the museum.
 - In addition to this land, the City would vacate the portion of Duane Street that divides the retail building and the storage building of Astoria Builder's Supply. This portion of Duane Street looks like a driveway, but is actually an established right-of-way. Vacating the right-of-way would allow the museum to control access to the property they have purchased for artifact storage.
 - The City would also pay the museum \$250,000. In exchange for \$250,000, the property deed to the train depot and the vacation of Duane Street, the Maritime Museum would deed the Armory Building and the adjacent parking lot to the City.
- The City would move immediately to list and sell the Armory Building as City Council has no interest in long-term ownership. Prior to being made publically available for private sale, the building would be offered to the Friends of the Astoria Armory, which has expressed strong interest in acquiring the building. The parking lot would remain City property for use by the USCG.

Mayor Van Dusen understood that in addition to protecting parking for the Coast Guard, the City wanted to secure an area east of the depot that would remain open to the public. He noted there was a lot of opposition to the development of condominiums and other similar projects during Riverfront Visioning discussions. At one time, a hotel was going to be built on this property, but this proposal guarantees that area will remain open space for the public and never be sold or developed.

Councilor Herzig noted that deliveries are made at the back entrance of the Moose Lodge, which is on Duane Street. He wanted to make sure this access would remain after the Maritime Museum owns the property. City Manager Benoit replied that Staff and members of the Moose Lodge have discussed this issue at several meetings. The City will be able to accommodate the Lodge's concerns while protecting access to the Museum property.

Mayor Van Dusen called for questions from members of the audience regarding the Armory Building.

Robert Erickson, 439 Grand, Astoria, agreed with the City's intent to keep the parking lot, but did not understand why the Armory Building was part of the property transfer. Mayor Van Dusen confirmed that the bank would be lending money for the building and the lot, and that the City would repay the loan for the parking lot, and hopes to sell the building to the Friends of the Astoria Armory.

Mr. Erickson understood that City Code limits the height of buildings, which would protect the property should the Armory Building be torn down. Mayor Van Dusen clarified he was referring to the area east of the train depot right on the riverfront when he spoke about protecting against development projects.

Mr. Erickson believed state law requires the City to advertise the sale of public property, so the Armory Building should be advertised so everyone has a fair chance to purchase it. He supports helping the museum, but is concerned about the Armory Building as several attempts to use the building have failed and he did not want to see the City be stuck with it. He would like something in the building that creates jobs. [09 13:52] Mayor Van Dusen explained that the museum received an offer from the Friends of the Astoria Armory to purchase the Armory Building and the City offered to purchase the lot. However, the museum insisted on selling the parking lot and Armory Building together.

Mr. Erickson was concerned that the Friends of the Astoria Armory would not be able to obtain the funds to purchase the building. Mayor Van Dusen explained that the Friends would have the first option to purchase the building and have already submitted a bid to the museum to purchase the building for \$300,000. If the Friends do not purchase the building, it will be made available for sale on the open market. Other buyers have expressed interest in purchasing the Armory Building. City Council is confident the City will be able to sell the building for close to \$250,000. Mr. Erickson was concerned that the City may not be able to sell the building for \$250,000.

City Attorney Henningsgaard explained that City properties are not required to be sold at auction, but the City must conduct a public hearing prior to selling a property. This process is different from county tax foreclosure sales.

Mayor Van Dusen added that he appreciated Mr. Erickson's questions because it helped to inform the public.

CONSENT CALENDAR:

The following items were presented on the Consent Calendar:

- 6(a) City Council Minutes of 8/19/13
- 6(b) Boards and Commission Minutes
 - (1) Historic Landmarks Commission Meeting 7/16/13
 - (2) Library Board Meeting 7/23/13
- 6(c) Update on Delinquent Transient Room Taxes (Finance)
- 6(d) Grant Applications for Restoration of City Hall First Floor Windows and Doors (Community Development)**
- 6(e) Memorandum of Understanding with the US Coast Guard (USCG) for Fire Protection and Emergency Medical Services for USCG Cutters Alert and Steadfast and Facilities (Fire)
- 6(f) 2013 Crack Sealing Project -Authorization to Award (Public Works)
- 6(g) Star of the Sea Lease Amendment (Parks)

Councilor LaMear requested Item 6(d) be removed from the Consent Calendar for further discussion.

City Council Action: Motion made by Councilor Warr; seconded by Councilor Mellin, to approve Items 6(a), (b), (c), (e), (f), and (g) of the Consent Calendar. Motion carried unanimously. Ayes: Councilors LaMear, Warr, Herzig, Mellin and Mayor Van Dusen; Nays: None.

Councilor LaMear said she was surprised that the restoration of the first floor doors and windows were not completed during the City Hall renovation. City Manager Benoit explained that costs needed to be controlled during the renovation. While the doors and windows are fully functional and may last another 10 years, this grant, through the State and a foundation, provides an opportunity to completely rehabilitate and restore the windows and front entryway to their original condition. This was not part of the original project because of budget limitations.

Mayor Van Dusen added that the City recently spent almost \$2 million on the renovation and now the doors and windows are being restored. City Manager Benoit added that a local man, who is very talented at restoration work, will be able to complete the project at a low rate. Had the City accepted bids as part of the City Hall project, the costs would have been higher.

City Council Action: Motion made by Councilor Mellin; seconded by Councilor Herzig, to approve Item 6(d) of the Consent Calendar. Motion carried unanimously. Ayes: Councilors LaMear, Warr, Herzig, Mellin and Mayor Van Dusen; Nays: None.

City Council proceeded to Item 4: Changes to the Agenda.

REGULAR AGENDA ITEMS

**Item 7(a): Ordinance Amending Certain Provisions Dealing with Public Offenses (1st Reading)
(City Attorney)**

This item was discussed immediately following Item 7(i): Mutual Agreement and Order Amendment.

City Attorney Blair Henningsgaard has drafted this ordinance for Council's consideration. The amendments proposed would accomplish the following:

- (1) Amend Astoria Code 1.101(3) to allow the imposition of fines greater than \$1,000 for building violations.
- (2) Amend the title of Astoria Code 5.115 to "Offensive Public Conduct" rather than "Public Indecency." Changing the name will allow the City to more effectively utilize this ordinance.
- (3) Amend Astoria Code 5.010 to prohibit loaded firearms in public places and bring this ordinance into compliance with state law.

It is recommended that Council conduct a public hearing and the first and second readings of this ordinance.

Councilor Warr asked if the term "offensive public conduct" was well defined in the ordinance, as it seems to be a subjective term. City Attorney Henningsgaard explained that the statute describes the conduct considered offensive, which includes public urination and defecation or swimming naked in the presence of the opposite sex. The title is being amended because the former title required convicted offenders to register with the State as a sex offender. While the City does not issue citations to many skinny dippers, it seems inappropriate to require a skinny dipper to register as a sex offender. There are an unfortunate number of citations for public urination, mostly by males on the weekends. The City court found it difficult to prosecute the public urination cases because the requirement to register as a sex offender was deemed inappropriate.

City Attorney Henningsgaard clarified that the request is to adopt the ordinance on an emergency basis because the current City Code does not comply with Oregon law. The process normally requires two readings and a public hearing.

Director Estes conducted the first reading of the Ordinance Amending Certain Provisions Dealing with Public Offenses in its entirety.

Mayor Van Dusen opened the public hearing at 8:01 p.m. and called for anyone wanting to address the City Council on the Ordinance Amending Certain Provisions Dealing with Public Offenses to come forward with any comments or concerns.

Mayor Van Dusen asked how this amendment would affect how wildlife in the city that may need to be shot. The City has hired individuals who are not employees of the United States Department of Agriculture to trap animals, but never shoot them. Chief Curzon confirmed that he could give permission to shoot an animal.

Mayor Van Dusen closed the public hearing at 8:03 p.m.

Director Estes conducted the second reading of the Ordinance Amending Certain Provisions Dealing with Public Offenses.

Councilor Herzig noted a typographical error in Section 3(a), which was corrected to read, "No person may possess a loaded firearm in a public places as defined in Oregon Statute 161.015"

City Council Action: Motion made by Councilor Warr, seconded by Councilor LaMear to adopt the ordinance amending certain provisions dealing with public offenses. Motion carried unanimously. Ayes: Councilors LaMear, Warr, Herzig, Mellin and Mayor Van Dusen; Nays: None.

Item 7(b): Authorization to Purchase Three Vehicles for Public Safety (Police)

Astoria Police and Fire Departments have three vehicles that are in need of replacement this fiscal year. The vehicles are a 1998 Ford Explorer with 123,000 miles, a 2007 Chevy Tahoe with 130,000, and a 1999 Ford Crown Victoria Police Interceptor (CVPI) with 112,000 miles. All vehicles are in poor condition. Two of these vehicles will be replaced with a 2014 Chevy Tahoe Police Package Vehicle (PPV) and assigned to patrol. The third will be replaced with a 2014 Chevy Tahoe 4x4 Special Services Vehicle (SSV) and used by the Fire Department as a Command Vehicle. Staff has researched the Oregon State Purchasing Program and located the vehicles from Hubbard Chevrolet. The Tahoe 2014 PPV is available for \$28,643 and the 2014 Chevy Tahoe SSV is available for \$32,507. The total purchase price is \$89,793. Ocean Crest was contacted and is unable to provide a competitive bid. The Finance Department has recommended spreading the purchase over two years. This amount is included in the adopted budget. A separate authorization will be requested for the set up and equipment for the vehicles. It is recommended that Council approve the purchase of three vehicles from Hubbard Chevrolet. The total cost of \$89,793 is within the approved budget.

City Council Action: Motion made by Councilor Mellin, seconded by Councilor Warr to authorize the purchase of three vehicles from Hubbard Chevrolet for a total cost of \$89,793. Motion carried unanimously. Ayes: Councilors LaMear, Warr, Herzig, Mellin and Mayor Van Dusen; Nays: None.

Item 7(c): Public Hearing to Exempt Contract from Competitive Bid Solicitation Requirements – Public Safety Vehicle Upfitting (Police)

The Astoria Police Department has identified the need to keep consistency in the setup of public safety vehicles. As both vehicles and public safety equipment have become more complex systems, this work has become much more specialized. After two years of competitive bids we have found that Cascade Mobile of Longview has been competitive in pricing. We have also found their quality of work and follow up on issues that develop to be without compare in the industry. Additionally they are our two-way radio vendor and have the capability of doing a complete build including radio integration and programming. This is not true for any other vendor that we have found.

Staff believes it to be in the best interest of the City to exempt this contract from the standard competitive bid process and award a Personal Services Contract to Cascade Mobile of Longview. Such an exemption requires a public hearing be held and findings supporting this special solicitation method be adopted. It is recommended that Council conduct a public hearing for the purpose of taking public comment on the findings for exemption from competitive solicitation requirements and adopt findings that authorize the direct appointment process to contract with Cascade Mobile for the upfitting of three public safety vehicles in an amount not to exceed \$30,000.

City Manager Benoit confirmed that approval of this exemption would not commit the City to permanently receive services from Cascade Mobile.

Mayor Van Dusen opened the public hearing at 8:09 p.m. and called for anyone wanting to address the City Council on the exemption of the competitive bid solicitation requirements to come forward with any comments or concerns. Hearing none, Mayor Van Dusen closed the public hearing at 8:10 p.m.

City Council Action: Motion made by Councilor Warr, seconded by Councilor Mellin to adopt findings that authorize the direct appointment process to contract with Cascade Mobile for the upfitting of three public safety vehicles in an amount not to exceed \$30,000. Motion carried unanimously. Ayes: Councilors LaMear, Warr, Herzig, Mellin and Mayor Van Dusen; Nays: None.

Item 7(d): 17th Street Pier Lease with United States Coast Guard (City Manager)

The City Lease with the United States Coast Guard (USCG) for the 17th Street Pier and associated amenities was entered into in 1992. The Lease expires on September 30, 2013. City staff has been working with the USCG Planning and Real Property Section on a new Lease. Negotiations have been completed and a new Lease is ready for consideration by the City Council. Key provisions are as follows:

- Monthly Lease rate of \$17,075.
- Annual base rent on Pier (\$147,000) will be subject to a 2% escalation rate calculated annually.
- The Lease is renewable annually over the next 19 years beyond the initial 1-year term. After 20 years, the Lease is subject to renegotiation.

The renegotiated Lease is very favorable to the interests of both the USCG and the City of Astoria. For the City's part, the new rate is sufficient to fully cover all debt service obligations on the Pier and to build an appropriate reserve for both routine and prospective long-term maintenance needs associated with the facility. It is recommend that Council approve the lease and authorize the Mayor to sign on behalf of the City. The Lease has been reviewed by City Attorney Henningsgaard and approved as to form.

Councilor Warr commented that it was wonderful that the Coast Guard was willing to pay the increase.

Mayor Van Dusen commended Councilor Warr for all his work to help the City obtain funds to rebuild the pier and City Manager Benoit did an excellent job on the lease agreement.

City Council Action: Motion made by Councilor Warr, seconded by Councilor LaMear to approve the 17th Street Pier lease with the United States Coast Guard and authorize the Mayor to sign on behalf of the City. Motion carried unanimously. Ayes: Councilors LaMear, Warr, Herzig, Mellin and Mayor Van Dusen; Nays: None.

Item 7(e): 11th Street CSO Separation Project – Pay Adjustment No. 5 (Public Works)

The 11th Street Combined Sewer Overflow (CSO) Separation project primarily consists of installing over 10,000 linear feet of new storm water pipe. Due to the extent of utility replacement work along 11th Street, the entire roadway, from Commercial to Niagara, will be rebuilt from curb to curb and most of the sidewalk will be replaced. In March, Council awarded the construction contract to Tapani, Inc. for the bid amount of \$5,717,177. A 15% contingency (\$857,577) was incorporated due to the scope, scale, and potential for encountering unknown conditions during construction. Pay adjustment No. 5 for \$69,755.12 includes a variety of changes that are itemized in the memo provided in the agenda packet. The largest line item in this change order is for labor and equipment standby time due to the discovery of the historic trolley rail. Included in the specifications for the 11th Street CSO Separation project was a monetary incentive to complete the 11th Street and Commercial intersection prior to the contract deadline. Tapani was able to complete this work four days early, so with an incentive of \$2,500 per day, they are due an additional \$10,000 for this accomplishment. This change order also includes a \$4,243.54 cost due to another Centurylink conflict and will be included in the claim to Centurylink. Other work associated with this change order was due to adjustments for field conditions and changes that benefit the operation and maintenance of the system. It is recommended that the City Council authorize this pay adjustment for the 11th Street CSO Separation project for \$69,755.12. Funds are available for this project through IFA funding.

City Council Action: Motion made by Councilor Mellin, seconded by Councilor Warr to authorize Pay Adjustment No. 5, in the amount of \$69,755.12, for the 11th Street CSO Separation project. Motion carried unanimously. Ayes: Councilors LaMear, Warr, Herzig, Mellin and Mayor Van Dusen; Nays: None.

Support Engineer Moore noted that the 11th Street CSO project is proceeding as scheduled and should be complete by November 2013.

Item 7(f): Liquor License Application from Sara Maya-Garcia and Juan Ramirez-Jimenez DBA Monteablan Mexican Restaurant, Located at 2975 Marine Drive, for a New Outlet – Full On-Premis Sales Commercial Establishment License (Finance)

A liquor license application has been filed by Sara Maya-Garcia and Juan Ramirez-Jimenez doing business as Monteablan Mexican Restaurant, located at 2975 Marine Drive, Astoria. The application is for a New Outlet-Full On-Premises Sales Commercial Establishment License. The appropriate departments have reviewed the application. It is recommended that Council approve the application.

Mayor Van Dusen declared that his business sells soft drinks to the Monteablan Mexican Restaurant, but he believed he could be objective on this application.

City Council Action: Motion made by Councilor LaMear, seconded by Councilor Herzig to approve a New Outlet – Full On-Premises Sales Commercial Establishment Liquor License for Sara Maya-Garcia and Juan Ramirez-Jimenez DBA Monteablan Mexican Restaurant. Motion carried unanimously. Ayes: Councilors LaMear, Warr, Herzig, Mellin and Mayor Van Dusen; Nays: None.

Item 7(g): Public Safety Building Seismic Upgrade Required Photovoltaic System Emergency Contract Award (Police)

Proposals were recently solicited for the Public Safety Building Seismic Upgrade grant required Photovoltaic (Solar) System. The solar panels will be affixed to the Public Safety Building roof and are expected to supply approximately 10% of the building's electrical needs. On September 17, 2013, Inland Electric, Inc. provided the sole bid for the complete 10KW system in the amount of \$64,350. The project will be fully funded through the balance remaining of the Oregon Emergency Management (OEM) Seismic Rehabilitation Grant. This aspect of the project faced a number of delays due to the shakeout of suppliers in the solar industry. As such, OEM granted a final extension for completion to December 31, 2013. With a 90-day completion contract, the project has a very short time frame. The contract requires the contractor to provide a performance and payment bond, insurance certificates and schedule of values. It is expected that these documents will not be completed and presented to the City Attorney until after Council has met. Due to the very short timeframe for preparing contract documents and completing all associated work, it is recommended that Council award the contract to Inland

Electric, Inc., for the Public Safety Building Seismic Upgrade Photovoltaic System, contingent on contract documents being reviewed and approved as to form by the City Attorney.

Councilor Herzig said it was great that the City will be using renewable energy. If this project is successful, he hopes the City can find funding to install more solar panels on other City buildings.

City Council Action: Motion made by Councilor Herzig, seconded by Councilor LaMear to award a contract to Inland Electric, Inc., for the Public Safety Building Seismic Upgrade Photovoltaic System, contingent on contract documents being reviewed and approved as to form by the City Attorney. Motion carried unanimously. Ayes: Councilors LaMear, Warr, Herzig, Mellin and Mayor Van Dusen; Nays: None.

Item 7(h): Authorization to Award Bear Creek Dam Seismic Study Contract (Public Works)

The City of Astoria's Bear Creek Dam is a 90-foot high concrete gravity dam built in 1912 and raised in 1953. The Oregon Water Resources Department (OWRD) has classified the dam as a high hazard dam due to the dam's proximity to human population areas downstream. The classification is not a result of the dam's age or condition, but the age and current condition does affect the probability of failure during a significant seismic event. The OWRD has determined that the City should initiate a seismic failure analysis. A previous study completed 20 years ago did not include enough detail to determine the actual risk of failure as a result of a Cascadia Subduction Zone earthquake.

The first step in the process is to hire a consultant that specializes in the type of analysis necessary to determine if the dam is at risk, and if so, what steps to take to reduce the risk of damage and potential failure during a significant seismic event. While it is anticipated that the study may lead to conclusions more favorable than the previous study, there is the possibility that the conclusions may result in OWRD mitigation requirements. OWRD has provided a \$50,000 grant to assist the City with the first phase of the required studies. The study would be completed in the three phases listed below. Only the first phase is proposed at this time. The scope of future phases would be dependent on the results of Phase 1.

Qualification statements were received on August 6, 2013 from four firms and are listed in the order in which they scored in staff's evaluation: Cornforth Consultants, CH2MHill, Landau Associates, and Shannon & Wilson. All four firms specialize in seismic stability evaluation of dam structures. The evaluation team determined that Cornforth Consultants would be the suitable firm for this project. Staff has negotiated a scope of work and contract with the consultant and OWRD has approved the scope of work. The fee for the proposed work is \$99,865 with the City share being \$49,932.50. The work is planned to take place over the next 4-6 months and be complete no later than the end of the current fiscal year. It is recommended that Council execute a contract with Cornforth Consultants for a total not to exceed \$99,865, for geotechnical engineering services on the Bear Creek Dam Seismic Analysis Project.

City Council Action: Motion made by Councilor Mellin, seconded by Councilor Warr to execute a contract with Cornforth Consultants for a total not to exceed \$99,865, for geotechnical engineering services on the Bear Creek Dam Seismic Analysis Project. Motion carried unanimously. Ayes: Councilors LaMear, Warr, Herzig, Mellin and Mayor Van Dusen; Nays: None.

City Council proceeded to Item 8: New Business.

Added Agenda Item 7(i): Mutual Agreement and Order Amendment

This item was discussed immediately following Item 4: Changes to the Agenda.

City Manager Benoit reviewed the memorandum dated September 23, 2013 regarding the mutual agreement and order amendment. He noted the amendment to extend the time frame to 18 months was written by the Oregon Attorney General's office, and that the City of Astoria has a great relationship with DEQ, who is helping to finance the WWTP Effluent Treatment Upgrades project.

Cindy Moore, City Support Engineer, clarified that the new 18-month timeline would begin when the City originally received approval for the present WWTP Effluent Treatment Upgrades project from DEQ on October 1, 2012. She assured the project will be complete within the next six months.

Councilor Warr said it appears that DEQ and the City were both surprised to learn of the EPA's stance, which City Manager Benoit confirmed. Councilor Warr believed this was an issue the EPA would only discover while seeking ways to create problems. City Manager Benoit replied that Staff fully agreed. DEQ Staff were also taken aback as work on the project is proceeding well. No one knew why the EPA chose to make an issue of the deadline.

Councilor Herzig suggested the City request a nine-month extension instead of a six-month extension to align the deadline with the scheduled completion date of the project, which is July 1, 2014. Director Cook replied the project would probably be complete by the end of December 2013. Staff believes the extension to April 1, 2014 will be more than adequate. City Manager Benoit added that the requested extension was recommended by DEQ. Councilor Herzig commented that being able to complete the project by the end of 2013 will be fantastic.

City Council Action: Motion made by Councilor LaMear, seconded by Councilor Mellin to authorize Amendment No. 1 to the Department of Environmental Quality Mutual Agreement and Order No. WQ/M-NWR-01-284. Motion carried unanimously. Ayes: Councilors LaMear, Warr, Herzig, Mellin and Mayor Van Dusen; Nays: None.

City Council returned to Item 7(a): Ordinance Amending Certain Provisions Dealing with Public Offenses.

NEW BUSINESS & MISCELLANEOUS, PUBLIC COMMENTS

Councilor Herzig noted that changes to the dates of the City Council meetings in September were to accommodate his absence, which he appreciated. He noted that *The Daily Astorian* published three incorrect dates for the September meetings. He was unsure which Staff member is responsible for forwarding these dates to the *Daily Astorian*, but said it is important to keep the public informed of City Council meetings. City Manager Benoit explained that City Council usually meets on the first and third Mondays of each month. Executive Secretary Lampi sends meeting notices to all media and email subscribers. The City's first meeting notice contained an error, which the *Daily Astorian* published, and the City issued a correction.

Councilor LaMear asked for an update on the Garden of Surging Waves, as she has noticed a lack of activity over the last few days. Director Estes said that contractors are preparing the area underneath the marble columns for the mosaic. He explained this process in detail and added that the prep work would continue into October. The majority of the project will be complete by the middle of November. The glass contractor may have some manufacturing delays; however, the plaza may still be opened. When the glass items are ready to be installed, only temporary closures will be necessary on small sections of the park. The sprinkler system has been installed and is being used to water the plants. The trees along Duane Street will be replaced.

Brad Smithart, 400 Industry Street, Astoria, said he operates the Astoria Riverwalk Hotel and is concerned about city transit taxes. The hotel, which is the largest in Astoria, is the only non-franchise hotel in Astoria that is locally managed. City transit taxes must be paid monthly by the 15th of each month and are considered late after the 20th. Late payments incur a fine and interest. Hotels balance their budget according to fiscal quarters because reports from reservation sites, like Expedia and Hotwire, are received 60 or 90 days after the month being reported. These sites also budget according to fiscal quarters. The City is asking hotels to pay taxes on money not yet collected, to be adjusted once reservation reports are received. The City used to require hotels to pay taxes on a quarterly basis. This was changed two years ago because the City was unable to collect taxes from one or two hotels. City Attorney Henningsgaard responded that the intent was to facilitate timely payments.

Mr. Smithart replied that the delinquent hotels were franchises, which receive monthly reports from their corporate offices. He does not have staff to tabulate his totals each month and must serve as general manager, account manager and human resources manager. The City is asking him to pay taxes, allowing the City to hold this money interest free, and adjust the amount at the end of the quarter. He has worked in the hotel industry for 25 years in 22 communities. Astoria is the first community that has required a monthly payment.

City Manager Benoit noted the City has a good number of non-franchise, locally owned and operated hotels. Mr. Smithart asked how many rooms these other hotels have. His hotel has 108 rooms and will have 115 rooms in nine days. The other hotels are smaller properties. The City cannot compare his hotel to the motels because his hotel is more comparable to a Hampton or a Best Western, as reflected in the amount of annual transit taxes he pays.

City Manager Benoit noted that Item 6(c) on the Consent Calendar is a report on the delinquent transient room taxes. The property that Mr. Smithart operates is currently delinquent on room taxes in excess of \$63,000 with balances that date back to March, well in excess of a quarter. Years ago, the City did have issues with other properties. In a meeting with property owners, the owner of the Holiday Inn suggested the City would be better off collecting taxes on a monthly basis. Other cities do collect taxes monthly and Astoria has not received any other comments or had any issues with collecting monthly. It is up to City Council to decide how often to collect room taxes. When taxes are collected quarterly, the sums can be so large that it can be difficult for property owners to pay the taxes along with their other bills. He agreed to find out how other cities collect these taxes.

Mr. Smithart understood that over the last two years, the City has not had any problems collecting transient room taxes. City Manager Benoit clarified that the City has had fewer problems than when they were collecting taxes on a quarterly basis. Mr. Smithart was doubtful that the City is no longer having issues with the same hotels. He stated that he had asked to be added to the agenda, but had to speak under Public Comment. He stated he would only pay the City what he owes. The City is asking him to pay on a sum that has not yet been adjusted, noting his business runs on fiscal quarters.

Mayor Van Dusen stated Mr. Smithart would be on the agenda next time, noting that the Council was not prepared to discuss this issue as they were unaware it would be presented.

Larry Miller, Manager, Astoria Senior Center, reported that the senior center held their first annual Senior Conference on September 12, 2013. More than 50 seniors from the area attended and the Police Department gave presentations on identity theft, scams, internet safety, Facebook, and crowd permits. Mr. Miller wanted to publicly thank the City and the Chief of Police for their help with the conference. The senior center plans to have another conference in 2014.

Mayor Van Dusen added that the *Daily Astorian* and all of the radio stations publicized the event well.

Terry Wilson, 1445 Duane, KMUN, believed the City is getting close to web streaming the City Council meetings. The four new microphones being used at this meeting were designed to pick up choruses. Mr. Wilson had been asked to speak about the Civilian Emergency Response Team (CERT) in August, but was unable to because no City Council meetings were held. He was part of the first CERT team founded in 2006 as an auxiliary to the Fire Department. The team's first project was to assist the Fire Department by filling sand bags for the Bond Street slide. After the 2007 hurricane, the CERT team completed a survey of all of the buildings, prior to FEMA instructing them to do so. The CERT team is now an auxiliary to the Police Department. Many members of the CERT team have attended the Astoria Police Academy. Riding with a police officer is very informative and improves driving skills. The CERT team worked with the Police Department during the Regatta parade to assist with radio communications in case of an accident or catastrophe. The City does not have enough employees in the Police and Fire Departments to cover large events, which is one way the CERT team assists.

Mayor Van Dusen noted City Council held two meetings in August and requested that the minutes of each meeting be forwarded to Mr. Wilson.

ADJOURNMENT

There being no further business, the meeting was adjourned at 8:35 p.m. to convene the Executive Session.

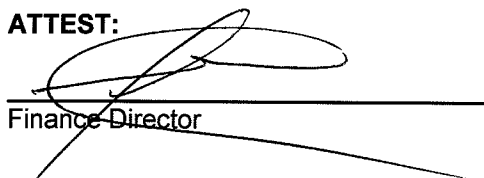
EXECUTIVE SESSION

The City Council Executive Session was convened at 8:36 p.m.

Item 8(a): ORS 192.660(2)(e) – Real Property Transactions

The City Council Executive Session was adjourned at 9:00 p.m.

ATTEST:


Finance Director

APPROVED:


City Manager