
AGENDA

ASTORIA CITY COUNCIL MEETING

February 4, 2013
7:00 p.m.
2nd Floor Council Chambers
1095 Duane Street
Astoria OR 97103

1. **CALL TO ORDER**
2. **ROLL CALL**
3. **REPORTS OF COUNCILORS**
4. **CHANGES TO AGENDA**
5. **PROCLAMATIONS**
 - (a) Tongue Point Job Corps Center Appreciation Week
6. **PRESENTATIONS**
 - (a) City Council Draft Fiscal Year 2013-2014 Goals
 - (b) Astoria Parks, Recreation and Community Foundation
 - (c) Irving Avenue: 19th Street Bridge Replacement – Design Evaluation and Recommendation
7. **CONSENT CALENDAR**

The items on the Consent Calendar are considered routine and will be adopted by one motion unless a member of the City Council requests to have any item considered separately. Members of the Community may have an item removed if they contact the City Manager by 5:00 p.m. the day of the meeting.

 - (a) City Council Minutes of 1/22/13
 - (b) City Council/Planning Commission Work Session Minutes of 1/22/13
 - (c) Boards and Commission Minutes
 - (1) Historic Landmarks Commission Meeting of 11/20/12
 - (2) Historic Landmarks Commission Meeting of 12/18/12
 - (3) Library Board Meeting of 11/27/12
 - (4) Library Board Meeting of 12/20/12
 - (5) Planning Commission Meeting of 11/27/12
8. **REGULAR AGENDA ITEMS**
 - (a) Ordinance Granting a Nonexclusive Right and Franchise to Lightspeed Networks, Inc. (2nd reading & adoption) (City Attorney/City Manager)
 - (b) Ordinance Establishing a Criminal History Records Check Policy (2nd reading & adoption) (Police)
 - (c) Ordinance Readopting Certain State Statutes to Reflect Changes Made by the 2012 Oregon Legislature (2nd reading & adoption) (City Attorney/City Manager)
 - (d) Liquor License Applications – Cervesia Gratis, Inc., dba Fort George Brewery & Public House, located at 426 14th Street and 1483 Duane Street, for a Change License Privilege – Brewery License and an Additional Privilege – Winery License (Finance)
 - (e) 5th and Duane Street Slide Emergency Response Cost (Public Works)
 - (f) Feeding of Cats on the RiverWalk

9. **NEW BUSINESS & MISCELLANEOUS, PUBLIC COMMENTS (NON-AGENDA)**

THIS MEETING IS ACCESSIBLE TO THE DISABLED. AN INTERPRETER FOR THE HEARING IMPAIRED MAY BE REQUESTED UNDER THE TERMS OF ORS 192.630 BY CONTACTING JULIE LAMPI, CITY MANAGER'S OFFICE, 503-325-5824.



CITY OF ASTORIA

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January 30, 2013

MEMORANDUM

TO: ASTORIA CITY COUNCIL

FROM: *BE for* PAUL BENOIT, CITY MANAGER

SUBJECT: ASTORIA CITY COUNCIL MEETING OF FEBRUARY 4, 2013

PROCLAMATIONS

Item 5(a): Tongue Point Job Corps Center Appreciation Week

The Mayor will proclaim the week of February 4-10, 2013 as Tongue Point Job Corps Center Appreciation Week.

PRESENTATIONS

Item 6(a): City Council Draft Fiscal Year 2013-2014 Goals

Attached is a list of proposed City Council goals for Fiscal Year 2013-2014. The draft goals were developed during a work session on January 25, 2013. The goals are presented for further consideration and possible adoption.

Item 6(b): Astoria Parks, Recreation and Community Foundation

Coast Guard Captain Len Tumbarello and Dr. Tracy Erfling, ND will be present to introduce and discuss the Astoria Park, Recreation and Community Foundation.

Item 6(c): Irving Avenue: 19th Street Bridge Replacement – Design Evaluation and Recommendation

The Irving Avenue Bridge near 19th Street is a steel structure that was built in 1946. It has deteriorated and has required emergency repairs to keep it functional. This bridge serves as part of an alternate route for State Highway 30 and provides access to downtown for residents on the east side of Astoria.

On July 19, 2010, Council approved staff's request to enter into an Intergovernmental Agreement with ODOT to secure funding for the replacement of the bridge. Project costs are estimated to be \$5,877,000. The agreement provides funds in the amount of \$5,273,432 with the City being responsible for a match of \$603,568. David Evans and Associates (DEA) are the design engineers and have prepared a 15% design report.

DEA, ODOT and City staff met to discuss the alternatives and select recommended alternatives to present to Council. The alternatives below will be described in more detail during the Council presentation:

Bridge replacement alternatives

- Option A: Multiple span bridge costing \$5,179,000
 - Option B: Single span costing \$4,592,000
 - Option C: Retaining walls with lightweight fill costing \$5,080,000
- City staff recommends Option B.*

Bridge railing alternatives

- Option 1: Combination Rail with Ornamental Railing costing \$250/foot
 - Option 2: ODOT Three Tube Railing costing \$140/foot
 - Option 3: Texas Railing (similar to Franklin Bridge) costing \$300/foot
- City staff recommends Option 3.*

Temporary traffic control alternatives

- Option 1: Full closure detour
 - Option 2: Staged construction
 - Option 3: On-site detour
- City staff recommends Option 1.*

At the 15% level of completion, the total project cost for the recommended alternative is \$4,592,000, which includes 30% contingency. Council will be kept informed as the design is further developed and the associated construction cost estimates are refined. It is recommended that Council authorize David Evans and Associates to commence work on bridge design Option B with Texas railing allowing for full closure detour for the Irving Avenue 19th Street Bridge Replacement project.

CONSENT CALENDAR

Item 7(a): City Council Minutes

The minutes of the City Council meeting of January 22, 2013 are enclosed for review. Unless there are any corrections, it is recommended that Council approve these minutes.

Item 7(b): City Council/Planning Commission Minutes

At the time of the preparation of this agenda packet, the minutes of the joint City Council/Planning Commission Work Session of January 22, 2013 had not been completed. These minutes will be provided to you as soon as possible.

Item 7(c): Boards and Commissions Minutes

Provided for the City Council's review are the minutes for the (1) Historic Landmarks Commission meeting of 11/20/12, (2) Historic Landmarks Commission meeting of 12/18/12, (3) Library Board meeting of 11/27/12, (4) Library Board meeting of 12/20/12, and (5) Planning Commission meeting of 11/27/12. Unless there are any questions or comments regarding the contents of these minutes, they are presented for information only.

REGULAR AGENDA ITEMS

Item 8(a): Ordinance Granting a Nonexclusive Right and Franchise to Lightspeed Networks, Inc. (2nd reading & adoption) (City Attorney/City Manager)

This proposed ordinance received its first reading at the January 22, 2013 Council meeting. If approved, this ordinance grants a franchise to Lightspeed Networks, Inc., doing business as LS Networks, to operate telecommunications facilities within City rights of way. The ordinance:

- Requires utilities LS NETWORKS to pay a fee to the City equal to 7.0% of the gross revenue earned within the City
- Provides procedures for amendment and renewal of the franchise.
- Imposes certain reporting requirements.

This is the first franchise agreement for LS Networks. LS Networks provides telecommunications services to larger institutional customers such as Columbia Memorial Hospital, Clatsop Community College and the city. The provisions of this franchise are similar to the franchise agreements negotiated with other users of our rights of way. City Attorney Henningsgaard and I recommend that Council conduct the second reading and adopt this ordinance.

Item 8(b): Ordinance Establishing a Criminal History Records Check Policy (2nd reading & adoption) (Police)

This ordinance received its first reading at the January 22, 2013 Council meeting. The City of Astoria currently has no ordinance establishing

criminal history record checks to be conducted on applicants for potential employees, liquor license applicants and certain volunteers. To better protect the City and its citizens, I am proposing the attached local ordinance be considered for adoption to allow for these types of checks and so that the City is in compliance with applicable Oregon Administrative Rules and Oregon Revised Statutes. If adopted, this ordinance will allow for the City of Astoria to access Oregon State Police criminal offender information through the Law Enforcement Data System (LEDS), for all applicants for employment, public service volunteers with the City of Astoria, and liquor license applicants. Persons in any of these positions must operate with the public's highest degree of trust and confidence. It is recommended that Council hold the second reading and adopt the proposed ordinance.

Item 8(c): Ordinance Readopting Certain State Statutes to Reflect Changes Made by the 2012 Oregon Legislature (2nd reading & adoption) (City Attorney/City Manager)

Enclosed is an ordinance implementing "global" readoption of various Oregon Revised Statutes that appear throughout the Astoria City Code. This ordinance received its first reading at the January 22, 2013 Council meeting. It is recommended that Council conduct the second reading and adopt this ordinance.

Item 8(d): Liquor License Applications – Cervesia Gratis, Inc., dba Fort George Brewery & Public House, located at 426 14th Street and 1483 Duane Street, for a Change License Privilege – Brewery License and an Additional Privilege – Winery License (Finance)

Two liquor license applications have been filed by Cervesia Gratis, Inc., Jack Harris and Chris Nemlowill doing business as Fort George Brewery & Public House, located at 426 14th Street & 1483 Duane Street, Astoria. The applications are a Change License Privilege – Brewery License and an Additional Privilege- Winery License. Copies of the applications are attached. The application request is for a change of license privilege from a Brewery Public House to a Brewery. The second application request is for an additional privilege to add a winery license to their brewery license. The appropriate departments have reviewed the applications. No objections to approval were noted. It is recommended that the City Council consider these applications for approval.

Item 8(e): 5th and Duane Street Slide Emergency Response Cost (Public Works)

On December 19, 2012, a landslide occurred on City-owned property, on the south side of Duane Street between 5th and 6th Streets. A second

portion of the embankment gave way the next morning. The City worked closely with Landslide Technology, Bigby's Tree Service and North Pacific Excavation to safely clean up slide debris.

During the first two weeks of January, continued movement deposited more debris in the Duane Street right-of-way and on private property located at 423 6th Street. This debris was removed by North Pacific Excavation. A temporary concrete block wall was constructed along the south side of Duane Street to prevent large rocks and soil from damaging adjacent homes and impacting access.

The cost of the emergency response and clean-up effort to date is summarized below:

Contractor/Consultant	Cost
Bigby's Tree Service	\$18,807.50
North Pacific Excavation	\$15,835.17
Landslide Technology	\$ 6,640.00
Total Cost	\$41,282.67

Continued surface movement is expected especially if intense, prolonged periods of rainfall occur. If future sliding ensues, the City will remove debris that blocks access or poses a threat to adjacent homes per the Geotechnical Engineer's recommendations. A project to provide a more permanent solution will be considered this summer. It is recommended that Council approve "after-the-fact" payment of \$41,282.67 in costs associated with the emergency response and clean-up effort for the 5th and Duane Street slide event.

Item 8(f): Feeding of Cats on the RiverWalk

City Councilor Karen Mellin has requested an agenda item to discuss the feeding of cats on the RiverWalk.



CITY OF ASTORIA
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PROCLAMATION

WHEREAS, Job Corps was created by act of the United States Congress almost fifty years ago, and

WHEREAS, youth enrolled in Job Corps receive academic instruction, gain employability through career training, learn life skills, and receive job placement assistance, making Job Corps the Nation's largest and most successful youth empowerment program; and

WHEREAS, Tongue Point Job Corps Center was opened on February 2, 1965, as the second Job Corps center established in the nation, and

WHEREAS, during 2012, Tongue Point Job Corps students provided more than 5,500 hours in community service supporting organizations and events such as the Astoria Senior Center, Astoria Parks and Recreation, Lighthouse for Kids, Regatta, Midsummer Festival, Clatsop County Food Bank and the North Coast Land Conservancy, and

WHEREAS, during 2012, Tongue Point Job Corps students and staff provided more than 3,500 hours career service training working and learning on projects and for organizations such as Kiwanis Christmas tree sales, Clatsop Care Center Healing Garden, the United States Coast Guard, Seaside's Broadway Park renovation, Clatsop County food bank's community gardens, Clatsop County Master Gardeners, Clatsop Community College, Grace Episcopal Church renovation and the Astoria Downtown Beautification Project, and

WHEREAS, Tongue Point Job Corps Center provides contributions and donations in support of fundraising by organizations such as United Way, Columbia Memorial Hospital Foundation, CASA, Providence Hospital Foundation, Clatsop Community Action, Women's Resource Center and Clatsop Community College Foundation, and

WHEREAS, with 525 students and 200 staff, Tongue Point Job Corps center is the source of more than \$10.6M flowing to our community's economy, and

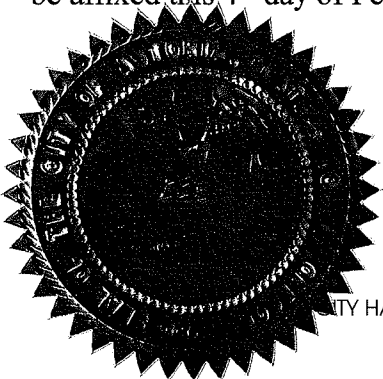
WHEREAS, young adults living and studying at Tongue Point Job Corps Center value being part of the Astoria community;

NOW, THEREFORE, I, Willis L. Van Dusen, Mayor of Astoria, do hereby proclaim the week of February 4-10, 2013 as

TONGUE POINT JOB CORPS CENTER APPRECIATION WEEK

in Astoria and invite all citizens to join in this observation.

IN WITNESS WHEREOF, I have herewith set my hand and caused the Seal of the City of Astoria to be affixed this 4th day of February, 2013.



Mayor



CITY OF ASTORIA
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**ASTORIA CITY COUNCIL
DRAFT GOALS
FISCAL YEAR 2013-2014
(Drafted January 25, 2013)**

- **Continue with Development of Plans for Renovation of the Astor Library.**
- **Maintain and Enhance the City's Commitment to the Astoria Column.**
- **Complete the Garden of Surging Waves.**
- **Continue Implementation of the Riverfront Vision Plan.**
- **Maintain Advocacy for the Astoria Bypass and for Fishery Issues.**
- **Continue Enforcement of the Derelict Building Ordinance.**
- **Sell Excess City Properties.**
- **Develop Programs and Projects for Improving Pedestrian and Traffic Safety.**
- **Cooperate and Collaborate with Clatsop County Jurisdictions to Promote Emergency Preparedness.**
- **Support the Astoria Downtown Historic District Association in Development and Implementation of a Downtown Master Plan and in Promotion of the Arts.**
- **Develop a Program to Promote "Citizens Helping in Parks", with Particular Emphasis on Neighborhood Parks and the RiverWalk.**
- **Support Organizations Working to Establish Community Gardens and Operate Farmer's Markets.**
- **Improve Communication with All Astorians**



CITY OF ASTORIA
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January 30, 2013

MEMORANDUM

TO: MAYOR AND CITY COUNCIL

FROM:  PAUL BENOIT, CITY MANAGER

SUBJECT: **IRVING AVENUE: 19th STREET BRIDGE REPLACEMENT –
DESIGN EVALUATION AND RECOMMENDATION**

DISCUSSION/ANALYSIS

The Irving Avenue Bridge near 19th Street is a steel structure that was built in 1946. This bridge serves as part of an alternate route for State Highway 30. The bridge is showing signs of significant deterioration and has required emergency repairs to keep it functional for heavy loads such as school buses, garbage trucks and fire trucks.

ODOT and the City have secured federal funding from the Highway Bridge Replacement and Rehabilitation program (HBRRP) to replace the bridge. This provides 90% of the replacement cost with the remaining 10% to be funded by the City. The total funding amount for the estimated project costs is currently \$5,877,000. The agreement provides HBRRP funds in the amount of \$5,273,432 with the City being responsible for a match of \$603,568. The engineering contract was awarded to David, Evans and Associates and an (15%) Design Alternatives Report has been completed.

DEA, ODOT and the City met on Tuesday, January 29th to discuss the alternatives and select recommended alternatives to present to Council and ultimately develop into a design package. The alternatives are summarized below and will be described in more detail during the Council presentation:

Bridge replacement alternatives

- Option A: Multiple span bridge (three 85 foot spans) costing \$5,179,000
- Option B: Single span bridge (135 – 180 foot span) costing \$4,592,000
- Option C: Retaining walls with lightweight fill costing \$5,080,000

The Project Team recommends Option B: Single span bridge. This alternative is the least cost alternative and simplest bridge design. The type of structure will not substantially change the aesthetic nature of the roadway since the substructure (or bottom) is not visible from neighborhood houses or from the top of the bridge. The geotechnical report describes four separate landslides near the bridge site. A single span bridge is the best option where land movement is expected to occur because the structure has more flexibility to move with the land before a failure occurs.

Bridge railing alternatives

- Option 1: Combination Rail with Ornamental Railing costing \$250/foot
- Option 2: ODOT Three Tube Railing costing \$140/foot

- Option 3: Texas Railing (similar to Franklin Bridge) costing \$300/foot

City staff recommends Option 3: Texas Railing to provide a historic appearance and consistency with the recent Franklin Bridge replacement.

Temporary traffic control alternatives

- Option 1: Full closure detour – close Irving Avenue for up to 6 months
- Option 2: Staged construction – allow one lane of travel across the bridge for most of the construction duration. Approximately \$750,000 increase over full closure and construction schedule could be twice as long.
- Option 3: On-site detour – construct a temporary detour around the bridge site. Nearly unfeasible due to topography and required private property easements at a cost of more than \$1,500,000 over full closure.

City staff recommends Option 1: full closure detour because it is the least cost, shortest construction duration option and there is a feasible detour using existing City streets.

City staff recommends Option 1: media filter device because it is expected to be the simplest and most straightforward to maintain.

At the 15% level of completion, the total project cost for the recommended alternative is \$4,592,000, which includes 30% contingency and assumes Texas bridge railing and full closure for temporary traffic control. Council will be kept informed as the design is further developed and the associated construction cost estimates are refined.

City staff will conduct a presentation to provide a general overview of work to date, further describe the alternatives and to get Council concurrence on proceeding with the recommended design alternatives.

RECOMMENDATION

Recommend Council authorize David, Evans and Associates to commence work on bridge design Option B with Texas Railing allowing for full closure detour for the Irving Avenue: 19th Street Bridge Replacement project.

Submitted By: _____


Ken P. Cook, Public Works Director

Prepared By: _____


Cindy D. Moore, City Support Engineer

City Council Chambers
January 22, 2013

A regular meeting of the Astoria Common Council was held at the above place at the hour of 7:35 p.m.

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

Councilors Excused: None

Staff Present: City Manager Benoit, Police Chief Curzon, Fire Chief Ames, Finance Director Carlson, Public Works Director Cook, Community Development Director Estes, City Attorney Henningsgaard and Library Director Tucker. The meeting is recorded and will be transcribed by ABC Transcription Services, Inc.

REPORTS OF COUNCILORS:

Item 3(a): Councilor LaMear reported that she went on a tour of Mississippi Avenue in Portland with the Downtown Association and consultant Michelle Reeves, who was hired by the ADHDA for the Main Street program. The tour was excellent and she looked forward to see what Ms. Reeves would ask the Downtown Association to consider.

Item 3(b): Councilor Herzig said he also went on the tour, adding it is a good time to consider pedestrian safety and traffic flow in the downtown area. The Lower Columbia Diversity Project hosted a Martin Luther King Day gathering yesterday and Marc Siegel, Senator Merkley's representative attended the event. On January 31, 2013, the Lower Columbia Diversity Project will give a presentation about re-envisioning the prison system at the Judge Guy Boyington Building and everyone is invited to attend.

Item 3(c): Councilor Mellin reported that she received an email from Johanna Ogden from the Oregon Historical Society regarding the history of Sikh Indians who used to reside in Astoria. The Sikhs had created a political party called Ghadar about 100 years ago in Astoria at the Finn Hall, which began a political movement that inspired Gandhi to campaign for the British to leave India. The Oregon Historical Society wants to recognize Astoria as the birthplace of the Ghadar party. Other cities are also celebrating the 100-year anniversary of the Ghadar party. Ms. Ogden has written a letter to Mayor Van Dusen asking for the City's support. Councilor Mellin informed Ms. Ogden of the Heritage Square project and suggested that recognition of the Ghadar party be included in the Heritage Square project.

Item 3(d): Councilor Warr believed the City should support the recognition of the Ghadar party. On Wednesday, January 23, 2013, he will be attending a Transportation System Plan (TSP) meeting.

Item 3(e): Mayor Van Dusen reported that on Thursday, January 24, at 11:15 am at the 17th Street Dock, a celebration would be held in recognition of Astoria's designation as a United States Coast Guard City. A granite monument will be unveiled at the foot of 17th Street. This will be an important event as the Coast Guard is an integral part of the community. City Manager Benoit confirmed several Coast Guard boats would be present and there would be a fly-over. An entourage of Coast Guardsmen will be there and refreshments will be served. Senator Betsy Johnson, Mayor Van Dusen, Captain Jones, and City Council will conduct the unveiling. Mayor Van Dusen announced that the City Council's Goal Setting Session has been scheduled for Friday, January 25, 2013. The community will be given a month or two to consider the Council's goals. He also introduced former Mayor Edith Henningsgaard.

CHANGES TO AGENDA:

City Manager Benoit requested that Council approve the addition of Regular Agenda Item 6(k): Emergency Riverbank Stabilization Project.

CONSENT CALENDAR:

The following items were presented on the Consent Calendar:

5(a) City Council Minutes of 12/17/12

5(b) City Council Special Meeting Minutes of 12/27/12

5(c) City Council Minutes of 1/7/13

5(d) License to Occupy a Portion of the 5th Street Right-of-Way (Public Works)

Councilor Herzig requested the removal of Item 5(d): License to Occupy a Portion of the 5th Street Right-of-Way.

City Council Action: Motion made by Councilor Warr, seconded by Councilor LaMear, to approve Items 5(a), 5(b) and 5(c) of the Consent Calendar. Motion carried unanimously. Ayes: Councilors LaMear, Warr, Herzig, Mellin and Mayor Van Dusen; Nays: None.

Councilor Herzig expressed concern about an unofficial walking trail on 5th Street between Kensington and Lexington. He wanted to know if the proposed fence would block the walking trail as the photographs did not make this clear. Blockage of the walking trail could be an inconvenience. Director Cook stated he did not believe that the 10-foot right-of-way would not block the trail.

City Council Action: Motion made by Councilor LaMear, seconded by Councilor Warr, to approve Item 5(d) of the Consent Calendar. Motion carried unanimously. Ayes: Councilors LaMear, Warr, Herzig, Mellin and Mayor Van Dusen; Nays: None

REGULAR AGENDA ITEMS

Item 6(a): Ordinance Granting a Nonexclusive Right and Franchise to Lightspeed Networks, Inc. (1st Reading) (City Attorney/City Manager)

Presented for your consideration is a proposed ordinance granting a franchise to Lightspeed Networks, Inc., doing business as LS Networks, to operate telecommunications facilities within City rights of way. The ordinance:

- Requires utilities LS NETWORKS to pay a fee to the City equal to 7.0% of the gross revenue earned within the City.
- Provides procedures for amendment and renewal of the franchise.
- Imposes certain reporting requirements.

This is the first franchise agreement for LS Networks. LS Networks provides telecommunications services to larger institutional customers such as Columbia Memorial Hospital, Clatsop Community College and the city. The provisions of this franchise are similar to the franchise agreements negotiated with other users of our rights of way. City Attorney Henningsgaard and City Manager Benoit recommend that Council conduct the first reading of this proposed ordinance.

Mayor Van Dusen opened the meeting to Council questions and discussion. There was none. Mayor Van Dusen asked if any member of the audience would like to address the nonexclusive right and franchise. There was none.

City Council Action: Motion made by Councilor Mellin, seconded by Councilor Herzig to conduct the first reading of the ordinance granting a nonexclusive right and franchise to Lightspeed Networks, Inc to operate telecommunications facilities within City rights-of-way. Motion carried unanimously. Ayes: Councilors LaMear, Warr, Herzig, Mellin and Mayor Van Dusen; Nays: None.

Director Estes conducted the first reading of the ordinance.

Item 6(b): Ordinance Establishing a Criminal History Records Check Policy (1st Reading) (Police)

The City of Astoria currently has no ordinance establishing criminal history record checks to be conducted on applicants for potential employees, liquor license applicants and certain volunteers. To better protect the City and its citizens, I am proposing the attached local ordinance be considered for adoption to allow for these types of checks and so that the City is in compliance with applicable Oregon Administrative Rules and Oregon Revised Statutes. If adopted, this ordinance will allow the City of Astoria to access Oregon State Police criminal offender

information through the Law Enforcement Data System (LEOS), for all applicants for employment, public service volunteers with the City of Astoria, and liquor license applicants. Persons in any of these positions must operate with the public's highest degree of trust and confidence. It is recommended that Council hold the first reading of the proposed ordinance.

City Council Action: Motion made by Councilor LaMear, seconded by Councilor Mellin to conduct the first reading of the ordinance establishing a criminal history records check policy. Motion carried unanimously. Ayes: Councilors LaMear, Warr, Herzig, Mellin and Mayor Van Dusen; Nays: None.

Police Chief Curzon conducted the first reading of the ordinance.

Item 6(c): Ordinance Readopting Certain State Statutes to Reflect Changes Made by the 2012 Oregon Legislature (1st Reading) (City Attorney/City Manager)

Enclosed is an ordinance implementing "global" re-adoption of various Oregon Revised Statutes that appear throughout the Astoria City Code. It is recommended that Council conduct the first reading of this ordinance.

City Council Action: Motion made by Councilor Warr, seconded by Councilor Mellin to conduct the first reading of the ordinance re-adopting certain state statutes to reflect changes made by the 2012 Oregon Legislature. Motion carried unanimously. Ayes: Councilors LaMear, Warr, Herzig, Mellin and Mayor Van Dusen; Nays: None.

Fire Chief Ames conducted the first reading of the ordinance.

Item 6(d): Resolution Establishing Public Works Capital Reserve Fund (Finance)

In order to address long-term capital financial acquisitions and replacements within the Public Works Department, it would be prudent to establish a new Capital Reserve Fund and to set aside revenue on an annual basis. In order to facilitate the tracking of these funds, the Public Works Department, along with the Finance Department, are asking to create a new fund called the "Public Works Capital Reserve Fund". This fund will only be used for the set aside of funds from the annual Public Works Fund budget for future capital purchases/projects. Expenditures from this fund will be budgeted for in the year that the capital acquisition is made and will require consent of the City Council.

City Council Action: Motion made by Councilor Mellin, seconded by Councilor Warr to adopt a resolution establishing a Public Works Capital Reserve Fund. Motion carried unanimously. Ayes: Councilors LaMear, Warr, Herzig, Mellin and Mayor Van Dusen; Nays: None.

Item 6(e): Authorization to Bid -- Spur 12 and Cedar Creek, Watershed Forest Thinning and Road Improvements (Public Works)

A forest thinning is proposed in the Astoria Watershed. A key aspect of the project involves removal of alder near streams due to the negative impact that decomposing alder leaves have on the quality of the City's water supply. The leaves produce tannic acid compounds that interfere with the disinfection process during treatment. As previously approved by Council, this sale was advertised in June 2012. Due to market conditions at the time, no bids were received. Based on current market conditions it is anticipated that interest in this thinning will be high.

Watershed Road Spur 12 provides essential access to the eastern central area of the watershed. Sections of this road were poorly constructed over 50 years ago. It is in need of major repairs to prevent it from becoming increasingly unsafe. A portion of thinning proceeds derived from the sale would be used to road improvements.

Clean water is the driving reason for the sale. After expenses associated with road improvements, re-seeding, and other miscellaneous expenses, the net revenue is estimated at approximately \$200,000.00. Net revenues would be deposited in the Capital Improvement Fund. It is recommended that Council authorize solicitation of bids for the Spur 12/Cedar Creek Forest Thinning.

City Council Action: Motion made by Councilor Warr, seconded by Councilor LaMear to authorize solicitation of bids for the Spur 12/Cedar Creek Forest Thinning and road improvements. Motion carried unanimously. Ayes: Councilors LaMear, Warr, Herzig, Mellin and Mayor Van Dusen; Nays: None.

Councilor Herzig understood thinning meant harvesting some of the Alder trees and that the City will be paid by the contractor. City Manager Benoit confirmed that after road improvements, the net revenue is estimated to be about \$200,000. Traditionally, this revenue is deposited into the Capital Improvement Fund.

Item 6(f): 11th Street CSO Separation – Gibbs & Olson Design Engineering Services Contract Amendment (Public Works)

In June, Council awarded the 11th Street Combined Sewer Overflow (CSO) Separation Project design engineering services contract to Gibbs & Olson. Gibbs & Olson are currently finalizing bid documents. Bid advertisement is scheduled to begin in early February. When the original scope and fee was prepared by Gibbs & Olson, \$10,000 was allocated for potholing of City utilities during the design phase. At 90% design, there are more conflicts than originally estimated, so the potholing effort is now estimated at \$14,060 for a requested increase of \$4,060. Potholing is expected to reduce potential change orders during construction, which could far exceed the cost of this amendment. The amendment also includes a fee of \$5,323 for design for replacement of old, existing waterline that runs east-west through the 8th Street intersections. It is recommended that Council approve a contract amendment with Gibbs & Olson for the 11th Street CSO Separation Project in the amount of \$9,500.00.

City Manager Benoit explained that potholing consists of digging holes to identify infrastructure to confirm its location and size.

City Council Action: Motion made by Councilor Herzig, seconded by Councilor LaMear to approve a contract amendment with Gibbs & Olson for the 11th Street CSO Separation Project in the amount of \$9,500.00. Motion carried unanimously. Ayes: Councilors LaMear, Warr, Herzig, Mellin, and Mayor Van Dusen; Nays: None.

Item 6(g): 11th Street CSO Separation Project – Authorization to Bid (Public Works)

The upcoming 11th Street Combined Sewer Overflow (CSO) Separation Project primarily consists of installing over 10,000 linear feet of new storm water pipe in established City rights-of-way. In certain instances, it will be necessary to replace existing water and sewer pipes where construction of the new storm pipe compromises the integrity of the existing infrastructure. Due to the extent of utility replacement work along 8th Street, the entire roadway will be rebuilt from curb to curb and most of the sidewalk will be replaced. The scope of the project includes construction at 8th Street from Commercial to Niagara; 11th Street from Exchange to Kensington; 9th Street from Duane to Harrison; Irving Avenue from 11th Street to 12th Street; 10th Street from Duane to Jerome; 9th Street from Marine Drive to the outfall; and 11th Street from Exchange to Irving.

The 90% engineer's estimate for construction is \$6,092,565. Due to the high probability of unforeseen conditions, a 20% budget contingency is recommended. The total project cost, with contingency, is estimated at \$7,311,078. City staff is working with the Business Oregon Infrastructure Finance Authority (IFA) on a loan amendment for a Financing Contract increase in the loan amount totaling \$4,062,500. The IFA contract amendment will be presented to Council for approval prior to, or in conjunction with, the construction contract award at the March 18, 2013 meeting. It is recommended that the City Council authorize staff to solicit bids for the 11th Street CSO Separation Project.

Mayor Van Dusen noted that this project would be challenging for the entire community given the length of the construction and the streets affected.

City Council Action: Motion made by Councilor Warr, seconded by Councilor Mellin to authorize staff to solicit bids for the 11th Street CSO Separation Project. Motion carried unanimously. Ayes: Councilors LaMear, Warr, Herzig, Mellin and Mayor Van Dusen; Nays: None.

Item 6(h): Liquor License Application – Christopher Holen, dba Baked Alaska Located at No. 1 12th Street, Suite 1, for an Additional Privilege and Extension of Premises for an Off-Premises Sales License (Finance)

A liquor license application has been filed by Christopher Holen, doing business as Baked Alaska LLC, located at No. 1 2th Street, Suite 1. The application is an Additional Privilege and Extension of Premises for an Off-

Premises Sales License. The appropriate departments have reviewed the application. It is recommended that Council approve the application.

Mayor Van Dusen stated for the record that he owns a soft drink company that does business with the Applicant; however, he believed he could vote objectively on this application.

Councilor LaMear asked what is meant by off-premises liquor sales.

Christopher Holen, No. 1 12th Street explained that he intends to add a brick oven pizzeria as part of an expansion to his establishment. He would like to sell beer and wine to-go in a sealed container. Oregon Liquor Control Commission requires an additional privilege on top of his original liquor license to enable the sale sealed beer and wine to-go.

Councilor Herzig noted that it is illegal to consume alcohol on the Riverwalk. People will not be able to buy the liquor, step outside and drink the alcohol. They will still need to take it home. Mr. Holen confirmed that is the intent.

City Council Action: Motion made by Councilor Warr, seconded by Councilor Mellin to approve the Liquor License Application by Christopher Holen, dba Baked Alaska for an Additional Privilege and Extension of Premises for an Off-Premises Sales License. Motion carried unanimously. Ayes: Councilors LaMear, Warr, Herzig, Mellin and Mayor Van Dusen; Nays: None.

Mayor Van Dusen commended Mr. Holen for his volunteer work with regard to Hurricane Sandy. Mr. Holen explained that he was invited to cook at the James Beard Foundation in the lower west side of Manhattan shortly after Hurricane Sandy. He and his wife also volunteered and helped prepare meals at a FEMA (Federal Emergency Management Association) food center on Coney Island.

Item 6(i): Liquor License Application – MAD, Inc., Mike Davies, dba Beach Burrito, Located at 11 W. Marine Drive, for a New Outlet for a Limited On-Premises Sales License (Finance)

A liquor license application has been filed by MAD, Inc., Mike Davies doing business as Beach Burrito, Located at 11 W. Marine Drive. The application is an Additional Privilege and Extension of Premises for an Off Premises Sales License. The appropriate departments have reviewed the application. It is recommended that Council approve the application.

Mayor Van Dusen stated for the record that he owns a soft drink company that does business with the Applicant; however, he believed he could vote objectively on this application.

Councilor LaMear noted that the Staff report states the application is for an off-premises license. City Manager Benoit verified that was an error; the agenda and application state the request is for an on-premises license.

Councilor Herzig noted Beach Burrito is in the same building as a Subway that has a children's play area. He asked if any issues exist with selling liquor in a building that also has a children's play area. City Manager Benoit confirmed it was legal to serve beer and wine where food is served.

City Council Action: Motion made by Councilor Warr, seconded by Councilor Mellin to approve the Liquor License Application by Mike Davies, dba Beach Burrito for a New Outlet for a Limited On-Premises Sales License. Motion carried unanimously. Ayes: Councilors LaMear, Warr, Herzig, Mellin and Mayor Van Dusen; Nays: None.

Item 6(j): Transient Room Tax Payments (Finance)

As of the end of December 2012, the Best Western (Genesis Hotel LLC) is delinquent in their transient tax payment to the City. They are in arrears for the months of September and October for a total amount of \$33,504.27, including penalties and interest. The verbal agreement specifies for them to remain current and to pay off the balance in four payments over the months of February and May. A lien will be filed on the property following Council approval.

City Manager Benoit explained that City Code requires Staff to notify City Council of this verbal agreement, which must be ratified by the Council. Per City Code, Staff is requesting that Council allow Staff to file a lien on the property for the delinquent amount of \$33,504.27.

Mayor Van Dusen understood different laws apply to tax funds and asked if the verbal agreement made by Staff is legal. City Attorney Henningsgaard explained the agreement must be ratified by City Council. City Manager Benoit added once Council approves the verbal agreement negotiated by staff, that verbal agreement will become a legal agreement put in writing and signed by the parties.

Councilor LaMear asked why placing a lien on the property is necessary if the agreement is signed. City Attorney Henningsgaard explained that the lien gives the City security in case the property owner defaults on payment. A lien would allow the City to take enforcement action. The lien will be lifted once the debt is paid in full. He confirmed if the hotel falls behind on tax payments in the future, Staff and Council would revisit the matter at that time.

Mayor Van Dusen stated for the record that he owns a soft drink company that does business with the Applicant; however, he believed he could vote objectively on this application.

City Council Action: Motion made by Councilor Warr, seconded by Councilor Mellin to ratify the verbal agreement with Best Western and file a lien on the property for the delinquent amount of \$33,504.27. Motion carried unanimously. Ayes: Councilors LaMear, Warr, Herzig, Mellin and Mayor Van Dusen; Nays: None.

Item 6(k): Emergency Riverbank Stabilization Project

City Manager Benoit noted photographs of damage to the Riverwalk from a windstorm in December 2012 were shown at a previous meeting. The Engineering Department has worked to solicit quotes to repair the damage, which range from \$25,611.76 to \$41,925. T.F.T Construction, Inc. submitted the lowest quote. Staff is recommending Council authorize a contract with T.F.T Construction, Inc. in the amount of \$25,611.76.

Public Works Director Cook noted that T.F.T Construction, Inc. is a firm based in Scappoose, Oregon and has done extensive work for the City in the past, including paving on Niagara and 7th Street.

Mayor Van Dusen confirmed there was no public testimony regarding the Riverbank Project.

City Manager Benoit clarified the project would be paid for from the Promote Astoria Fund, where the City has budgeted funds for repairs and maintenance on the Riverwalk.

City Council Action: Motion made by Councilor LaMear [2:40:23], seconded by Councilor Warr to authorize a contract with T.F.T Construction, Inc. in the amount of \$25,611.76. Motion carried unanimously. Ayes: Councilors LaMear, Warr, Herzig, Mellin and Mayor Van Dusen; Nays: None.

Councilor Herzig noted that the Columbia River Maritime Museum would reimburse the City for the work completed on the museum's property, and so would be sharing some of the project's cost.

NEW BUSINESS & MISCELLANEOUS, PUBLIC COMMENTS

Jim Campbell, No. 1 3rd Street, President, Columbia House Condominium Association, read a statement for the record regarding the health concerns associated with tens of thousands of starlings nesting on the apartment buildings. The Association has spent more than \$13,000 to date attempting to mitigate the problem. He reviewed several remedies that were suggested by an outside consultant and explained that the Association initially chose to install 24-hour lighting in an attempt to disturb nesting behavior. However, the starlings adapted to the light, so the Association is now using air horns tuned to a specific frequency to deter the birds. He described how the horn stimulus is used. The horn's noise levels meet Federal OSHA standards. The technician determined sound levels to be well below the average sound levels of automobile traffic adjacent to Marine Drive. The horn is now being used in shorter durations, as the Association is in the final stages of the project. He distributed a handout regarding an issue, which included a study conducted by the University of Colorado as well as the test results of the technician's sound level evaluation. He asked that City Council allow the Association to continue use of the air horns for a few minutes a day.

City Manager Benoit explained that City Code allows the City Manager's office to issue noise and sound permits. Columbia House Condominium Association was granted a one-month permit. Numerous complaints were received, which resulted in termination of the permit.

Councilor LaMear believed if people understand why the air horns are sounding, they would be more supportive. She suggested publishing an article in *The Astorian* that explains the issue. Mr. Campbell confirmed that the air horns only need to be used for about 10 minutes at dusk when the birds are present. The horns were not being used currently because the starlings are gone for now, but the Association wants the horn option because the birds will return.

Mayor Van Dusen called for public testimony regarding the issue.

Phil Bales, 1185 Alameda, Astoria, stated the horn is the same type of device that Seattle uses when opening bridges. People familiar with the sound know that the horns are not signaling an air raid, a crashing ship or other emergency. He supports the use of the air horns to deter the starlings.

Robert Clark, 1770 4th St., Astoria, asked what specific issues the birds were causing, adding that bird droppings could be cleaned. Mayor Van Dusen responded that tens of thousands of birds are nesting in the pilings, so feathers and other things are also an issue. Mr. Campbell added the birds are capable of carrying up to 25 known infectious diseases, as stated in the handout.

Councilor Mellin appreciated the research that the Association has done. She believed sounding the horns is the least invasive option and suggested a public education campaign on the issue.

Mayor Van Dusen asked how long the Association wanted the permit to remain in effect. Mr. Campbell reiterated that the birds have left and the air horns will only be necessary when they try to return. The Association prefers that the permit be ongoing because the Association does not know when the birds will return and they always do overtime. City Manager Benoit suggested that the Association work with the press to educate the public on their issue in an effort to reduce the complaints being sent to the City Manager's office.

Mayor Van Dusen suggested that Council authorize a 60-day permit, automatically renewable every 30 days, providing the Association an additional 60-days before the horn use had to stop. Police Chief Curzon believed more complaints would be received as dusk occurs later in the evening. He asked if a specific time limit could be set regarding when the horn could be used.

Councilor Herzig confirmed this is a year-round problem as the birds' arrival is not seasonal. He suggested reintroducing the 24-hour light and quoted that "periodic random intermittent negative reinforcement" is advised. The lights could be the random, negative reinforcement. He did not want the complaints to be ignored. City Manager Benoit clarified that Staff explains the situation with the starlings to those filing complaints.

Councilor Herzig believed if the complainants are informed about the problems the birds are causing, they would be more sympathetic about the air horns. City Manager Benoit stated if a time period is set for the horn's use and efforts are made to inform the public as to why the horn is being used, a public meeting could be arranged either with City Council or with the Association. Council Herzig confirmed that the Association would be willing to speak with those with definite complaints. Contact information for the Association would be provided to Staff.

Mayor Van Dusen stated he favors approving an ongoing permit for the Association. While the noise is irritating, the birds pose a real health hazard to the residents of the 40 condominium units.

City Council Action: Motion made by Councilor Warr, seconded by Councilor Mellin, to approve an ongoing 60-day noise permit that is automatically renewable every 30 days. Motion carried unanimously. Ayes: Councilors LaMear, Warr, Herzig, Mellin and Mayor Van Dusen; Nays: None.

Mr. Campbell agreed to do his best to not sound the air horns after 10 p.m.

Suzanna Glad, 82316 Highway 103, Seaside, stated it is important to include a truck route in the TSP to provide opportunities for grant funding. Getting trucks off the streets will protect the sidewalks and old buildings, as well as pedestrians. She asked if the City of Astoria could include the truck route in its TSP to work up grants or work

with the County to determine how to fund a minimal route on Wickes Road. Campbell Group has verbally supported such a route and had about nine-tenths of the land needed for the project.

Councilor Warr confirmed the truck route has been an addendum in the last several TSP plans because he never stops talking about it. At this point, he agrees with ODOT that funding does not exist for the project, which is expensive, though he hopes the situation changes.

Ms. Glad replied her only request is to ensure the project is in the TSP so grant funding would be available. She noted that she has starlings in her barn and suggested electrocuting the 10,000 birds because they would just go elsewhere. She would be interested in learning how to address the starling issue as well.

Mr. Clark asked if Lightspeed Networks, Inc. would be functioning as a competitive service with Centrylink or if it would be a regulated utility. City Manager Benoit explained that Lightspeed has built the infrastructure in Oregon to supply broadband service and is interested in serving large industrial and municipal entities, like Columbia Memorial Hospital. They do not provide residential internet service.

Director Brett Estes confirmed the TSP committee would meet Wednesday, January 23 and a public meeting will be held in April or May 2013. The meeting is open to the public but will not be a forum where people could bring concerns about a possible bypass. He confirmed Councilor Warr continually promotes inclusion of the bypass in the TSP.

Mayor Van Dusen announced Councilor Warr has been appointed by the Clatsop County Commissioners to represent the five cities in Clatsop County on the COL-PAC, the Columbia Pacific Economic Development Commission. Councilor Warr received support from all the mayors in the county. Councilor Warr explained that COL-PAC works on economic issues and provides funding in certain circumstances. Currently, COL-PAC is working on an industrial cluster concept for the Columbia River Region. He is pleased to have been appointed.

Edith Henningsgaard, a resident of Columbia House, appreciated Council's attention to the Association's problem with the starlings. The issue has been a real challenge for the residents and the City because the birds carry a lot of germs and she hopes the issue will be resolved.

ADJOURNMENT

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

ATTEST:

APPROVED:

Finance Director

City Manager

HISTORIC LANDMARKS COMMISSION MEETING

City Council Chambers

November 20, 2012

CALL TO ORDER – ITEM 1:

A regular meeting of the Astoria Historic Landmarks Commission (HLC) was held at the above place at the hour of 5:15 p.m.

ROLL CALL – ITEM 2:

Commissioners Present: President David Pearson, Commissioners Thomas Stanley, LJ Gunderson, Kevin McHone, and Laura Leebrick.

Commissioners Excused: Paul Caruana

Commissioners Absent: Michelle Dieffenbach

Staff Present: Director Brett Estes, Planner Johnson and City Attorney Henningsgaard.

APPROVAL OF MINUTES – ITEM 3(a):

President Pearson asked if any corrections are needed for the meeting minutes of October 16, 2012. There were none. President Pearson moved to approve the October 16, 2012 minutes as presented; seconded by Commissioner Stanley. Motion passed unanimously.

PUBLIC HEARINGS:

President Pearson explained the procedures governing the conduct of public hearings to the audience and advised that the substantive review criteria were listed in the Staff report.

ITEM 4(a):

EX 12-08 Exterior Alteration EX12-08 by Tim Kennedy for Fort George Brewery to install a metal spiral staircase on the west elevation to connect to the upper level building ramp and entrance on an existing commercial building at 1483 in the C-4, Central Commercial zone.

President Pearson asked if anyone objected to the jurisdiction of the HLC to hear this matter at this time. There were no objections. President Pearson asked if any member of the HLC had a conflict of interest, or any ex parte contacts to declare. None declared. President Pearson requested a presentation of the Staff report.

Planner Johnson presented the Staff report, noting that since distributing the Staff report, the City has received confirmation that the State Historic Preservation Office (SHPO) was approving this request per their Special Assessment program. Staff recommends approval with several conditions. No correspondence had been received.

President Pearson opened public testimony for the hearing and called for the applicant's presentation.

George McCartin, 490 Franklin, Astoria, interjected to speak about Public Hearing Item 4(b): Demolition of the Waldorf Hotel. He stated that the entire Commission should remove themselves from making a decision because they are all in conflict. Instead, the meeting should be adjourned and an impartial hearing officer be requested. The City is involved and the Commission is with the City. The applicant also has ties with the City and has apparently negotiated with the City on the price to buy the empty lot to put the Library on.

President Pearson noted Mr. McCartin's comments and stated the Commission would address Mr. McCartin's comments during Agenda Item 4(b).

Chris Nemlowill, 478 Kensington, explained that since he was able to expand the Fort George Building, Lovell Building and Shop he has wanted to tie the entire lot together so that people could have easier access between the various businesses and buildings. A spiral staircase in the parking lot by the silo will look beautiful and tie the entire lot together. He was excited to be able to purchase the Astoria Column staircase.

Commissioner Stanley asked why the staircase was galvanized. Mr. Nemlowill replied he wanted the steel staircase to be protected and look nice. Another section of the original staircase will be installed on the interior of the building to tie the main floor of the pub by the foyer to the second floor. President Pearson noted for the record that the drawings presented by the applicant are full size drawings of those included on Page 2 of the proposal in the staff report.

President Pearson asked if there were any presentations by persons in favor of, in partial to, or against the application. Hearing none, he closed the public testimony portion of the hearing and called for Commission discussion and deliberation.

Commissioner Gunderson believed the Applicant continues to bring beauty and life to the building, adding it was great that the Column stairs will be repurposed. Commissioner McHone added that it is exciting to see the projects being completed at the brewery.

President Pearson said he was glad to see that the Applicant found a good use for the staircase. The project was well designed and met all the criteria that the HLC has been asked to review.

Commissioner Stanley said it was impressive that the staircase could be disassembled and reassembled. Commissioner Leebbrick appreciated how the staircase ties everything together. She believed the project was a creative repurposing of materials.

Commissioner Gunderson moved that the Historic Landmarks Commission adopt the Findings and Conclusions contained in the Staff report and approve Exterior Alteration EX12-08 by Tim Kennedy; seconded by Commissioner Stanley. Motion passed unanimously.

President Pearson read the rules of appeal into the record.

ITEM 4(b):

DM 12-01 Demolition Request DM12-01 by Cliff Poulton to demolish the former Waldorf Hotel building at 1067 Duane in the C-4, Central Commercial zone. The building is designated as historic in the Downtown National Register Historic District. Staff recommends approval with conditions.

President Pearson asked if anyone objected to the jurisdiction of the HLC to hear this matter at this time.

George McCartin, 490 Franklin, Astoria, objected to the HLC hearing the matter due to inherent conflict of interests. He would present evidence that the City of Astoria has already tentatively agreed to pay the Applicant a certain amount for the land and for the demolition in order to possibly expand the Library. He was not saying the Commissioners were biased or could not try to be impartial, but it has the appearance of a big conflict of interest. He recommended the Commission hire an independent hearing officer.

President Pearson asked if any member of the HLC had a conflict of interest or any ex parte contacts to declare. Hearing none, he requested a presentation of the Staff report.

Planner Johnson briefly reviewed the Staff report, which recommended approval of the application with numerous conditions. Two letters opposing the demolition have been received, one from the Historic Preservation League of Oregon (HPLO), and the other from Jay Raskin of Ecola Architects. These letters were the only correspondence received.

President Pearson opened public testimony for the hearing and called for the applicant's presentation.

Mark Barnes, Planning Consultant, PO Box 569, Astoria, representing the Applicant, noted a correction to the Staff report. The top of Page 4 states public notices were published in November 2012; however, the publication dates were in October 2012. Otherwise he concurred with the Staff report.

- With regard to the criteria, Section C, 1 through 3, concerning whether rehabilitation of the building is economically feasible, if there is a need to demolish and replace the building with another structure, and proposed development impacts.
 - He could not speak to the issue regarding the Library, adding that a Library representative would probably have more information. He understood that no written agreement existed between the City and property owner for the use of the property by the Library. There have been discussions and that is certainly a possible expansion direction for the Library.
 - The economic feasibility has been exhaustively demonstrated and documented. Several previous owners have failed to rehabilitate the building over the last 20 or 30 years. Some of these owners were organizations with significant advantages in accessing government funds, grant funds, low interest loans, housing money, etc., but they were still unable to make it work. He believed this to be thorough demonstration over a long period of time that it is not economically feasible to rehabilitate the building.
 - The public need aspect of the application goes back to the Library. It seems that a Library expansion is being proposed, and the development impact would take place in the design stages of that possible expansion. He confirmed the HLC would only have jurisdiction over the Library expansion if the Library builds a separate structure.
- The letter from Jay Raskin was the second letter received from Mr. Raskin. Another letter was submitted several years ago that included a number of cost estimates. The first paragraph of the letter dated today stated, "the standard on which the demolition should be judge is the effect it has on the district." He responded that the demolition is to be judged on the three criteria of the ordinance. No other standards exist.
 - The second paragraph noted structural issues may exist on adjoining buildings, including City Hall. While that may be true, these were not HLC issues. If the demolition is approved, the City must consider a separate demolition permit that addresses the engineering issues and impact on the structures of adjoining buildings, street frontage, sidewalk in front, etc. The demolition will have to be done according to engineering standards and will be reviewed by the City.
 - Finally, Mr. Raskin's letter states that ownership of the building is unclear to him. Mr. Barnes assured that the ownership of the building is clear, however that is irrelevant to the application. The identity of the applicant or owner does not need to be known to the HLC; a decision cannot be made based on whether the owner sat before the body, or the HLC wished it were someone else.
 - He did not believe Mr. Raskin raised anything in his letter to focus the HLC's attention on other than what Staff has represented.
- The HPLO letter recommends that the HLC postpone a decision until the building deteriorates to a condition of immediate public health hazard. The building has already stood vacant and deteriorating for many years and will continue to deteriorate. If the economic data presented are accurate and are reflective of what will happen in the future, it will not be possible to get people to put money into the building, and it will eventually pose a threat to the public. He did not believe this was a good way to manage decisions, though it is an option if the HLC does not believe the criteria have been met.
- He introduced Dennis Groat, a demolition expert, to address why retaining the facade may not be feasible.

Dennis Groat Vice-President, Groat Brothers, Inc. 608 W Scott, Woodland WA 98674-9512, stated that saving the facade of the building is not economically feasible, noting that rotting on the bottom of the facade is visible. Some concrete decorations at the top could be saved for reuse in a future project. The west side of the building has significant water damage as water enters the walls each time it rains. The rotting will cause the building to lean against the Library within the next year or two. It seems that a fire destroyed a lot of the flooring on both the first and second floors a few years ago. Demolition is recommended to preserve public safety and prevent further damage to the Library.

Commissioner Stanley asked if the building could be restored, excluding economic feasibility as a factor. Mr. Groat replied it is possible, but it would take an enormous amount of money. He explained that if the building were demolished, only the basement would remain until another project began on the property. A decision has not yet been made as to what will be done with the property, should the building be demolished. The immediate concern is the safety of the Library and City Hall.

President Pearson called for testimony by persons in favor of or in partial to the application. Hearing none, he called for testimony from anyone opposed to the application.

Robert Stang, 3834 Franklin Avenue, stated he serves on the County Housing Authority Board and believes the data contained in the economic feasibility is inaccurate. He believes that the Housing Authority and City could work together to find an economic way to reuse the building. The findings of the Staff report did not document any actual current economic situation with respect to the building and he requested that the current economic situation regarding the building be determined.

- He believes Mr. Poulton acquired the property through some strange transaction in 2009 in connection with a land swap involving the Clatsop County Housing Authority. He does not know if any one knows how much was paid for the property. It appears Mr. Groat has an option of acquiring the property. In making the decision regarding demolition, the HLC needs to know the facts; one of which is that the City government and Housing Authority both have the ability to condemn structures for the public good. He does not believe the building has no value and does not understand the valuation of the property. The building is worth something if money will be spent on demolition and then, supposedly, transfer it to the City. No one is talking about that, and it should be a material part of the investigation to determine whether the building should be demolished.
- One criterion discussed is the public need for a new use, but how can this criterion be met if questions about economic reuse of the building have not been addressed?
- Statements about previous owners being unable to rehabilitate the building are not accurate. As a member of the Housing Authority, he knows the numbers work to reuse and develop the building. While costs have risen, interest rates are now lower, making renovation of the building no more costly than in 2008. At that time, he had supported reusing the building, but the Housing Authority Board was scared to get involved with redeveloping the building and he was removed from the Housing Authority Board prior to the vote. The issue back then regarded what portions of the building would be reused by the City and for what reasons.

Fred White, 2011 Irving Avenue, Astoria, believed the facade of the building is worth saving. He understood if the rest of the building was made of wood, it may prevent rehabilitation. However, he felt strongly that the facade should be saved because it is part of the fabric of Astoria.

Lucien Swerdloff, 1087 11th Street, Astoria, stated he was speaking impartial to the application, although he opposed demolition of the building. He was concerned that if the building is demolished, an empty lot would remain for several years. If the demolition is approved, a condition should be added requiring some appropriate treatment to the site be to prevent blight on Astoria's street scape.

Tim Kennedy, 3708 Irving Avenue, Astoria, recalled the rush to tear down the Darigold Distribution Building [385 9th Street] in 2011, which he found absurd, and now the City has another parking lot, which he did not consider a valuable asset. The Darigold Building was a valuable asset. Prior to that demolition, the building was scaffolded, tented, and sandblasted to address the lead paint environmental issue, which was a waste of resources. If demolition is that necessary, it should occur just prior to new construction, when a design is ready. He noted the Darigold site is just a block away, adding that holes in the City landscape could exist for 10 to 15 years. He encouraged the HLC to take as many measures as possible with the Waldorf Hotel to address the immediate problems, such as pieces of facade falling. He suggested that the City refrain from charging the owner property taxes on the building so that the money could be used to repair the roof to stop water leakage. Mr. Kennedy believed the west side of City Hall will look horrible for the next 15 years if the Waldorf is demolished and asked who will pay to address that issue. He reiterated that if a feasible plan for development exists, demolition should be delayed until just before construction of the new project.

Jan Gregor, 1546 Franklin, Astoria, stated he strongly opposes the demolition because the building is historic. He believes some of the information provided is wrong. For example, the problems experienced by the developer working on the building from North Bend had nothing to do with the building, but were problems in North Bend. Mr. Gregor questioned anyone paying \$400,000 for the building in 2009, adding obviously the owner did not consult anyone in Astoria prior to paying that price. He believes that for the right price, the building could be rehabilitated into apartments or condominiums and noted that the Garden of Surging Waves is going in and more people are moving downtown.

John Goodenberger, 856 Harrison #2, Astoria, believes everyone supports and would like to see something happen at the Library, so that is not an issue. He accepts that everyone agrees the Waldorf is in bad shape. As

an employee of Ecola Architects, he helped produce some of the drawings included in the packet, so he is very familiar with the building. He stated his complaint is in regard to the process more than anything.

- He noted the building frame is made of reinforced concrete, which appears to be in good condition as noted on Page 2. The source of falling debris is unclear, is it siding or part of the destruction?
- Page 3 lists the items needing to be done to the building, including a heating system, electrical wiring, plumbing, and structural requirements such as ADA, fire, life and safety upgrades. These are all standard improvements for rehabilitating historic buildings. He understands it is a larger building, but nothing new is being presented. Plenty of people have led by example on such rehabilitation projects.
- One difficulty he has regards exclusively demonstrating a public need for possible use of the site because it is too early in the Library planning stages.
- The Finding for Criteria Section 6.080.B in Item IV.B on Page 6 of the Staff report states it is not an immediate threat to public health, safety, and welfare.
- Item IV.C(1) discusses that the vacant hotel has been an issue since 1989. Many people are frustrated by the Waldorf Hotel. He noted that many previous owners have struggled and perhaps should not have taken the building on as a project in the first place. The Housing Authority had a good chance with the hotel and had looked at financial incentives that could be available for reuse of the property.
- Item IV.C(2) again addresses the public need, but nothing definitive has come from the Library; only great, exciting ideas, but the public has not had the opportunity to discuss the Library's needs. It is difficult to say that a better public good exists with the hope that something beautiful would be built on the site. More should be needed to allow removal of a historic structure in the middle of Astoria's downtown. The real blight would be the hole left after the building is demolished. The Staff report continues discussing more public expansion, but where is it?
- The Staff report discusses the fact that the building is blight, but that could be minimized by installing glass in the windows and repairing windows, painting the exterior and lower area, and covering the west facade of the building, similar to what was done to the State Hotel [1167 Marine Drive] to stabilize the building. Wood sheets over the west facade would provide stability and prevent any more debris from falling onto the Library.
- Astoria has changed significantly over the last 20 or 30 years. Building hotels on the waterfront or condominiums in town used to be a laughable matter. The community has changed and in spite of an economic slump, Astoria is better today. Projects once thought impossible are now possible.
- He suggested mothballing the building and addressing it when it becomes a danger.
- Item IV.C(3) discusses that a vacant lot or hole would have some appeal in the downtown and be better than a building. The City has hired a consultant to give advice on the Main Street Program, which encourages increasing density in the downtown area; anything but creating a hole. Demolishing the Waldorf would only cause more problems since it would leave a vacant lot.
- Many people have done work in the downtown. The argument that rehabbing the building is not cost effective or profitable could have been made with the Liberty Theatre [1203 Commercial Street] and other buildings. In 2004, Astoria was established as a Save America's Treasures City. This year, Astoria was designated as one of the 35 milestones of Oregon's Historic Preservation by the HPLO.
- He reiterated that holes do not add to Astoria's downtown vitality and are not economic development. Conducting basic maintenance on the Waldorf would give the City time. Demolition is a shortsighted, dead-end solution. The community has invested many times over in historic preservation, and frequently when common sense said otherwise. Removal of the Waldorf removes future options for housing, a hotel, or multipurpose use for City activities.
- He believes the letter concerning the City interest in acquiring the property mentioned by Mr. McCartin when he opposed the jurisdiction of the HLC, was the same letter he found online that was written to the Bureau of Labor and Industry discussing the transfer of property, and noting that the City intends to purchase the property contingent on removal of the building. He quoted, "The purchase is yet to be agreed on, but the City may be willing to pay the equivalent of the demolition expense plus \$25,000. He emphasized that no deals had been made, and continued, "The City's intention to utilize the property for a public use, or perhaps as a space for expansion of its Library facility." He again emphasized, "No agreements have been signed and the City has no funding for development at this time."
- He suggested cutting out the middle man, paying the \$25,000 to take over the Waldorf and use the City to leverage loans and ingenuity to determine what to do with the building. At the same time, vigorous discussions should be held about plans for the Library, which will help reveal whether the Waldorf is in the way or suitable for the Library's plans. The City is in the best position to save the building, similar to what was done with Unknown Hall [50:41].

- He noted the community had struggled, but creatively preserved many other buildings in Astoria, including the Liberty Theatre [1203 Commercial], The Commodore Hotel [258 14th], the Elliott Hotel [357 12th], the Astor Apartments [342 14th], the Flavel House [441 8th], Astor Column, etc. and he asked that the Waldorf be given the same creative chance.

Linda Oldenkamp, 1676 Jerome Avenue, Astoria, stated that the issues with the Library should not be an issue before the HLC at all. But because it has been made an issue, she believes the HLC should consider the Staff report with some skepticism. While issues with the Library are going on, the demolition request was coming through the Staff report process. She does not believe the report is accurate and the Findings are truly biased. She is disappointed in the Staff report, and in considering the Library issue, it makes sense why Staff is recommending that the building be demolished. Other things bothered her in the Staff report, such as the history of trying to find someone to take this building on and do this project, which has already been addressed tonight.

- The Waldorf is a wonderful building that is worth saving. It does not need to be torn down. Demolition could wait until it absolutely has to be done.
- Under the City's Derelict Building Program, the City could require the property owner to resolve the issues with the building. If the problems are not fixed, the City could have the work done and fine the owner. This is the owner's problem. There is no reason to demolish the building right now. She hoped the HLC believed the building is beautiful and wanted to save it as well. She implored the Commission to vote in opposition of the application.

George McCartin, 490 Franklin Avenue, Astoria, presented a copy of the letter posted on the Oregon State website to the HLC, adding that he had not seen it in the packet but had noted a reference to possibly utilizing the lot as a site for the Library after everything is done. He quoted the exhibit stating, "The City of Astoria plans to purchase the property contingent on removal of the building. The purchase price has not been agreed on the removal of the building. The purchase price is not yet agreed, but the City may be willing to pay the equivalent of the demolition plus \$25,000. Purchase will take place after the demolition has occurred." This exhibit was written by the State of Oregon in response to City Attorney Henningsgaard's inquiring whether the Groat Brothers had to pay the usual price [prevailing wage rate] for contracting to do this work. This appears that it is more than just a possibility for the City's acquisition.

- The library expansion will be discussed over the next several months. Funding concerns have been raised about building a new Library and not being able to afford books or to keep the Library open.
- Safety issue is contradicted by the Findings on Page 4 of the Staff report, being specifically found not to be the case. The statement that the building is severely deteriorated is an opinion of the Applicant. He believes an independent study should be made. He did not understand how others thought the rehab could be done and now, all of a sudden, the project could not be done. The owners should be aware of what they acquired, especially since the County Housing Authority negotiated with the present owner [Cliff Poulton], and then some giant financial arrangement as part of what Mr. Poulton received.
- However, the owner should have done due diligence years ago before going through with the deal to know the cost of rehabilitation and whether any profit was possible.
- He recommended that the HLC deny the application.

Blair Cocken, 490 Franklin Avenue, Astoria, noted an ad about the Waldorf-Astoria in New York in the *New Yorker* magazine targeting people with expendable incomes. The Astoria Waldorf Hotel is also great, and Astoria wants to attract those same bright people with expendable incomes to Astoria. The building has beautiful architecture that cannot be reproduced, and visitors will be less likely to come to Astoria if we allow historic buildings to be demolished. To preserve the City landscape, the Waldorf Hotel should be preserved. She was troubled that only one evaluation was submitted as to whether the facade could be saved and she asked that an independent party determine the feasibility of preserving the building's facade.

President Pearson confirmed there was no further testimony and called for the Applicant's rebuttal.

Mr. Barnes stated that he does not believe information in the Staff report is inaccurate, out-of-date or biased as has been claimed by several people. However, he noted that is the only information presented. No one else presented other cost estimates that conflict with the Staff report. The information presented in the Staff report was compiled by a qualified and licensed engineer. The City is welcome to hire an independent party to determine costs, but the information presented to the HLC is in the Applicant's favor for approval of the request; renovating the building will be wickedly expensive.

Mr. Barnes stated the Applicant is willing to accept, as a condition of approval, that after demolition the lot be brought back up to grade within a set number of days if new construction of a new structure does not begin. This would address concerns about the basement being left exposed as a hole in the ground. Otherwise, he did not believe the HLC had heard any new information.

President Pearson closed the public testimony portion of the hearing and called for closing comments by Staff.

Planner Johnson noted that Library Director Jane Tucker is available to answer any questions and that Staff has alternate Findings available, should the HLC vote to deny the application. The building has been deemed a derelict building, so the owner needs to take some action with the building, regardless of how the Commission votes.

President Pearson closed the public hearing and called for Commission discussion and deliberation.

Commissioner McHone believed it would be against the nature of the HLC to recommend demolishing the building. Whether a building remains vacant or is torn down and a hole remains, there is no economic activity. He would like to see a plan for future use of the property that will create economic activity as soon as possible after demolition. Being able to preserve the building at the same time would be a home run. Without knowing what plan is moving forward, it is difficult to approve the application.

Commissioner Stanley said he did not join the Commission to tear buildings down. He could not dispute that it is not economically feasible to renovate the building based on the profit the owner wants to make. However, many people have renovated buildings in town for the love of the building and community, knowing they would not recoup their investment. He believed something could be done to save the Waldorf Hotel.

Commissioner McHone reminded that the Astor Hotel was mothballed, in a sense, with some structural integrity issues addressed to make the building water tight until a better economic opportunity arose. Low income housing was put in the upper floors and the storefronts were eventually redeveloped. The area is becoming a nice part of downtown.

Commissioner Stanley said the future is unknown, but if the building is demolished it is gone. He is uncertain how the HLC fit into the Library argument, other than the Library could do whatever it wanted with the building design should the subject property be used. The Library would not have to follow any historic patterns and the City would lose what currently exists, except parts of the facade perhaps. He cannot in good conscience agree to tear it down without knowing the future plans. The owners have the responsibility to make the building safe, not the City.

Commissioner Leebrick appreciated all of the input on this issue. For her, Applicable Review Criteria C.2, "demonstrate a public need" was the hang up. She supports the idea of mothballing the building until some development occurs. An empty lot does not add to the streetscape. She did not know the costs for shoring up the building as mentioned, but she prefers to leave the building standing until a demonstrated need for a new use is imminent.

Commissioner Stanley noted Duane Street is becoming beautiful and noted several buildings and projects, some of which will not recover their renovation expenses. Property values may increase in the future, allowing some profit to be made on these projects. The Waldorf will not have any future if it is torn down.

Commissioner Gunderson said it is a tough situation, knowing the high cost of renovating the building. However, the HLC exists to preserve Astoria. Demolishing the building may not be best for the future, but if the building does need to be demolished, she would like some stipulation about preserving some of the facade. She supported mothballing the building, which has been vacant for 23 years. She would like to see the building renovated and suggested putting stipulations on the owner to do some mothballing.

- She urged citizens to offer ideas to help the property owner with the building or even do fundraising; whatever it takes as it will take an army to renovate the building. She did not want to see the building sit in this condition for another 23 years.
- She thanked Mr. McCartin for giving the Commission a chance, despite his opinion that the HLC is biased. The Commissioners also live in and love Astoria.

President Pearson noted the Commissioners are all volunteers and approving a demolition is always difficult and the HLC takes great care in its review. This hearing was no exception. He appreciated all of the testimony.

- He did not believe the building is ready to be demolished. The Waldorf is a derelict building and no solutions have been presented. No attempt has been made by the property owner to prevent further decay, which is close to demolition by neglect. The community deserves to consider other opportunities with this building. He does not support the demolition without a proposed use of the property, other than to see another hole in downtown Astoria.

Commissioner Gunderson suggested that the City and Downtown Association speak with Michelle Reeves, the consultant hired to help revitalize downtown, as she has connections that could help the City.

Planner Johnson read the changes to the Findings into the record for denial of the request which addressed the issues as indicated by the HLC.

President Pearson moved that the Historic Landmarks Commission adopt the revised Findings and Conclusions with the following changes:

- 1) Page 1, Item I.A, applicant's address should read "Trinidad CA 95570-0649";
- 2) Page 3, Item II, Paragraph 2, Line 3, add ". . . expansions. However, no specific plans or proposals for reuse of the vacant lot have been submitted. The downtown . . .";
- 3) Page 4, Item III, Line 2 should read ". . . on October 26, 2012. A notice . . .";
- 4) Page 4, Section IV.B, Paragraph 2, add last sentence ". . . Commission. However, it has been deemed to be a derelict building as defined in the City's Property Maintenance Code.";
- 5) Page 5, Item IV.C.2, Paragraph 2, add last sentence ". . . expansion designs. However, no specific plans for use of this site by the Library for expansion have been submitted. Demolition for this possible expansion does not create an immediate need for demolition";
- 6) Page 7, Item IV.C.2, Paragraph 2, Line 5 should read ". . . public need to address a vacant, derelict building is of value. However, no plans have been submitted that indicate the Library would definitely expand to this lot. Therefore, the preservation of the building in its current condition, with mothballing and exterior maintenance, is significant to the overall historic character of the downtown. The derelict building should be repaired and mothballed to prevent any further damage to the building itself or to the adjacent Library building. The applicant's findings are incorporated as part of these findings. The request does not meet this criteria for demolition";
- 7) Page 7, Item IV.C.3, Paragraph 3, add last sentences ". . . no open space. However, the building does add to the streetscape with its location adjacent to the 1924 City Hall building and across the Duane Street right-of-way from the Van Dusen building which encompasses 3/4 of the street frontage. Adding another vacant lot to the area would detract from the historic context of the downtown.";
- 8) Page 8, Item IV.C.3, add last paragraph "The request does not meet the criteria for demolition approval.";
- 9) Page 9, Item IV.C.1, Paragraph 3, add last sentence ". . . these findings. However, with no specific plans for construction on the site, the building should be mothballed pending potential reuse that may be possible in the future.";
- 10) Page 9, Item IV.C.3, Paragraph 3, add last sentence ". . . at renovation. However, with no immediate proposal for use of the site, the building could be mothballed pending possible reuse in the future.";
- 11) Page 10, Item IV.C.4, Paragraph 3, add last sentence ". . . attract visitors. The derelict building should be mothballed in compliance with the City's Property Maintenance Code which would improve the appearance of the building pending possible future reuse.";
- 12) Pages 10 & 11, Item IV.D, delete Paragraphs 4, 5, 6, 7 "Staff is recommending. . . material as possible";
- 13) Page 11, Item IV.D, add last paragraph "Demolition of the building is not recommended, therefore conditions related to demolition are not required.";
- 14) Page 13, Item V, Paragraph 1 should read "The request does not meet the applicable review criteria and the Historic Landmarks Commission denies the request based on the Findings of Fact above.";
- 15) Page 13 & 14, delete all conditions and last paragraph, "1. The applicant . . . of construction/demolition.", with no conditions, and deny Demolition DM12-01 by Cliff Poulton; seconded by Commissioner Stanley. Motion passed unanimously.

President Pearson read the rules of appeal into the record.

ADJOURNMENT:

The meeting was adjourned at 6:50 p.m.

ATTEST:

APPROVED:

Secretary

Director

DRAFT

HISTORIC LANDMARKS COMMISSION MEETING

City Council Chambers
December 18, 2012

CALL TO ORDER – ITEM 1:

A regular meeting of the Astoria Historic Landmarks Commission (HLC) was held at the above place at the hour of 5:15 p.m.

ROLL CALL – ITEM 2:

Commissioners Present: President David Pearson, Commissioners Thomas Stanley, LJ Gunderson, and Kevin McHone. Paul Carauna arrived after Item 4(a).

Commissioners Excused: Michelle Dieffenbach and Laura Leebrick.

Staff Present: Planner Rosemary Johnson and City Attorney Blair Henningsgaard.

APPROVAL OF MINUTES – ITEM 3(a):

The November 20, 2012 minutes will be available at the January 2013 meeting.

PUBLIC HEARINGS:

President Pearson explained the procedures governing the conduct of public hearings to the audience and advised that the substantive review criteria were listed in the Staff report.

ITEM 4(a):

EX 12-09 Exterior Alteration EX 12-09 by Robert Stang to reconfigure the dormer on the north, front elevation of an existing multi-family dwelling at 1585 Exchange Street in the C-3, General Commercial zone.

President Pearson asked if anyone objected to the jurisdiction of the HLC to hear this matter at this time. There were no objections. President Pearson asked if any member of the HLC had a conflict of interest, or any ex parte contacts to declare. None declared. President Pearson requested a presentation of the Staff report.

Planner Johnson presented the Staff Report, noting Staff recommends approval with conditions. No correspondence has been received.

President Pearson opened public testimony for the hearing and called for the applicant's presentation.

Robert Stang, 3834 Franklin Avenue, shared how the former owners stripped the house and sold doors and a window to Paul Tuter of Vintage Hardware before the bank foreclosed, but he was able to buy the doors and window to reinstall back into the house. His original intent was to replicate the east window, which is bigger, on the north face of the building. Upon meeting with Staff and Architect Jay Raskin, the Applicant realized that a larger window on the north face would require alterations to the roofline. The proposal is the simplest and most effective way to preserve the look while allowing more light into the attic.

Commissioner McHone asked, out of curiosity, what changes would be made to the interior other than converting it into four apartments. He acknowledged the HLC had no jurisdiction with regard to the interior. Mr. Stang explained that he intends to preserve the existing features as much as possible, including the stairway, sliding pocket doors, and a lot of woodwork on the first floor. Woodwork on the second floor has been undercut, so the molding will be replicated to preserve the look on the second floor. A lot of damage had been done; the two fireplaces would be preserved; however, the chimneys had been removed above the first floor and would have to be rebuilt.

President Pearson asked if there were any presentations by persons in favor of, in partial to or against the application. There was none. President Pearson closed the public testimony portion of the hearing and called for Commission discussion and deliberation.

Commissioner McHone believed the proposed alterations add to the building and since the rooflines were not changing, he supports the application. Commissioner Gunderson said it is fantastic that the Applicant was able to buy back the window and doors. President Pearson said he was pleased to see pictures of the east window as a reference, adding the application meets the criteria the Committee has been asked to review. Commissioner Stanley also supported the application, noting that having historic usage replicated was great.

Commissioner Gunderson moved that the Historic Landmarks Commission adopt the Findings and Conclusions contained in the Staff report and approve Exterior Alteration EX 12-09 by Robert Stang with conditions; seconded by Commissioner Stanley. Motion passed unanimously.

President Pearson read the rules of appeal into the record.

REPORTS OF OFFICERS/COMMISSIONERS

ITEM 5(a): Report on National Trust for Historic Preservation Annual Conference

Planner Johnson stated the National Trust for Historic Preservation (NTHP) held their annual conference in Spokane, Washington in November 2012. Several people from Astoria attended, including Planner Johnson, John Goodenberger, Lucien Swerdloff, each of whom received a \$1,000 grant to support attendance at the conference, and Brett Estes. One requirement of the grant was to relate the information gained to public agencies and citizens, whether through a report, training, etc., so others could benefit.

Commissioner Carauna arrived at 5:30 p.m.

Planner Johnson attended several sessions on sustainability and historic preservation. Historic preservation is essentially green building because it saves materials, preserves existing structures, and refrains from wasting resources. Construction methods of historic properties are green and were intended to be environmentally sensitive. She distributed a packet that included suggestions for how to relate this information to the public and how cities can encourage preservation. One attachment included a graph showing the energy savings gained from using storm windows and weather stripping, which she reviewed. She recommended that the HLC look at the NTHP website to see the report in color to get a better idea of the information being presented. The National Park Service website contains a preservation brief which includes a series of informational and technical documents on improving energy efficiency. The packet also contained informational handouts that could be distributed by the City as well as an executive summary titled, *Sustainability and Historic Preservation*, which contains good information about maintaining historic buildings for energy purposes.

- She chose sustainability as a discussion topic for the HLC because while the Development Code is always being updated, the Historic Properties Ordinance has not been updated in many years. She reviewed suggestions from the conference about how to incorporate sustainability into preservation planning as follows:
 - Create an energy code for sustainability and historic preservation that could be a stand-alone code with recommendations for all property owners, or integrated into the Historic Properties Ordinance so it only applied to historic buildings.
 - If an energy code is not created, sidebars could be included in the Historic Preservation Code section explaining why a particular ordinance, such as prohibiting historic windows from being replaced with vinyl, is energy efficient, which is a more educational approach. Educating the public often makes compliance with regulations easier.
 - The code's tone should be positive and include diagrams, instructing property owners about what they can do. Instead of stating that vinyl is not allowed, the code should list the types of materials that are allowed.
 - Diagrams and sidebars can explain historic architectural features that people may not know about, such as transom windows. If people understand how transom windows increase energy efficiency, they would use them in their buildings. Porches and awnings prevent sunlight and unwanted heat from entering the building. Using curtains and shades, instead of double-paned windows, are also

more beneficial. Most heat in a house is lost through the attic due to lack of proper insulation in the attic. Codes, sidebars, and training can teach property owners about various energy saving techniques.

- Develop a brochure on the benefits of historic preservation and energy conservation. The City has developed brochures on how and when to get a building permit, fence requirements, signage, plumbing and mechanical permits, and how to get a grading permit. The HLC could consider helping to develop a brochure that includes information on the environmental benefits of historic preservation.
- Assist people with energy assessments of their homes and buildings, which would enable the City to suggest better ways of conserving energy that may cost less than they expect.
- Offer training. As Staff, she already conducts some training with realtor groups, local contractors' groups, and college classes. The HLC could conduct a workshop during Historic Preservation Week.
- Allow a higher density so larger historic homes could be utilized more to help property owners retain and restore the home through increased rental income. As an example, tonight's approval to allow a four-plex rather than a single-family dwelling, added density to the neighborhood and provided the owner income to help restore the building.
- Much more information was provided at the weeklong conference, but for the grant, she wanted the HLC to consider energy efficiency and sustainability as a possible project for Historic Preservation Week, which would help with education and minimize requests to do incorrect work on historic buildings. She reminded the HLC that the Dr. Harvey Award will be discussed in February and March 2013, and plans will begin to be made for Historic Preservation Week.

Commissioner McHone believed this could be an interesting direction for the entire Historic Preservation Fair. Planner Johnson noted the City staff decided not to do the Fair in 2013 because attendance was static in 2012 and skipping a year may make the Fair fresh and new next time. She encouraged the Commissioners to consider her comments or other ideas to pursue. A smaller workshop or session could still be held. The Historic Properties Ordinance still needs to be updated and the HLC could help compose some of the sections.

ITEMS NOT ON THE AGENDA:

President Pearson announced that the Mayor has asked him to serve on the Planning Commission beginning January 2013, so this is his last HLC meeting. He has been honored to serve on the HLC, but looked forward to the coming challenge.

ADJOURNMENT:

There being no further business, the meeting was adjourned at 5:45 p.m.

ATTEST:

Secretary

APPROVED:

Community Development Director /
Assistant City Manager

Astoria Public Library
Astoria Library Board Meeting
November 27, 2012
3:30 p.m.

Present: Library Board members: David Oser, Emily Hill, and Gregory Lumbrá. Staff: Library Director Jane Tucker.

Excused: Susan Brooks, Ann Marie

Absent: Charlotte Langsev

Call to Order: President David Oser called the meeting to order at 3:30 p.m.

Approval of Minutes: The minutes of September 25, 2012 and October 23, 2012 were approved as submitted.

Approval of Agenda: The agenda was approved as submitted.

Library Director's Report:

Director Tucker had sent materials about the Oregon Community Foundation (OCF) to the Board. She briefly described the Planned Giving Program, noting Arlene Cogen, Director of Planned Giving at OCF, can attend the January meeting to answer any questions. With an endowment, the principal cannot be spent, but the library will receive an income distribution two times a year. If the library decides not to spend the distribution, it can be rolled back into the fund. She addressed comments and questions from the Board as follows:

- She clarified an endowment fund would not fill the library's need for a funding vehicle for the renovation. She encouraged the Board to consider an endowment for other long-term goals, as the renovation is just one project and the library will still have needs after the renovation is complete. An endowment fund could be used for maintenance funding.
- OCF would not operate a capital campaign as done with the Aquatics Center.
- People wanting to make contributions to the library could still go to the City to do so; however as previously discussed, a psychological barrier exists with that funding process. OCF has a great reputation and has the ability to secure more donations than the City.
 - She will meet with City Manager Benoit to see whether other alternatives exist outside of the City's funding for donating to the library that would not carry the stigma of giving money to the City at large, but rather specifically and directly to the library.

President Oser noted the housing of money is less important than the umbrella organization surrounding it which must have the capacity to solicit funds, keep records, communicate with donors, etc. While OCF does these things, 20 times the money would have to be raised for an endowment to get the spendable interest that the library needs.

- He agreed to have Ms. Cogen attend the January meeting if she could suggest options other than an endowment. It would be nice if the library could find an option that offers additional services, rather than starting its own separate organization.
 - Director Tucker noted a brand new organization would require a volunteer board with the same knowledge and skill that OCF can provide. The library's current endowment fund is maintained by the City, which can prevent people from donating.

Gregory Lumbrá stated it would be nice to coordinate with a group like Friends of the Column. President Oser noted such organizations usually have a specific purpose stated in their bylaws.

Director Tucker distributed the Library Director's Report, which included statistics for September and October 2012. The library's value to the community is consistently high, with \$139,000 for September and \$141,000 for October. The first all-staff training meeting was held October 1, 2012. This Monday, December 3, the entire staff will visit the Tillamook Library and the Manzanita Library. The Haunted Library event was a lot of fun; about 160 people went through the Haunted Library in an hour and a half.

Director Tucker asked the Board to give their opinions on several choices for new library hours, which could enable the library to be open on Mondays. The library does not have the means to add hours, so a reallocation of hours is being proposed.

The Board discussed possible options for changing the operating hours of the library. Discussion included the following key comments, with Director Tucker responding to questions as noted:

- Staff believes patrons would adapt to Monday hours very well. If the library were to open on Monday, it would need to be closed for the same amount of hours on Friday and Saturday because the library does not have staff available to cover additional hours. During nice weather, not many patrons use the library on Saturdays. Saturday use is slightly higher during bad weather, but that use is being reevaluated.
- Having consistent opening and closing times is important for most people and has been addressed.
- Concern was expressed about limiting the library's availability for people who work weekdays. The library's hours should balance the needs of the various groups of patrons.
 - Statistics show the library is not busy from 6 p.m. to 7 p.m. on weekdays. The library's busiest hours during the week are from 10 a.m. to 2 p.m. and from 4 p.m. to 6 p.m.
- Opening at 9 a.m. would allow more patrons to use the library. Currently, people arrive at 9 a.m. and wait for the library to open. The library offers the only free internet service for those searching for jobs. Job searchers typically search for jobs on Mondays, when the library is currently closed.
- The Council would have to approve a change in the library's hours.
- Split hours, such as closing from 2 p.m. to 5 p.m. and reopening is confusing. Consistency in hours is important.

Emily Hill preferred Option 1 because Friday and Saturday are the least busy days and she likes the library opening at 9 a.m. each day. Option 1 also offers the least changes to the current hours. Having the library stay open late one night a week would be nice, but then the library could only be open four hours on a couple other days.

Gregory Lumbrá also preferred Option 1, which would allow the library to be open earlier during the week. If the Board knew how much it costs to have the library open for one hour, finding additional funding to pay for more open hours during the week may be possible. Director Tucker replied that while a fixed cost to have the library open is available, staffing is also fixed.

President Oser believed none of the options were ideal, though Option 1 is the best of the lot. He believed the library needed a day to accommodate those working 9 a.m. to 5 p.m.

Staff will continue to gather statistics and explore alternatives.

Board Reports: Each Board member reported on what he or she gained from touring other area libraries.

Gregory Lumbrá suggested planning the renovation like Hillsboro's more organic expansion and have a two to five year plan for a second phase to move into the Waldorf Hotel space. Forest Grove, however, was very program-oriented in their planning, while Hillsboro was more money-oriented and business-like. He believed the students offered many diverse ideas. It would be beneficial for the Board to discuss and choose different elements from each design. He understood the students used much of the same modeling used for the Riverwalk. He was very impressed with the students' work. They completed the project in a short period of time and were very creative.

- Director Tucker explained that Yosa Huggins, Adjunct Professor and Architect at Mulvaney 2G, approached the City so that her programming class could have a project. Her class was not a design class. Their specific tasks were adjacencies and sizes, though they voluntarily went further.

Emily Hill stated that her visit to the Forest Grove Library was most helpful. She liked the library and would enjoy spending time there. It was fun to get ideas about what Astoria could do in its library. She liked the meeting space because it was so functional. Learning how the Forest Grove Library completed their renovation in two phases was interesting.

Gregory Lumbra added that he liked Forest Grove's approach to fundraising. They collected a little bit of money from many people, rather than collecting large amounts of money from just a few people. Forest Grove also got local businesses involved. Their community buy-in helped to get people talking about the project and feel they have ownership in the project. The Forest Grove Library created a foundation that invited the community to get involved in bake sales and other events. One group did the fundraising, while another group did planning.

President Oser believed the Forest Grove and Camas libraries are more warm and community-oriented, while the Fort Vancouver, Hillsboro, and Hollywood Branch libraries seem to relate more to government and industry. He liked the more community-oriented libraries.

Director Tucker noted that larger cities have multiple libraries that offer different experiences, but Astoria only has one choice.

- Her goal with the renovation is that everyone walking in the library's door could find their own comfortable space, no matter the style, and that the library be elegant and long lasting.
 - Astoria's library will have to offer a variety of spaces. Some people want to sit by a window, while others want a quiet and secluded place to sit.
 - Fort Vancouver Regional has had some problems and would not look so good in a few years. However, the Camas Library is 10 years old and still looks new and elegant because it was built to last.
 - A library should fit the socioeconomic conditions of its community. The Camas Library contains many separate spaces with few lines of sight, which contributes to a high rate of theft. Low staffing levels can also contribute to theft, which is something the Astoria Library should consider.

Gregory Lumbra wanted to find out if the public views the library the same way as City Hall. City Staff shared that they wanted the remodel of City Hall to be municipally modest. The library should be designed elegantly because it will be used by the public in a different way than City Hall.

Director Tucker noted the library should reflect the current needs of the community and have the flexibility to continue to meet those needs as they change in the future. She believes the community likes the library. One patron noted the library is warm and inviting once one passes through the ugly door.

- The students who worked on this project created many great ideas in spite of problems that have seemed almost insurmountable, which is encouraging.
- She understood comments about being municipally modest, but people usually want their library to be their showcase.

Gregory Lumbra believed the Board should support hiring a professional to solicit community input via community meetings and help expedite the process. He would like to see the costs involved and discuss the idea further at some point.

President Oser noted the discussion at the last Historic Landmarks Commission (HLC) meeting regarded the Waldorf Hotel. Many people objected to demolishing the Waldorf because they did not want an empty lot downtown. The solution would be to create a plan to develop the lot before demolition is discussed further. Director Tucker described the damage and imposing danger from the adjacent deteriorating Waldorf Hotel. Debris falls onto the library's roof and fire is another grave concern.

Gregory Lumbra said if the Library Board is going to support the demolition of the Waldorf, an action plan needs to be created that includes the linkage between city hall and the library. People have been traumatized by the Safeway site and the community will be more comfortable if a plan exists.

President Oser believed the action made by the HLC will benefit the library long term because the library can propose a constructive reuse of the site, which cannot remain as it is for long. He agreed that had a plan been in place, different considerations would have been made.

Director Tucker appreciated the perspective of those advocating to save the Waldorf and the façade, but the building is a liability. Water is already between the wall that the library shares with the Waldorf, and water damage has already occurred.

Emily Hill agreed the Waldorf is dangerous.

President Oser opposed putting millions of dollars into renovating the library while it shares a wall with a derelict building.

Gregory Lumbrá suggested presenting a resolution or language to Council that ties the Waldorf in with the library remodel. Renovating the library and still allowing the Waldorf to cause damage to the library defies common sense. He noted the Waldorf was compared to the Flavel House when mothballing was discussed, but the Flavel House is a standalone building and the Waldorf shares a wall with the library.

Director Tucker explained that the Waldorf issue is affected directly by land use law. The Board has no authority on this issue. Creating a plan would benefit the library, which has a viable plan for the site. She believes the Library Board could create a plan that the public supported and noted the students offered some creative solutions about internally connecting City Hall and the library.

Update on ALFA Activities: No report due to Charlotte Langsev's absence.

New Business:

7a. Review Date for December Board Meeting. The Board moved the December meeting to Thursday, December 20, 2012 from 3:30 p.m. to 5:00 p.m. Director Tucker confirmed that the Board did not need to meet with Arlene Cogan of OCF.

President Oser stated he has approached a few people about the open Board member position; however no one expressed interest in serving on the Library Board. He would like someone with legal knowledge to join the Board and had someone in mind that he would approach about filling the position. Any interested party would need to express interest by contacting the mayor's office.

Director Tucker explained the mayor is responsible for appointing new Board members. She added the Board could use someone with fundraising experience.

President Oser said he would be meeting with City Manager Paul Benoit next Thursday. He would let Director Tucker know if person is interested in joining the Board.

Old Business: None

Board Member Comments: None

Public Comments: No public in attendance.

Items for Next Meeting's Agenda: Gregory Lumbrá suggested the Board continue its discussion about its involvement, if any, with the Waldorf Hotel. President Oser stated he would report to the Board about his meeting with City Manager Benoit.

Adjournment: There being no further business, the meeting was adjourned at 4:55 p.m.

Respectfully submitted,

Library Director

Astoria Public Library
Astoria Library Board Meeting
December 20, 2012
3:30 p.m.

Present: Library Board members Gregory Lumbrá, David Oser, Susan Brooks, and Emily Hill. ALFA representative Charlotte Langsev; Former Board Member Ann Marie and City Councilor Elect Drew Herzig. Staff: Library Director, Jane Tucker.

Call to Order: Chairman David Oser called the meeting to order at 3:30 p.m.

Approval of Minutes: The minutes of November 27, 2012 were not available.

Approval of Agenda: The agenda was approved as submitted.

Chairman Oser announced that Mayor Van Dusen has appointed Arline LaMear to fill the vacancy on the Library Board. Councilor LaMear has knowledge of libraries and will provide a direct connection between the Board and City Council.

Library Director's Report: Director Tucker distributed and reviewed the library statistics for November 2012. Borrower transactions were down slightly due to the holidays and bad weather. The library averaged 57.6 circulation transactions for each hour the library was open. Computer transactions averaged 89.3 transactions per hour, including library patrons logging onto the library's website from their home computers. The statistics do not track customer service given by library staff for things like computer assistance, help finding materials, demonstrations, etc.

- The library's value to the community in November totaled \$126,337. All the books borrowed in November by the community would have cost \$57,210 if purchased, not including e-books.
- The statistics are available to the public on the library website and are posted in the library. The information is also included in various meeting packets.
 - The Library Use Calculator was originally created to inform taxpayers about the monetary value the library has to the community.
- Library Staff visited the Tillamook and Manzanita Libraries on December 3, 2012.

The Board discussed the need to improve the library's visibility in the community, especially in light of the renovation plans. Publishing the statistics, library events and Library Board actions in the newspaper was suggested or perhaps, a standalone library column.

Councilor Elect Herzig said that Steve Forrester at The Daily Astorian was receptive about each City department submitting update paragraphs. He agreed a standalone library column is a great idea.

Chairman Oser suggested a newspaper column be added to the agenda for discussion.

Board Reports: No reports.

Update on ALFA Activities: Charolette Langsev reported that the ALFA has a balance of \$4,066.68, as of December 19, 2012.

Chairman Oser expressed the Board's appreciation for all that ALFA does for the library.

New Business:

Susan Brooks reported that an intern from the Coastal Family Health Center gave a presentation to the Kiwanis about a book project that would provide children's books in the Health Center's waiting room and allow children to take the books home. Of the 834 patients seen at the Health Center age 0 to 18 years, 80% are from low income families. This project provides a unique opportunity for the Health Center to assess and make a significant change in the future of this high risk population even before they have access to school programs.

- The Coastal Family Health Center is seeking funding for 500 books to give to children age 0 to 9 years at their annual well-child exams. The Health Center applied for a \$300 grant, which would have

enabled them to order 460 age appropriate books, but was only awarded \$150. The Health Center wants to keep the program growing perpetually and would ask for grants in the future.

- Ms. Brooks asked if the library could assist with this program. She suggested creating a drop box for donations or giving the Health Center books that would otherwise be cycled out of the library.

The Board discussed options for acquiring low cost books and suggested that ALFA consider making a contribution for the project.

Old Business:

Chairman Oser reported on his meeting with City Manager Benoit about how to better coordinate with the City on the library renovations to ensure both were moving in tandem, in spite of their different functions. He noted that City Manager Benoit confirmed the library needs to form a separate 501(c)3 organization to handle fundraising as foundations would rather not give money to government agencies. The public also finds it more appealing to donate to a charitable organization rather than a government agency as discussed previously.

- Community Development Director Estes will be the City's project coordinator for the library renovation. University of Oregon students working on the project should be completing diagrams and posters in January 2013 that will give the public a visual presentation of the ideas discussed thus far. A consultant will be hired to assist with coordinating the needs of the public and the library staff, and will collect information necessary to present something concrete to solicit bids for an architect.
- He envisioned the newly created 501(c)3 being able to hire a grant writer, approach foundations, and do some local fundraising. The City will help the Library Board determine how much money needs to be raised.

Director Tucker confirmed that the Oregon Community Foundation cannot assist with a capital campaign. She noted Arlene Cogan had stated that frequently, if soliciting for a long term foundational need and people know a building is being constructed, donations are given to both the endowment and capital campaign.

Gregory Lumbra explained that ALFA was previously dismissed as an option because of its \$25,000 limitation. He asked if changes could be made that would enable ALFA to serve as a full-fledged foundation to take on the fundraising campaign. Director Tucker reminded such modifications would change the nature of ALFA in a way that would increase their tax burdens. Emily Hill added that a challenge is that applying for a 501(c)3 designation includes defining a purpose and using ALFA would involve changing its purpose. The Board would not want to jeopardize ALFA's current standing. She believed that creating a separate foundation for the renovation would be better. She believed a non-profit organization could be established in about a month.

The Board discussed how to go about establishing a 501(c)3 organization. Emily Hill offered to talk to a knowledgeable person and Chairman Oser suggested finding someone to conduct pro bono legal work about forming a 501(c)3; he had someone in mind to approach.

Director Tucker noted the consultant or architect would be able to provide specific costs for the renovation project so the City knows how much fundraising is needed. The University of Oregon students were not designers, but had worked on program adjacencies. While they developed some design concepts, they were not tasked to do so. Detailed plans still need to be developed in order to identify the project costs.

The Board recognized the capital campaign could begin before the library plans are finalized, but wanted to ensure they are working in coordination with the City. The City's consultant should be able to determine cost figures for the project.

Board Member Comments:

Ann Marie said she was thankful to have been a member of the Library Board, adding she would be enthusiastically following what happens in the future and would be happy to help with fundraising.

The Board thanked Ann Marie for her advice, love of the library, and years of service on the Board. Her efforts resulting in the improved landscaping as well as the children's space near the library's entrance were also commended.

Public Comments: None

Items for Next Meeting's Agenda:

Chairman Oser stated he will report on efforts to find someone to conduct some pro bono work towards establishing a 501(c)3 organization.

The Board will resume its regular schedule of meeting on the fourth Tuesday of the month. Board members were encouraged to send any upcoming scheduling conflicts to Julie Lampi.

Adjournment: There being no further business, the meeting was adjourned at 4:24 p.m.

Respectfully submitted,

Library Director

DRAFT

ASTORIA PLANNING COMMISSION MEETING

Astoria City Hall
November 27, 2012

CALL TO ORDER:

President Nemlowill called the meeting to order at 7:04 p.m.

ROLL CALL:

Commissioners Present: President Zetty Nemlowill, Vice-President Mark Cary, Annie Oliver, Tryan Hartill, McLaren Innes and Al Tollefson

Commissioners Excused: Thor Norgaard.

Staff Present: Community Development Director / Assistant City Manager Brett Estes, City Attorney Blair Henningsgaard and Planner Rosemary Johnson. The meeting is recorded and will be transcribed by ABC Transcription Services, Inc.

APPROVAL OF MINUTES – ITEM 3(a):

President Nemlowill asked for approval of the minutes of the October 23, 2012 meeting. Commissioner Oliver moved to approve the minutes; seconded by Commissioner Hartill. Motion passed unanimously.

PUBLIC HEARINGS:

President Nemlowill explained the procedures governing the conduct of public hearings to the audience and advised that handouts of the substantive review criteria were available from the staff.

ITEM 4(a):

V12-14 Parking Variance V12-14 by Robert Stang from the required six off-street parking spaces to provide 2 off-street spaces for a 4-unit residential use in an existing structure at 1585 Exchange in the C-3, General Commercial zone. Staff recommends approval of the request.

President Nemlowill asked if anyone objected to the jurisdiction of the Planning Commission to hear this matter at this time. There were no objections. President Nemlowill asked if any member of the Planning Commission had a conflict of interest or any ex parte contacts to declare. None declared.

Planner Johnson reviewed the written Staff Report, noting that no correspondence has been received and that staff recommends approval of the request with no conditions.

Commissioner Oliver asked if the Applicant could rent parking spaces. Planner Johnson explained that renting parking spaces is a possibility; however, if the Applicant ever lost the rented parking, the Applicant would still have to return for a parking variance. Should Owens-Adair rent parking to the Applicant, then Owens-Adair would have to apply for a parking variance.

President Nemlowill opened the public hearing and called for testimony from the Applicant.

Robert Stang, 3834 Franklin Ave., stated Staff's presentation had included the all findings, etc. He noted that he, Jason Banks, 90569 Highway 202, and Simo Ranta, present by proxy, were available to answer any questions from the Planning Commission.

President Nemlowill asked why the Applicants decided to divide the property into a four-plex. Mr. Stang explained that four-plexes would lie out nicely in the old building and would be beneficial financially. He believed the tenants would have sufficient parking given the availability of off-street parking. Mr. Stang clarified that he had not had any contact with any of the neighbors.

Commissioner Oliver noted the application stated "SFD with retail and/or restaurant" and asked for clarification on these terms. Planner Johnson explained the building's previous use was a single-family dwelling with retail space; that is not what is being requested at this time.

President Nemlowill called for any testimony in favor of, impartial to, or opposed to the application. Hearing none, she closed the public hearing and called for Commissioner comments.

Commissioner Hartill stated that when the building was built in 1923, it was a four-unit apartment and the tenants had cars then. This seems to be going back to the same use, so he is comfortable with the variance. The rest of the Commission agreed.

President Nemlowill commented that since no one testified in opposition to the variance and Staff did not report any problems when the building was used previously as a heavier use than a single-family dwelling, she does not have a problem with the variance.

Commissioner Oliver moved that the Astoria Planning Commission adopt the Findings and Conclusions contained in the Staff report and approve Parking Variance V12-14, seconded by Commissioner Hartill. Motion passed unanimously.

President Nemlowill read the rules of appeal into the record.

ITEM 4(b):

V12-15 Variance V12-15 by Gary M. Mauro from the maximum 6' fence height to install an 8' tall fence along the south side property line of an existing single-family dwelling. The 8' high fence would be set back 20' from the front property line at 1098 14th Street in the R-1, Low Density Residential zone. Staff recommends approval of the request with conditions.

President Nemlowill asked if anyone objected to the jurisdiction of the Planning Commission to hear this matter at this time. There were no objections. President Nemlowill asked if any member of the Planning Commission had a conflict of interest or any ex-parte contacts to declare. None declared.

Planner Johnson reviewed the written Staff report, noting that no correspondence has been received and Staff recommends approval of the request.

President Nemlowill opened the public hearing and called for testimony from the Applicant.

Gary Mauro, 1098 14th Street, Astoria, stated the application was as Staff presented and what was shown in the picture, and that he is available answer any questions.

President Nemlowill asked how the Applicant's neighbors felt about the project. Mr. Mauro stated he has not heard anything or received any correspondence from his neighbors, but one neighbor is present in the audience.

Mr. Mauro commented on the following statement on Page 4 of the Staff report, "The condition of the neighbor's property does not constitute a nuisance violation." He noted the application was originally submitted in October 2012 and asked if the City would be in a position to comment on the condition of the property in 2011, 2010, or 2009 going back to around 2003. Planner Johnson explained statements made in the Staff report are as of the date of the report and do not refer to any future events. At the time of this application, the property did not have a nuisance violation.

President Nemlowill called for testimony in favor of, impartial or opposed to the application.

Ernie Petersen, 1136 14th Street, Astoria, spoke in favor of the application. He and the Applicant have been neighbors for several years and he wants Mr. Mauro to have a fence. He noticed the plans show a portion of the fence trellis overhanging onto his property and he does not want any overhang that extends onto his property. He had told the Applicant several years ago that he did not mind a fence as long as it stayed on Mr. Mauro's property. He measured 305 feet from the City property marker located at 15th and Lexington to establish the front and side of the property. The location indicated on the applicant's site plan is exactly the property line based

on City records. He noticed the 20-foot setback is the third block of the Applicant's foundation at the front of the Applicant's porch. He does not have a problem with the fence being built at the front porch, but it is beyond /this close to the 20-foot setback and while he did not object to that, he does not want the fence on or over his property.

President Nemlowill asked if Mr. Petersen believes the setback appears to be less than 20 feet based on his measurements. Mr. Petersen explained that the front porch on the front of the house is about 3 feet beyond the 20-foot setback from the property line. He measured from the 30-foot center line in the street, not the center of the street, but by the City marker which is slightly off from the center of the street, but based on the marker, 20 feet from the front of the Applicant's lot is about 3 feet behind the beginning of their porch. He reiterated that he has no objection to the fence being at the porch, but he does want the fence on his property.

Planner Johnson explained that the City uses utility maps that show the front property line and distance from the curb, which is an easier way to measure, although not exact compared to measurements obtained through a survey. The exact measurements can be verified using the utility map. Staff would ensure measurement is taken from the front property line shown on the utility map when the Applicant comes in for the building permit.

Mr. Petersen stated he has no objection to how far forward the fence extends, but he does not want to lose view of the river. It appears on the picture in the Staff Report that the fence would overlap onto his property. He does not want any part of the fence overhanging onto his property, which is his only concern. Planner Johnson stated that every portion of the fence would remain on the Applicant's property, including footings. The diagrams just show approximately where the fence will sit; however, it cannot go over the property line. This would be reviewed during the building permit process.

Vice President Cary asked if a fence could be built exactly on the property line. Planner Johnson explained a fence could be placed on a property line if designed properly, however, every part of the fence, including footings, must remain on the Applicant's property. Director Estes believed the trellis detail at the top of the fence is a concern, but Planner Johnson will work with the Applicant to make sure the trellis remains on the Applicant's property. He noted the City does not verify the exact location of a property line, which is usually worked out between the two adjacent property owners.

President Nemlowill confirmed Mr. Mauro had no rebuttal to Mr. Peterson's comments. She asked if Mr. Petersen was satisfied that the project would be considered more closely during the building permit process. Mr. Petersen said he was fine with that, adding he wants his neighbor to be happy and is here to support the project but also to protect his own property line.

President Nemlowill asked if a condition could be added to the variance request so it appears on the record. Planner Johnson stated the City already requires that all portions of the fence shall remain on the Applicant's property. President Nemlowill said she wants to take Mr. Petersen's comments into account and adding a condition stating that all portions of the fence shall remain on the Applicant's property would make it clear.

There being no further public testimony, President Nemlowill closed the public hearing and called for Commissioner comments.

Commissioner Innes believed this was a solution for both parties. She understood the added condition would be a redundancy because of the building permit.

Commissioner Oliver noted the Planning Commission does not get to make both parties happy very often.

Vice President Cary said he had no issues with the application as written, but suggested the applicant get a simple four-point survey to prevent future issues.

President Nemlowill reopened the public hearing.

Mr. Mauro asked if overhang applies to existing vegetation. Planner Johnson stated that is a civil matter between property owners. The City does not address landscape overhangs.

President Nemlowill closed the public hearing.

Commissioner Oliver moved that the Astoria Planning Commission to adopt the Findings and Conclusions contained in the Staff report with the addition of Condition #2, Page 7: "All portions of the fence shall remain within the property lines, including any overhang.", and approve Variance V12-15, seconded by Commissioner Innes. Motion passes unanimously.

President Nemlowill read the rules of appeal into the record.

REPORTS OF OFFICERS/COMMISSIONERS:

President Nemlowill noted Drew Herzig's question during the Traffic Safety Committee meeting and asked when the joint work session to discuss solar energy and pedestrian safety would be rescheduled. Director Estes replied after January 1, 2013. He assured that the meeting would be coordinated with Planning Commissioners and City Councilors to schedule the meeting at a convenient time. He confirmed City Council wants to discuss both issues in a joint session.

Planner Johnson noted no public hearings are scheduled for the December 18, 2012 meeting and the deadline to add items to the agenda has passed. She confirmed the election of officers occurs in January.

President Nemlowill and Commissioner Innes supported canceling the December meeting as Commissioner Innes will be absent.

ADJOURNMENT:

There being no further business, the meeting was adjourned at 7:30 p.m.

ATTEST:

APPROVED:

Secretary

Community Development Director /
Assistant City Manager



CITY OF ASTORIA

Founded 1811 • Incorporated 1856

January 18, 2013

MEMORANDUM

TO: MAYOR AND CITY COUNCIL

FROM:  PAUL BENOIT, CITY MANAGER

SUBJECT: ORDINANCE GRANTING A NONEXCLUSIVE RIGHT AND FRANCHISE TO LIGHTSPEED NETWORKS, INC.

DISCUSSION/ANALYSIS

This ordinance received its first reading at the January 22, 2013 City Council meeting. This proposed ordinance grants a franchise to Lightspeed Networks, Inc., dba LS Networks, to operate telecommunications facilities within City rights of way. The ordinance:

- Requires utilities LS NETWORKS to pay a fee to the City equal to 7.0% of the gross revenue earned within the City
- Provides procedures for amendment and renewal of the franchise.
- Imposes certain reporting requirements.

This is the first franchise agreement for LS Networks. LS Networks provides telecommunications services to larger institutional customers such as Columbia Memorial Hospital, Clatsop Community College and the City. The provisions of this franchise are similar to the franchise agreements negotiated with other users of our rights of way.

RECOMMENDATION

City Attorney Henningsgaard and I recommend that Council conduct the second reading and adopt the ordinance.

ORDINANCE NO. 13-____

AN ORDINANCE GRANTING TO LIGHTSPEED NETWORKS, INC., DBA LS NETWORKS, AN OREGON CORPORATION, AND TO ITS SUCCESSORS AND ASSIGNS, A NONEXCLUSIVE RIGHT AND FRANCHISE FOR A PERIOD OF TEN (10) YEARS TO CONSTRUCT, MAINTAIN AND OPERATE, IN, ON AND UNDER THE RIGHTS OF WAY OF THE CITY OF ASTORIA, CLATSOP COUNTY, OREGON, TELECOMMUNICATIONS FACILITIES FOR SERVICE TO THE CITY OF ASTORIA, THE INHABITANTS THEREOF AND OTHERS, SUBJECT TO THE TERMS AND CONDITIONS AND TO THE MAKING OF PAYMENTS SPECIFIED IN THIS ORDINANCE.

THE CITY OF ASTORIA ORDAINS AS FOLLOWS:

Section 1. Grant of Franchise. The City hereby grants to Lightspeed Networks, Inc. dba LS Networks ("Lightspeed") the privilege to operate Utility Facilities in, under, along, over and across Rights of Way within the City, for the purpose of providing Communications services to the inhabitants of the City and persons and corporations beyond the limits thereof.

Section 2. Definitions.

"Utility facility" or "facilities" means any physical component of a system, including but not limited to the poles, pipes, mains, conduits, ducts Lightspeed, cables, wires, transmitters, plant, equipment and other facilities, located within, under or above the rights of way, any portion of which is used or designed to be used to deliver, transmit or otherwise provide utility service.

"Communications services" means any service provided for the transmission of information including, but not limited to, voice, video, or data, without regard to the transmission protocol employed, whether or not the transmission medium is owned by the provider itself. Communications service does not include: (1) cable service; (2) open video system service, as defined in 47 C.F.R. 76; (3) private communications system services provided without using the public rights of way; (4) over-the-air radio or television broadcasting to the public-at-large from facilities licensed by the Federal Communications Commission or any successor thereto; and (5) direct-to-home satellite service within the meaning of Section 602 of the Telecommunications Act.

"Gross Revenue" means any revenues received from utility operations within the City of Astoria less related net uncollectibles. Gross revenues shall not include proceeds from the sale of bonds, mortgage or other evidence of indebtedness, securities or stocks, sales at wholesale by one utility to another when the utility purchasing the service is not the ultimate customer, or revenue from joint pole use.

"Rights of Way" mean the present and future streets, alleys and other public ways.

Section 3. Term. The term of this Franchise shall commence on the date of acceptance by Lightspeed., as set forth in Section 3 below for Ten (10) years or until cancelled as provided herein.

Section 4. Acceptance by Lightspeed Networks, Inc. Within sixty (60) days after the passage of this ordinance by the City, Lightspeed Networks, Inc. shall file an unqualified written acceptance thereof, with the City Recorder, otherwise the ordinance and the rights granted herein shall be null and void.

Section 5. Non-Exclusive Franchise. The right to use and occupy the Rights of Way shall be nonexclusive and the City reserves the right to use the Rights of Way for itself and to grant others the right to use its rights of way.

Section 6. City Regulatory Authority. Lightspeed Networks, Inc. shall comply with the Charter and all ordinances, rules and regulations adopted by the City. The City reserves its right to amend or adopt additional ordinances rules and regulations as may be desirable in the interests of its citizens in the exercise of its authority as an Oregon home rule city.

Section 7. Indemnification. The City shall in no way be liable or responsible for any loss or damage to property or any injury to, or death, of any person that may occur in the construction, operation or maintenance by Lightspeed of its Utility Facilities. Lightspeed shall indemnify, defend and hold the City harmless from and against claims, demands, liens and all liability or damage of whatsoever kind on account of Lightspeed's use of the Rights of Way within the City, and shall pay the costs of defense plus reasonable attorneys' fees for any claim, demand or lien brought thereunder. Notwithstanding any provision hereof to the contrary, Lightspeed shall not be obligated to indemnify, defend or hold the City harmless to the extent any claim, demand or lien arises out of or in connection with any negligent or willful act or failure to act of the City or any of its officers or employees.

Section 8. Annexation. Upon the annexation of any territory to the City, the rights granted herein shall extend to the annexed territory to the extent the City has such authority. All facilities owned, maintained, or operated by Lightspeed located within any Rights of Way of the annexed territory shall thereafter be subject to all of the terms hereof.

Section 9. Planning, Design, Construction and Installation of Company Facilities. All Utility Facilities installed or used under authority of this Franchise shall be used, constructed and maintained in accordance with applicable federal, state and city laws, codes and regulations. Any maintenance, operation, upgrading, and relocation may only be done in compliance with the applicable law and the ordinances of the City of Astoria.

Section 10. Vegetation Management. Lightspeed or its contractor may prune all trees and vegetation which overhang the Rights of Way, whether such trees or vegetation originate within or outside the Rights of Way, to prevent the branches or limbs or other part of such trees or vegetation from interfering with Lightspeed's Utility Facilities. Such pruning shall comply with the *American National Standard for Tree Care Operation (ANSI A300)* and be conducted under the direction of an arborist

certified with the International Society of Arboriculture. A growth inhibitor treatment may be used for trees and vegetation species that are fast-growing and problematic. Nothing contained in this Section shall prevent Lightspeed, when necessary and with the approval of the owner of the property on which they may be located, from cutting down and removing any trees which overhang streets.

Section 11. Insurance. Lightspeed At all times during the term of this Franchise, Lightspeed, at its own cost and expense, shall provide the insurance specified in this section.

- 11.1 Within 30 days of the effective date of this Franchise, Lightspeed shall provide the City with a certificate of insurance executed by an authorized representative of the insurer or insurers, evidencing that Lightspeed's insurance complies with this section.
- 11.2 Policies shall include a provision requiring written notice by the insurer or insurers to the City with a notice of cancellation stating, "should any of the above described policies be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions." If insurance coverage is canceled, reduced or materially changed, Lightspeed shall, prior to the effective date of such cancellation, reduction or material change, obtain the coverage required under this section, and provide the City with documentation of such coverage. Lightspeed shall be responsible, to the extent not caused by the City's negligence or intentional misconduct, for the costs of any damage, liability, or injury, which are not otherwise covered by insurance or because of a failure to comply with this section.
- 11.3 During the term of this contract, Lightspeed shall maintain in force, at its own expense, the following insurance:

- (1) Workers' compensation insurance for all subject workers; and
- (2) General liability insurance with a combined single limit, or the equivalent, of not less than \$1,000,000 for each person, and \$2,000,000, for each occurrence of bodily injury and \$1,000,000 for property damage, which coverages shall include contractual liability coverage for the indemnity provided under this contract, and naming the City, its officials, officers, employees and agents as additional insureds with respect to Lightspeed's activities pursuant to this Franchise.

The insurance policy limits required in section 11.3 may be satisfied through a combination of the underlying insurance policy and umbrella (excess) liability policy(ies) so long as said umbrella policies are, at a minimum, "follow form" and provide insurance equal to or greater than coverage afforded by the underlying liability policy(ies).

Section 12. Compensation.

- 12.1 In consideration of the rights, privileges, and franchise hereby granted, Lightspeed shall pay to the City from and after the effective date of the acceptance of this franchise, seven percent (7.0%) of its gross revenues derived from within the corporate limits of City, less the amount of any Communication Tax actually paid to the City for the same period. Payment shall be made to the City on a quarterly basis on January 1st, April 1st, July 1st and October 1st of each year. All amounts due under this Section 12 shall be subject to review by the City; and Lightspeed shall provide any information reasonably requested by City to conduct such review; provided that only payments which occurred during a period of thirty-six (36) months prior to the date the City notifies Lightspeed of its intent to conduct a review shall be subject to such review. Notwithstanding any provision to the contrary, at any time during the term of this Franchise, the City may elect to increase the franchise fee amount to the maximum allowed by state law. The City shall provide Lightspeed with prior written notice of such increase following adoption of the change in percentage by the City. The increase shall be effective sixty (60) days after City has provided such written notice to Lightspeed.
- 12.2 Upon thirty days' notice and in the event any law or valid rule or regulation applicable to this Franchise limits or increases amount provided herein as a the Franchise Fee, or as subsequently modified, Lightspeed agrees to and shall pay the maximum permissible amount and, if such law or valid rule or regulation is later repealed or amended to allow a higher or lower permissible amount, then Lightspeed shall pay the higher amount commencing from the date of such repeal or amendment, up to the maximum allowable by law.
- 12.3 The franchise fee shall be in addition to the City's annual Utility Permit fee, Astoria Code § 2.700 *et seq.*, to the extent such fee is reasonably related to the city's costs for inspection, supervision, and regulation in exercising its police powers.
- 12.4 Lightspeed shall maintain a current name and telephone number for a contact person to address any questions by the City concerning compensation due the City or provision of services within the City.
- 12.5 Lightspeed shall provide an annual report commencing April 1, 2013 and each April 1st thereafter, Licensee shall submit to the City Council an annual written report consisting of the following: (a) Summary of Lightspeed's activities during the previous year, including any operational changes or improvements to services within the City; (b) Planned changes for the current year, including any operational changes or improvements to property or structures related to services within the City; (c) Lightspeed's Gross Income for the previous year and a projection of Gross Income for the current year.

Section 13. Renewal. At least 120 days prior to the expiration of this Franchise, Lightspeed and the City shall agree to either extend the term of this Franchise for a mutually acceptable period of time or the parties shall use best faith efforts to

renegotiate a replacement Franchise. Lightspeed shall have the continued right to use the Rights of Way of the City as set forth herein in the event an extension or replacement Franchise is not entered into upon expiration of this Franchise.

Section 14. No Waiver. Neither the City nor Lightspeed shall be excused from complying with any of the terms and conditions of this Franchise by any failure of the other, or any of its officers, employees, or agents, upon any one or more occasions to insist upon or to seek compliance with any such terms and conditions.

Section 15. Transfer of Franchise. Lightspeed shall not transfer or assign any rights under this Franchise to another entity, except transfers and assignments by operation of law, unless the City shall first give its approval in writing. Which approval will not be unreasonably withheld.

Section 16. Amendment. At any time during the term of this Franchise, the City, through its City Council, or Lightspeed may propose amendments to this Franchise by giving thirty (30) days written notice to the other of the proposed amendment(s) desired, and both parties thereafter, through their designated representatives, will, within a reasonable time, negotiate in good faith in an effort to agree upon mutually satisfactory amendment(s). No amendment or amendments to this Franchise shall be effective until mutually agreed upon by the City and Lightspeed and formally adopted as an ordinance amendment.

Section 17. Non-Contestability – Breach of Contract.

17.1 Neither the City nor Lightspeed will take any action for the purpose of securing modification of this Franchise before either the Oregon Public Utility Commission or any Court of competent jurisdiction; provided, however, that neither shall be precluded from taking any action it deems necessary to resolve difference in interpretation of the Franchise nor shall Lightspeed be precluded from seeking relief from the Courts in the event Oregon Public Utility Commission orders, rules or regulations conflict with or make performance under the Franchise illegal.

17.2 In the event Lightspeed or the City fails to fulfill any of their respective obligations under this Franchise, the City, or Lightspeed, whichever the case may be, will have a breach of contract claim and remedy against the other in addition to any other remedy provided by law, provided that no remedy which would have the effect of amending the specific provisions of this Franchise shall become effective without such action which would be necessary to formally amend the Franchise.

Section 18. Notices.

18.1 Unless otherwise specified herein all notices from Lightspeed to the City pursuant to or concerning this Franchise shall be delivered to:

The Astoria City Manager
1095 Duane Street
Astoria, OR 97103

18.2 Unless otherwise specified herein, all notices from the City to Lightspeed pursuant to or concerning this Franchise shall be delivered to:

LS Networks
Attn: Contracts Administration
921 SW Oregon St. STE 370
Portland, OR 97205
(503) 294-5300

18.3 Either party may change their notice address by written notice to the other.

Section 19. Severability. If any section, sentence, paragraph, term or provision hereof is for any reason determined to be illegal, invalid, or superseded by other lawful authority including any state or federal regulatory authority having jurisdiction thereof or unconstitutional, illegal or invalid by any court of common jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such determination shall have no effect on the validity of any other section, sentence, paragraph, term or provision hereof, all of which will remain in full force and effect for the term of the Franchise or any renewal or renewals thereof.

Section 20. Joint Use. The City shall have the right without cost to use all poles and suitable overhead structures owned by Lightspeed within Public Ways for City wires used in connection with its fire alarms, police signal systems, or other communication lines used for governmental purposes; provided, however, any such uses shall be for activities owned, operated or used by the City for a public purpose and shall not include the provision of CATV, internet, or similar services to the public. Provided further, that Lightspeed shall assume no liability nor shall it incur, directly or indirectly, any additional expense in connection therewith, and the use of said poles and structures by the City shall be in such a manner as to prevent safety hazards or interferences with Lightspeed's use of same. Nothing herein shall be construed to require Lightspeed to increase pole size, or alter the manner in which Lightspeed attaches its equipment to poles, or alter the manner in which it operates and maintains its Telecommunication Facilities. City attachments shall be installed and maintained in accordance with the reasonable requirements of Lightspeed and the current edition of the National Electrical Safety Code pertaining to such construction. Further, City attachments shall be attached or installed only after written approval by Lightspeed.

Section 21. Effective Date. This ordinance shall take effect thirty (30) days after its enactment by the Council and approval by the Mayor, but shall become null and void unless within thirty (30) days after such effective date Lightspeed shall file with the City Lightspeed's written acceptance of the terms, conditions and obligations to be complied with or performed by it hereunder.

ADOPTED BY THE CITY COUNCIL THIS 4TH DAY OF FEBRUARY, 2013.

APPROVED BY THE MAYOR THIS 4TH DAY OF FEBRUARY, 2013.

Mayor

ATTEST:

City Manager

ROLL CALL ON ADOPTION	YEA	NAY	ABSENT
Councilor LaMear			
Herzig			
Mellin			
Warr			
Mayor Van Dusen			



CITY OF ASTORIA
POLICE DEPARTMENT

January 18, 2013

MEMORANDUM

TO: MAYOR AND CITY COUNCIL

FROM:  PAUL BENOIT, CITY MANAGER

SUBJECT: ESTABLISHING A CRIMINAL HISTORY RECORDS CHECK ORDINANCE


DISCUSSION/ANALYSIS

This ordinance received its first reading at the January 22, 2013 City Council meeting. The City of Astoria currently has no ordinance establishing criminal history record checks to be conducted on applicants for potential employees, liquor license applicants and certain volunteers. To better protect the City and its citizens I am proposing the attached local ordinance be considered for adoption to allow for these types of checks and so that the City is in compliance with applicable Oregon Administrative Rules and Oregon Revised Statutes.

If adopted this ordinance will allow for the City of Astoria to access Oregon State Police criminal offender information through the Law Enforcement Data System (LEDS), for all applicants for employment, public service volunteers with the City of Astoria, and liquor license applicants. Persons in any of these positions must operate with the public's highest degree of trust and confidence.

RECOMMENDATION

It is recommended that the City Council conduct the second reading and adopt the proposed ordinance.



Jeff Rusiecki
Emergency Communications Manager

ORDINANCE NO. 13-_____

AN ORDINANCE ESTABLISHING CRIMINAL HISTORY RECORD CHECK POLICIES
CONCERNING APPLICANTS FOR POTENTIAL EMPLOYEES,
LIQUOR LICENSE APPLICANTS AND CERTAIN VOLUNTEERS

WHEREAS, OAR 257-010-0025, adopted by the Department of State Police pursuant to ORS 181.555, requires local governments to establish procedures for access to criminal record information possessed by Oregon State Police (OSP) through Law Enforcement Data Systems (LEDS); and

WHEREAS, OAR 166-200-0025 (1) (a) permits criminal justice agency access to OSP criminal offender information required to implement a local ordinance; and

WHEREAS, the City Council of the City of Astoria finds that it is in the public interest to access OSP criminal offender information through LEDS system, for all applicants for employment, public service volunteers with the City of Astoria, and liquor license applicants.

NOW, THEREFORE, THE CITY OF ASTORIA DOES ORDAIN AS FOLLOWS:

Section 1. Astoria Code Sections 7.100 through 7.110 concerning "Criminal History Record Check Policies" are added to read as follows:

"CRIMINAL HISTORY RECORD CHECK POLICIES

- 7.100 All liquor license applicants, applicants for employment and appointed volunteers with the City will be required to authorize the City to conduct a criminal offender information check through the OSP LEDS system.
- 7.105 The Emergency Communications Manager of the Police Department shall conduct these records checks and orally report to the City Manager's Office, Human Resources Section, whether the applicant's record indicates "no criminal record," or "criminal record." If the applicant's record is reported as "criminal record," the City will, under OAR 257-010-0025, request a written criminal history report from the OSP Identification Services Section. The City Manager's Office, Human Resources Section, will make the written criminal history record available to the appropriate official for his or her consideration in making the selection.
- 7.110 Written criminal history records on persons who are not hired or appointed as volunteers will be retained in accordance with the requirements of OAR 166-200-0090 for a period of three years and thereafter destroyed. The criminal history record of applicants and volunteers with a criminal history that are hired or appointed will become part of the personnel files of that employee or volunteer and only released according to law."

Section 2. Effective Date. This ordinance will be effective 30 days following the date of its passage by the City Council.

ADOPTED BY THE CITY COUNCIL THIS 4TH DAY OF FEBRUARY, 2013.

APPROVED BY THE MAYOR THIS 4TH DAY OF FEBRUARY, 2013.

Mayor

ATTEST:

City Manager

ROLL CALL ON ADOPTION	YEA	NAY	ABSENT
Councilor LaMear			
Herzig			
Mellin			
Warr			
Mayor Van Dusen			



CITY OF ASTORIA

Founded 1811 • Incorporated 1856

January 18, 2013

MEMORANDUM

TO: MAYOR AND CITY COUNCIL

FROM:  PAUL BENOIT, CITY MANAGER

SUBJECT: ORDINANCE READOPTING CERTAIN STATE STATUTES TO REFLECT
CHANGES MADE BY THE 2012 LEGISLATURE

DISCUSSION/ANALYSIS

This ordinance received its first reading at the January 22, 2013 City Council meeting. The 2012 legislation passed by the Oregon Legislature, for the most part, became effective on January 1, 2013. Many of our City ordinances refer to or incorporate state statutes. Every year, the City routinely re-adopts all referenced ORS sections to pick up any changes made by the legislature. This is done by a "global readoption", which was the technique recommended by the League of Oregon Cities. The City is legally unable to prospectively adopt Oregon legislative changes, i.e., we cannot adopt a state statute "as it now exists and is from time to time amended." The proposed ordinance has been reviewed and approved by the City Attorney.

RECOMMENDATION

It is recommended that Council conduct the second reading and adopt the ordinance.

ORDINANCE NO. 13-_____

AN ORDINANCE READOPTING CERTAIN STATE STATUTES

THE CITY OF ASTORIA DOES ORDAIN AS FOLLOWS:

Section 1. Code Section 1.047 is amended to read as follows:

“Readoption of Oregon Revised Statutes. Oregon Revised Statutes adopted either referentially or directly in the Astoria Code, including but not limited to Astoria Code Sections 1.010, 1.015, 1.085, 1.211, 1.230, 1.555, 1.602, 1.608, 1.620, 1.632, 1.638, 1.640, 1.900, 1.960, 1.961, 1.962, 1.963, 1.965, 1.967, 1.970, 1.971, 2.220, 2.360, 3.010, 3.015, 3.118, 5.000, 5.010, 5.100, 5.110, 5.255, 5.300, 5.335, 5.385, 5.425, 5.740, 5.726, 5.925, 5.931, 5.933, 6.005, 6.010, 6.025, 6.030, 6.135, 6.220, 6.250, 6.305, 6.400, 6.500, 6.510, 6.520, 6.530, 6.550, 7.000, 7.005, 8.045.15, 8.045.17, 8.045.18, 8.104, 8.138, 9.005, 9.025, 9.090, and 9.160, are hereby readopted to include all amendments, repeals, and additions made by legislative action of the State of Oregon, up to and including those of the 2012 legislative session.”

Section 2. This ordinance will be effective thirty (30) days after its passage.

ADOPTED BY THE COMMON COUNCIL THIS 4TH DAY OF FEBRUARY, 2013.

APPROVED BY THE MAYOR THIS 4TH DAY OF FEBRUARY, 2013.

Mayor

ATTEST:

City Manager

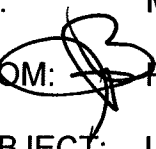
ROLL CALL ON ADOPTION	YEA	NAY	ABSENT
Councilor LaMear			
Herzig			
Mellin			
Warr			
Mayor Van Dusen			



CITY OF ASTORIA
Founded 1811 • Incorporated 1856

January 25, 2013

MEMORANDUM

TO: Mayor Van Dusen and City Council
FROM:  Paul Benoit, City Manager
SUBJECT: Liquor License Application

Discussion & Analysis

Two liquor license applications have been filed by Cervesia Gratis, Inc., Jack Harris and Chris Nemlowill doing business as Fort George Brewery & Public House, located at 426 14th Street & 1483 Duane Street, Astoria. The applications are a Change License Privilege – Brewery License and an Additional Privilege – Winery License. A copy of the applications are attached.

The application request is for a change of license privilege from a Brewery Public House to a Brewery. The second application request is for an additional privilege to add a winery license to their brewery license.

The appropriate departments have reviewed the applications. No objections to approval were noted.

Recommendation

Staff recommends that the City Council consider these applications for approval.

Respectfully submitted,



Mark Carlson, CPA
Finance Director



OREGON LIQUOR CONTROL COMMISSION
LIQUOR LICENSE APPLICATION

Brewery

Application is being made for:

LICENSE TYPES

- Full On-Premises Sales (\$402.60/yr)
- Commercial Establishment
- Caterer
- Passenger Carrier
- Other Public Location
- Private Club
- Limited On-Premises Sales (\$202.60/yr)
- Off-Premises Sales (\$100/yr)
 - with Fuel Pumps
- Brewery Public House (\$252.60)
- Winery (\$250/yr)
- Other: Brewery (\$500/yr)

ACTIONS

- Change Ownership
- New Outlet
- Greater Privilege
- Additional Privilege
- Other: Change license privilege

CITY AND COUNTY USE ONLY

Date application received: _____

The City Council or County Commission:

(name of city or county)

recommends that this license be:

- Granted
- Denied

By: _____ (signature) _____ (date)

Name: _____

Title: _____

OLCC USE ONLY

Application Rec'd by: OLCC

Date: 10/3/2012 CW

90-day authority: Yes No

90-DAY AUTHORITY

Check here if you are applying for a change of ownership at a business that has a current liquor license, or if you are applying for an Off-Premises Sales license and are requesting a 90-Day Temporary Authority

APPLYING AS:

- Limited Partnership
- Corporation
- Limited Liability Company
- Individuals

1. Entity or Individuals applying for the license: [See SECTION 1 of the Guide]

① Cervesia Gratis, Inc. ③ _____
② _____ ④ _____

2. Trade Name (dba): Fort George Brewery + Public House

3. Business Location: 426-14th St. + 1483 Duane St., Astoria, Clatsop, OR 97103
(number, street, rural route) (city) (county) (state) (ZIP code)

4. Business Mailing Address: 1483 Duane St., Astoria, OR 97103
(PO box, number, street, rural route) (city) (state) (ZIP code)

5. Business Numbers: (503) 325-7468 N/A
(phone) (fax)

6. Is the business at this location currently licensed by OLCC? Yes No

7. If yes to whom: Cervesia Gratis, Inc. Type of License: Brewery Public House

8. Former Business Name: N/A

9. Will you have a manager? Yes No Name: _____

(manager must fill out an Individual History form)

10. What is the local governing body where your business is located? Astoria / Clatsop
(name of city or county)

11. Contact person for this application: Jack Harris (503) 325-7468
(name) (phone number(s))
1483 Duane St., Astoria, OR 97103 N/A jack@fortgeorgebrewery.com
(address) (fax number) (e-mail address)

I understand that if my answers are not true and complete, the OLCC may deny my license application.

Applicant(s) Signature(s) and Date:

① _____ Date 8/29/12 ③ _____ Date _____
② _____ Date 8/29/12 ④ _____ Date _____



OREGON LIQUOR CONTROL COMMISSION
LIQUOR LICENSE APPLICATION

Winery

Application is being made for:

LICENSE TYPES

- Full On-Premises Sales (\$402.60/yr)
- Commercial Establishment
- Caterer
- Passenger Carrier
- Other Public Location
- Private Club
- Limited On-Premises Sales (\$202.60/yr)
- Off-Premises Sales (\$100/yr)
 - with Fuel Pumps
- Brewery Public House (\$252.60)
- Winery (\$250/yr)
- Other: _____

ACTIONS

- Change Ownership
 - New Outlet
 - Greater Privilege
 - Additional Privilege
- Winery license

CITY AND COUNTY USE ONLY

Date application received: _____

The City Council or County Commission:

(name of city or county)

recommends that this license be:

Granted Denied

By: _____
(signature) (date)

Name: _____

Title: _____

OLCC USE ONLY

Application Rec'd by: OLCC

Date: 10/3/2012 cm

90-day authority: Yes No

90-DAY AUTHORITY

Check here if you are applying for a change of ownership at a business that has a current liquor license, or if you are applying for an Off-Premises Sales license and are requesting a 90-Day Temporary Authority

APPLYING AS:

- Limited Partnership
- Corporation
- Limited Liability Company
- Individuals

1. Entity or Individuals applying for the license: [See SECTION 1 of the Guide]

① Cervesia Gratis, Inc. ③ _____

② _____ ④ _____

2. Trade Name (dba): Fort George Brewery + Public House

3. Business Location: 1483 Duane St., Astoria, Clatsop, OR 97103
+426-14th St. (number, street, rural route) (city) (county) (state) (ZIP code)

4. Business Mailing Address: 1483 Duane St., Astoria, OR 97103
(PO box, number, street, rural route) (city) (state) (ZIP code)

5. Business Numbers: (503) 325-7468 N/A
(phone) (fax)

6. Is the business at this location currently licensed by OLCC? Yes No

7. If yes to whom: Cervesia Gratis, Inc. Type of License: Brewery-Public House

8. Former Business Name: N/A

9. Will you have a manager? Yes No Name: _____

(if manager must fill out an Individual History form)

10. What is the local governing body where your business is located? Astoria / Clatsop
(name of city or county)

11. Contact person for this application: Jack Harris (503) 325-7468
(name) (phone number(s))
1483 Duane St., Astoria, OR 97103 N/A jack@fortgeorgebrewery.com
(address) (fax number) (e-mail address)

I understand that if my answers are not true and complete, the OLCC may deny my license application.

Applicant(s) Signature(s) and Date:

① [Signature] Date 8/29/12 ③ _____ Date _____

② [Signature] Date 8/29/12 ④ _____ Date _____

1/29/2013

Astoria Mayor/City Council
City Hall
1095 Duane Street
Astoria, OR 97103

Re: Fort George Liquor Licensing Request

Dear Mr. Mayor and City Councilors,

I would like to provide an explanation for our request to transition our liquor licenses. Currently we have a brewpub license for our breweries and we're aiming for a situation in which we would replace that license with a brewery license and a winery license.

Throughout the past five and half years we've grown our self-distribution network, meaning we've been selling our beer directly to local bars and stores, which is allowed with a brewpub license. We're now reaching a production point in which we have outgrown our current brewpub license. Once production of 6500 barrels of beer has been reached, a new license—a brewery license—is needed, which would allow us to continue to self-distribute. A brewery license has some limitations though. It doesn't include the sale of wine, guest beers, or growler beers to go, which we currently sell at our public house.

So, after talking to the OLCC, it has been Licensing Specialist, Jesse Sweet's recommendation that we also obtain a winery license. Mr. Sweet got this idea from Widmer Brewing of Portland. The license was pivotal in allowing that company to grow. Winery licenses have the most flexibility of any licensing, and would allow us to continue to sell wine in our pub, guest taps, and growlers. Also with this license, we would be partnering with Wandering Angus of Salem, to make some custom hard ciders.

This transition in licensing would allow the Fort George public house and brewery to continue to operate and grow. Our business would not function without self-distribution. We started with 6 employees in 2007 and we now have 50, including 3 full-time positions in distribution. This, by the way, helps achieve state economic job creation goals attached to our partnership with Business Oregon. Currently we sell five canned Fort George beers and kegs at large and small retailers throughout our region, which with success, will equate to more family-wage jobs in Astoria in the near future. You have been instrumental in this success. We thank you for your continued support.



Sincerely,



Chris Nemlowill/Owner Fort George Brewery
1483 Duane Street Astoria, OR 97103



CITY OF ASTORIA
Founded 1811 • Incorporated 1856

January 24, 2013

MEMORANDUM

TO: MAYOR AND CITY COUNCIL

FROM:  PAUL BENOIT, CITY MANAGER

SUBJECT: **5th STREET & DUANE STREET SLIDE EMERGENCY RESPONSE COST**

DISCUSSION/ANALYSIS

On Wednesday, December 19, 2012, a landslide occurred on City owned property, impacting the south side of Duane Street between 5th and 6th Street. The initial event brought several Alders and soil down a steep embankment, blocking Duane Street. A second portion of the embankment gave way the next morning, bringing several large trees and a more substantial volume of soil into the road. Due to the unstable nature of the slide and the potential threat to life and property, nearby residents were advised to evacuate their homes. On an emergency basis and with the City Manager's approval, Public Works Engineering staff engaged Landslide Technology, Bigby's Tree Service, and North Pacific Excavation to clean up slide debris in order to allow adjacent residents to safely reoccupy their homes.

During the first two weeks of January, continued movement deposited more debris in the Duane Street right-of-way and on private property located at 423 6th Street. This debris was removed in a similar manner to the initial effort by North Pacific Excavation. In addition, a temporary concrete block wall was constructed along the south side of Duane Street to prevent large rocks and moderate quantities of soil from damaging adjacent homes and to minimize the impact of restricted access for the residents.

Per Code 1.967 G. (1) Contracts Required by Emergency Circumstances:

When the City Manager determines that immediate execution of a contract is necessary to prevent substantial damage or injury to persons or property, the City Manager may execute a contract not to exceed \$50,000 without competitive selection and award or City of Astoria approval, but, where time permits, the City Manager shall attempt to use competitive price and quality evaluation before selecting an emergency contractor. [Section 1.967 G (1) amended by Ordinance No. 06-03, passed June 5, 2006.]

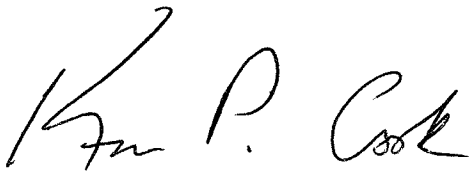
The cost of the emergency response and clean-up effort to date are summarized in the table below:


Contractor/Consultant	Cost
Bigby's Tree Service	\$18,807.50
North Pacific Excavation	\$15,835.17
Landslide Technology	\$6,640.00
Total Cost	\$41,282.67

Continued surface movement is expected especially with intense, prolonged periods of rainfall. If future sliding occurs, the City will remove debris that is blocking access or posing a threat to adjacent homes per the Geotechnical Engineer's recommendations. A project to provide a more permanent solution will be considered this summer when wet weather has subsided.

RECOMMENDATIONS

It is recommended that City Council authorize payment of \$41,282.67 in costs associated with the emergency response and clean-up effort for the 5th and Duane Street slide event. Costs will be divided evenly and charged to the Public Works Improvement Fund and the Capital Improvement Fund.

Submitted By 
Ken P. Cook, Public Works Director

Prepared By: NATHAN CRATER 
Nathan Crater, Assistant City Engineer