
AGENDA

ASTORIA CITY COUNCIL MEETING

January 7, 2013

7:00 p.m.

2nd Floor Council Chambers
1095 Duane Street
Astoria OR 97103

1. **CALL TO ORDER**
2. **OATHS OF OFFICE**
 - (a) Ward 2 Councilor Drew Herzig
 - (b) Ward 4 Councilor Russ Warr
 - (c) Fire Chief Ted Ames
3. **ROLL CALL**
4. **REPORTS OF COUNCILORS**
5. **CHANGES TO AGENDA**
6. **PRESENTATIONS**
 - (a) Financial Forecast (General Fund) 2013-2014
 - (b) Ken B. Nelson 30 Year Service Pin (Public Works)
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 12/3/12
 - (b) Acceptance of Ready to Read Grant Funds (Library)
8. **REGULAR AGENDA ITEMS**
 - (a) Public Safety Building Improvements Project – Pay Adjustment #3 (Police)
 - (b) Flavel Properties Lien Approval Resolutions (Community Development)
9. **NEW BUSINESS & MISCELLANEOUS, PUBLIC COMMENTS (NON-AGENDA)**
 - (a) Election of City Council President

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 2, 2013

MEMORANDUM

TO: ASTORIA CITY COUNCIL

FROM:  PAUL BENOIT, CITY MANAGER

SUBJECT: ASTORIA CITY COUNCIL MEETING OF JANUARY 7, 2013

OATHS OF OFFICE

Item 2(a): Ward 2 Councilor Drew Herzig

The Oath of Office will be administered to Councilor Drew Herzig, elected to a four year term for Ward 2.

Item 2(b): Ward 4 Councilor Russ Warr

The Oath of Office will be administered to Councilor Russ Warr, re-elected to a four year term for Ward 4.

Item 2(c): Fire Chief Ted Ames

The Oath of Office will be administered to new Fire Chief Ted Ames.

PRESENTATIONS

Item 6(a): Ken B. Nelson 30 Year Service Pin (Public Works)

Public Works Superintendent Ken B. Nelson will be presented with his 30 year service pin.

Item 6(b): Financial Forecast (General Fund) 2013-2014

Finance Director Mark Carlson will provide Council with a financial forecast regarding the General Fund for Fiscal Year 2013-2014.

CONSENT CALENDAR

Item 7 (a): City Council Minutes

The minutes of the City Council meeting of December 3, 2012 are enclosed for review. Unless there are any corrections, it is recommended that Council approve these minutes.

Item 7(b): Acceptance of Ready to Read Grant Funds (Library)

In July, 2012, Council approved the Ready to Read 2012/2013 grant submittal. The Ready to Read Grant program is administered by the State Library to "establish, develop, or improve library services for children" ages birth to five. The State Library has again designated the Ready to Read Grant to support Early Childhood Literacy and/or Summer Reading for children. Staff wrote the 2012/2013 grant to support early literacy outreach to the parents of children entering kindergarten. A check for \$1,080.00 has been received by the Astoria Public Library. It is recommended Council accept the Ready to Read Grant in the amount of \$1,080.00.

REGULAR AGENDA ITEMS

Item 8(a): Public Safety Building Improvements Project – Pay Adjustment #3 (Police)

The purpose of this change order is to account for work not covered in the bid items or revised following the bid process. This change order amount constitutes total compensation for the changes as listed in the enclosed memo. The contract completion date remains the same. An overall project budget contingency of 15% (\$200,000.00) was established to cover project needs in terms of changes related to additional services required, unforeseen conditions, scope changes/adds and owner driven changes. The contingency is part of the overall established budget, not an additional cost burden from City funds. The contingency will be utilized to fund the Change Order Requests (COR), as well as future CORs. The contingency total is \$200,000.00. If approved, Change Order #3 in the amount of \$64,355.00, will leave a balance of \$65,960.00. It is recommended that Council authorize Change Order #3 for the Public Safety Building Improvements Project.

Item 8(b): Flavel Properties Lien Approval Resolutions (Community Development)

The Flavel properties, located at 627 15th Street, 905 to 943 Commercial Street, and 904 to 936 Commercial Street, have been the subject of

numerous Code enforcement actions since adoption of the Property Maintenance Code (Derelict Building Ordinance). All properties have been vacant for many years and are in a state of deterioration. The City has sent numerous enforcement letters to the property owner, Mary Louise Flavel, concerning the three properties. In July 2012, after exhausting all other options, the City abated some of the nuisances at the residence on 15th Street. The downtown commercial properties are in violation of the "long term vacant" ordinance and are subject to yearly Vacant Building fees and are augmented by the "chronic nuisance" provision of the ordinance which doubles some of those fees. City expenses for the abatement work, vacant building fines, and administrative fees amounts to \$10,495.95 on the residence. Current fees on the two commercial buildings amount to \$6,600.00 on 904-936 Commercial and \$6,600.00 on 905-943 Commercial. The total amount owed on all three properties is \$23,695.95. The charges on these three properties have not been paid. Resolutions addressing the issues and authorizing recording of liens concerning the nuisances on these three properties are attached for Council consideration. The Resolutions have been reviewed and approved by City Attorney Blair Henningsgaard.

It is recommended that the City Council adopt the attached Resolutions, by three separate motions, to authorize the City Attorney to file a lien as follows:

1. 627 15th Street in the amount of \$10,495.95;
2. 904-936 Commercial in the amount of \$6,600.00; and
3. 905-943 Commercial in the amount of \$6,600.00.

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

Item 9(a): Election of City Council President

The City Council will elect a President to serve for the 2013 calendar year.

City Council Chambers
December 3, 2012

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

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

Councilors Excused: Roscoe

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

Mayor Van Dusen introduced Councilor Elect Drew Herzig, who will be representing Ward 2. His four-year term will begin with the first meeting in January 2013.

REPORTS OF COUNCILORS:

Item 3(a): Councilor Warr had no reports.

Item 3(b): Councilor Mellin apologized for missing the meeting on November 6, 2012; she had eye surgery.

Item 3(c): Councilor LaMear reported that she attended the Building Blocks for a Successful Downtown workshop given by Michelle Reeves, which was very good; she learned a lot.

Item 3(d): Mayor Van Dusen noted that the downtown Christmas lights looked excellent. The Christmas lighting ceremony occurred on the first Saturday after Thanksgiving. Melba and Tim O'Brian portrayed Mr. and Mrs. Christmas.

The City of Astoria has recently been designated as an official Coast Guard City, one of only a few in the country. The City has ordered a granite monument that has arrived in Astoria and will be erected near the 17th Street Pier. There will be an official unveiling ceremony, which will be announced in the next two weeks. Being designated is a big honor as the Coast Guard is large part of the community.

A minor accident occurred on the bridge from Astoria to Warrenton earlier in the day, causing the bridge to be closed for a while, so traffic on Old Highway 101 was heavy. Oregon Department of Transportation (ODOT) has reported that both bridges will be closed for repairs in 2013. He believes a plan should be implemented in case the bridge expectantly has to be closed again, because not having the two bridges available on Old Highway 101 would have caused a lot of trouble today.

CHANGES TO AGENDA: No changes.

CONSENT CALENDAR:

The following items were presented on the Consent Calendar:

5(a) City Council Minutes 11/5/12

5(b) Boards and Commission Minutes

(1) Historic Landmarks Commission Meeting of 10/16/12

(2) Library Board Meeting of 10/23/12

(3) Planning Commission Meeting of 10/23/12

(4) Traffic Safety Committee Meeting of 10/23/12

5(c) Employee Deferred Compensation Plan Option (Finance)

5(d) Statewide Resource Sharing Application for the Oregon Library Passport Program (Library)

5(e) Fiscal Year 2013-2014 Budget Calendar (Finance)

- 5(f) Intergovernmental Agreement with Oregon Department of Transportation to Accept Additional Grant Funding for the Astoria Rivertrail East Extension (Public Works)
- 5(g) Authorization to Apply for Oregon Heritage All-Star Community (Community Development)
- 5(h) Oregon Community Foundation Grant for Garden of Surging Waves (Community Development)
- 5(i) Waiver of Overtime Parking from Tuesday, December 4, 2012 through January 1, 2013 (City Council)

City Manager Benoit stated Drew Herzig requested that Item 5(a) City Council Minutes 11/5/2012 be removed. Councilor Mellin requested that Item 5(d) Statewide Resource Sharing Application for the Oregon Library Passport Program be removed.

Mayor Van Dusen announced that the downtown parking restrictions would be waived for the Christmas season beginning December 4, 2012 through December 31, 2013, which is on the Consent Calendar.

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

City Manager Benoit conveyed Mr. Herzig's comments, stating that the fourth paragraph on Page 6 of the November 5, 2012 meeting minutes regarding the city-owned property at 3rd and Niagara should be attributed to Councilor Roscoe, not Mr. Herzig. The minutes will be amended to reflect that Councilor Roscoe made the statement, not Mr. Herzig.

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

Councilor Mellin asked Library Director Tucker to describe the Oregon Library Passport Program, which she believes is a wonderful program that will help citizens use the library. Library Director Tucker explained that the program was developed by a group of librarians from around the state. Anyone with an account in good standing at any participating library can get a library card at no cost at any other participating library in the state. At this time, patrons must go to the library where they wish to get a card. All the rules at each library must be followed and items must be returned to the library from which they were borrowed. There are 28 libraries participating in this program, which begins on January 1, 2013. Larger libraries will join the program later on in 2013 and 2014. Director Tucker read a list of Portland area libraries that are participating in the program.

City Council Action: Motion made by Councilor LaMear, seconded by Councilor Warr, to sign the agreement to participate in the Oregon Library Passport Program. Motion carried unanimously. Ayes: Councilors LaMear, Warr, Mellin and Mayor Van Dusen. Nays: None.

REGULAR AGENDA ITEMS

Item 6(a): Public Safety Building Improvements Project – Pay Adjustment #2 (Police)

The purpose of this change order is to account for work not covered in the bid items or revised following the bid process. This change order amount constitutes total compensation for the changes as listed in the enclosed memo. The contract completion date remains the same. An overall project budget contingency of 15% (\$200,000.00) was established to cover project needs in terms of changes related to additional services required, unforeseen conditions, scope changes/adds and owner driven changes. The contingency is part of the overall established budget, not an additional cost burden from City funds. The contingency will be utilized to fund the Change Order Requests. The contingency total is \$200,000.00. If approved, Pay Adjustment Order #2 in the amount of \$32,490.00 will leave a balance of \$130,315.00. It is recommended that Council authorize Pay Adjustment #2 for the Public Safety Building Improvements Project.

Councilor Warr asked when the building would be ready for the Public Safety Department to move back in. Chief Curzon believed the building would be ready by the middle of January 2013.

Mayor Van Dusen commended City Staff for obtaining the \$1.5 million grant, which was a lot of work.

City Council Action: Motion made by Councilor Mellin, seconded by Councilor LaMear to authorize Pay Adjustment #2 for the Public Safety Building Improvements Project. Motion carried unanimously. Ayes: Councilors LaMear, Warr, Mellin and Mayor Van Dusen; Nays: None.

Item 6(b): Contract Amendment for Engineering and Design of the 11th Street Combined Sewer Overflow (CSO) (Public Works)

The 11th Street CSO Separation Project mainly consists of installing over 10,000 feet of new storm water pipe within established City rights-of-way. It will be necessary to replace existing water and sanitary sewer pipe 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. The scope of the project includes construction in the following locations:

8th St from Commercial to Niagara 12th St from Exchange to Kensington
9th St from Duane to Harrison Irving Ave from 11th St to 12th St
10th St from Duane to Jerome 9th St from Marine to the outfall
11th St from Exchange to Irving

After proposals for design engineering services were submitted, staff became aware that the 9th Street diversion structure is not connected to the river outfall. After Gibbs & Olson was selected for this project, they were asked to include design services for reconnecting the diversion structure to the outfall and replacing the 9th Street outfall in their final scope and fee. Gibbs & Olson provided an estimate based on the limited information available at that time. Through the preliminary engineering process, they now have up-to-date information and have recommended additional services as outlined in the Contract Amendment.

It has been determined that trench less technology would be the best option for replacing the 9th Street Outfall. In order to accomplish this work, additional geotechnical boring explorations and input from a specialized consulting firm in this field will be necessary. The estimated fee for these additional services is \$26,794.24. This project must be constructed and operationally complete by December 1, 2013 according to the Amended Stipulation and Final Order signed by the City and DEQ. It is recommended that Council execute a contract amendment with Gibbs & Olson for the 11th Street CSO Separation Project in the amount of \$26,794.24 for additional design engineering services associated with replacement of the 9th Street outfall.

Mayor Van Dusen explained that the 11th St Combined Sewer project would be difficult for the community given the heavy construction on both 11th St and 8th St. City Engineer Harrington replied construction is planned to last one season, but it could take two. It is difficult to sequence a project like this and how stacked up the contractors can get. The construction will definitely last from April 2013 through November 2013 and possibly into the next construction season.

City Council Action: Motion made by Councilor Warr, seconded by Councilor LaMear to execute a contract amendment with Gibbs & Olson for the 11th Street CSO Separation Project in the amount of \$26,794.24 for additional design engineering services associated with replacement of the 9th Street outfall. Motion carried unanimously. Ayes: Councilors LaMear, Warr, Mellin and Mayor Van Dusen; Nays: None.

Item 6(c): Ordinance Regulating Facilities in City Rights-of-Way (1st reading) (City Attorney)

Presented for your consideration is a proposed ordinance to regulate work conducted in City rights-of-way. The ordinance:

- Requires utilities operated within the City to register annually and pay a fee;
- Provides for uniform construction standards for utilities constructed in the rights-of-way;

- Requires utilities to provide digital plans showing the location of all facilities in the rights-of-way.

Current City requirements for utilities placed in our rights-of-way appear in the individual franchise agreements of the various utility operators. Differing requirements exist in each franchise agreement. This ordinance is intended to cure that problem. The basic design of the ordinance was taken from a uniform ordinance put together by the League of Oregon Cities. The major changes made in this version eliminate several registration fees and permits in favor of an annual registration and a notice requirement before work is done in our rights-of-way.

The goal of this ordinance is to provide a clear set of objective standards for placement of utilities and to remove these requirements from the franchise agreements. Each of our utility providers has been provided with the opportunity to provide input to this ordinance during the drafting process. City Attorney Henningsgaard and City Manager Benoit recommend that Council conduct the first reading of the ordinance regulating facilities in City rights-of-way.

Shelia Holden, Regional Community Manager, Pacific Power, 825 NE Multnomah, Portland, stated that this process has taken a long time and she is glad to see it come to fruition. She believed the documents are fair and will benefit both the City and the utilities into the future.

City Council Action: Motion made by Councilor Warr, seconded by Councilor LaMear to conduct the first reading of the ordinance regulating facilities in City rights-of-way. Motion carried unanimously. Ayes: Councilors LaMear, Warr, Mellin and Mayor Van Dusen; Nays: None.

Planner Johnson conducted the first reading of the ordinance regulating facilities in City rights-of-way.

Item 6(d): Ordinance Granting a Nonexclusive Right and Franchise to Pacific Power and Light (1st Reading) (City Attorney)

Presented for your consideration is a proposed ordinance granting a franchise to PacifiCorp, doing business as Pacific Power and Light (PP&L), to operate electrical facilities within City rights-of-way. The ordinance:

- Requires utilities PP&L to pay a fee to the City equal to 3.5% of the gross revenue earned within the City
- Provides procedures for amendment and renewal of the franchise.
- Imposes certain reporting requirements.

The current franchise for PP&L was adopted in 1990 and expired on March 7, 2010. The franchise was extended on March 15, 2010 and again on January 26, 2011. The most recent extension of the 1990 franchise expires on the adoption of a new franchise. The provisions of this franchise are very similar to the previous franchise but do not include construction standards for work in the right of way. Those standards now appear in the proposed Rights-of-Way Ordinance. City Attorney Henningsgaard and City Manager Benoit recommend that Council conduct the first reading of the ordinance granting a franchise to PacifiCorp, doing business as Pacific Power and Light.

City Council Action: Motion made by Councilor LaMear, seconded by Councilor Warr to conduct the first reading of the ordinance granting a franchise to PacifiCorp, doing business as Pacific Power and Light. Motion carried unanimously. Ayes: Councilors LaMear, Warr, Mellin and Mayor Van Dusen; Nays: None.

Director Estes conducted the first reading of the ordinance granting a franchise to PacifiCorp, doing business as Pacific Power and Light.

Item 6(e): Public Hearing – Community Development Block Grant for Renovation of the Senior Center (Community Development)

City staff has been in discussions with the Astoria Senior Center and the Loaves and Fishes Board to explore the possibility of applying for a Community Development Block Grant (CDBG) in order to renovate

the Senior Center building. A maximum of \$1,500,000 in grant funds are available. The amount requested would be based upon an estimate from an architect and builder. The Senior Center has retained Rickenbach Construction to prepare preliminary architectural drawings and cost estimates. A structural engineer has been hired to evaluate seismic stability and recommend upgrades. An environmental specialist has prepared a report identifying asbestos tiles and other environmental issues. This information is required as part of the grant application.

The major improvement would be to renovate the basement as a dining facility and kitchen for the Loaves and Fishes Program. Unrestricted access to the basement would require the installation of an elevator. Other work includes asbestos tile removal, a new heating system, window replacement, a new roof, seismic reinforcement, and other work including upgraded electrical, plumbing, and lighting systems.

If the grant is awarded, the City will be responsible for compliance with all federal and state requirements. The CDBG will provide \$25,000 for grant administration. Grant funding would also be available for architectural and engineering work. While no matching funds are required for this grant, other funding will be necessary for items such as tables, chairs, kitchen equipment, and similar items. These could be funded from other sources such as foundation grants and will need to be committed at the time of application.

The City is required to hold an initial public hearing to obtain citizen views and to respond to questions and comments about community development and housing needs, and other needs in the community that might be assisted with a CDBG project other than the proposed project. A Memorandum of Understanding (MOU), which sets forth the roles for the City and the other two partners, has been approved by the Boards of the Senior Center and Loaves and Fishes. It is recommended that the Council direct staff to prepare and submit a Project Intake form for a Community Development Block Grant to finance the renovation of the Senior Center up to a maximum of \$1,500,000.

Councilor Warr asked if the City had a good chance of receiving the block grant. City Manager Benoit responded that Staff believes the City does have a good chance, adding that State staff came to Astoria and met with City Staff and the senior center and were very encouraging. A large amount of money is available for this and he believes the City will be competitive.

Councilor LaMear asked if the grant would fully fund the project. City Manager Benoit said Rickenbach Construction is doing an analysis and Staff believes the grant will be sufficient to do the work.

Mayor Van Dusen opened the public hearing at 7:20 p.m. and called for public comment on the grant for the senior center.

Don McDaniel, 1268 Kensington, Treasurer, Astoria Senior Center, noted board members from both the Astoria Senior Center and Loaves and Fishes were present. He stated this is a great project because the building needs some upgrading and it would make a more attractive facility, enticing more seniors to use the senior center. This project consolidates the senior center with the meals establishment, Loaves and Fishes, providing more cohesiveness between the two functions. Both the senior center and Loaves and Fishes will retain their 501(c)(3) statuses, but will work together as a team. He clarified that the \$1.5 million grant will not quite fully fund the project because the grant will only cover real property. Tables, chairs and other items will not be covered by the grant and money will have to be raised separately for these items. Hopefully, the community will get involved during a later phase of the project.

Councilor Mellin understood the senior center was given a sizeable amount of money several years ago and asked if that money could be applied towards this project. Mr. McDaniel confirmed the senior center received a legacy of about \$820,000 about 10 years ago with the stipulation that the money cannot be used for building, taxes, and several other things. The money can only be used for the enjoyment of senior citizens in Astoria and the surrounding area. Since then, the money has created dividend and interest income, which can be used for other purposes. However, the senior is operating at a deficit for the fourth consecutive year. Over time, that extra income will be depleted since current revenue is far short of current expenses and those funds keep the senior center open.

Councilor LaMear asked if expenses would decrease after the upgrades are made to the building. Mr. McDaniel replied that some expenses would decrease because of the upgraded lighting system, heating system, insulation, new windows and other upgrades. However, the kitchen facility would use more utilities. The senior center and Loaves and Fishes still need to decide how to share utility costs.

Councilor LaMear asked how the senior center got its money. Mr. McDaniel explained income is earned through membership dues and interest and dividends on investments. If this grant is approved, the senior center will no longer be able to mandate membership dues, reducing anticipated income. The senior center will need to find other sources of income.

Councilor LaMear asked if the board is exploring new sources of income. Mr. McDaniel replied the major piece the board is currently working is obtaining the grant, and then many other questions will need to be addressed.

Councilor Mellin asked if the senior center would use the kitchen at Peace Lutheran Church. Mr. McDaniel answered no, Loaves and Fishes will be using the new kitchen in the senior center. A new kitchen and dining facility is part of the plan developed by Rickenbach Construction. The dining facility will be in the basement, where major renovation is necessary. The main floor will undergo some renovation.

Linda Webb, 3555 Harrison Avenue, Secretary/Treasurer, Loaves and Fishes, stated this project would allow Loaves and Fishes to grow and develop in the new basement facility and to serve seniors. Meals must be offered to qualify for the grant. Loaves and Fishes needs more customers and this project would enable them to serve more people. They are excited about the possibility of using a nice kitchen in a nice facility.

Helen McDaniel, 1268 Kensington, added that the senior center offers a craft program. The sale of the crafts contributes to the income of the senior center. She invited the public to the senior center to see what is for sale for Christmas. The craft program makes several thousand dollars each year. The senior center also accepts donations, and memorials can be made in the name of the senior center.

Mayor Van Dusen closed the public hearing at 7:28 p.m.

City Council Action: Motion made by Councilor Warr, seconded by Councilor Mellin to direct staff to prepare and submit a Project Intake form for a Community Development Block Grant to finance the renovation of the Senior Center up to a maximum of \$1,500,000. Motion carried unanimously. Ayes: Councilors LaMear, Warr, Mellin and Mayor Van Dusen, Nays: None.

Item 6(f): 17th Street Dock Replacement Project – Pay Adjustment #2 (Public Works)

On June 25, 2012, Council awarded a construction contract to Bergerson Construction in the amount of \$4,266,137.00 for the 17th Street Dock Replacement Project. The Project is currently on schedule and anticipated to be completed by mid-March.

At their October 15, 2012 meeting, Council approved Pay Adjustment #1, which accounted for multiple credits and added Additive Bid Item #2 Replacement of the Floating Dock Piles. This resulted in an overall credit of \$23,297.00 and a revised contract amount of \$4,242,840.00. At that time, it was stated that the credit would be reserved for additional costs proposed for dock abutment work. The abutment work includes pile supports, additional riprap to protect the bank and the replacement of a sanitary sewer manhole at a cost of \$37,481.84. Additional cost savings of \$25,547.00 have been realized on the project. With the needed changes (abutment work and water equipment), the proposed contract increase will be \$11,934.84, leaving an \$11,362.16 credit which will be reserved for any potential future change order items. The project contingency remains untouched. It is recommended that the Astoria City Council authorize Change Order #2, which will result in a contract increase of \$11,934.84.

City Manager Benoit noted the overall net effect of the change orders has been a reduction in the contract total, which was originally \$4.266 million and is now \$4.254 million given the change orders. Bergerson Construction is doing a great job.

City Council Action: Motion made by Councilor Warr, seconded by Councilor LaMear to authorize Change Order #2 which will result in a contract increase of \$11,934.84. Motion carried unanimously. Ayes: Councilors LaMear, Warr, Mellin and Mayor Van Dusen; Nays: None.

Item 6(g): Authorization to Bid Astoria Heritage Square Phase 1 Garden of Surging Waves Project (Public Works)

Design plans for the Garden of Surging Waves project have been completed and the project is ready to be put out to bid. Additionally, the Heritage Square Vaulted Sidewalk Project is now complete at an estimated cost of \$227,500, to be paid out of the Astor-East Urban Renewal District loan. Additionally, a \$25,600 construction management contract between the Astor East Urban Renewal district and Wilkins Consulting was approved by the Development Commission in July 2012. To date approximately \$7,135 has been billed toward this contract.

A total of \$929,426 has been raised and/or allocated from the following sources for the project:

Promote Astoria Fund Loan	\$350,000
AEURD Loan (excluding sidewalk project and construction management costs)	\$119,757
Community Donations	\$259,669
Art DeMuro	\$200,000
Total	\$929,426

It is proposed that the project be bid on December 11, 2012 with a bid closing date of January 15, 2013. Construction could begin in mid- February with an estimated completion date of late spring I early summer 2013. The architect's estimate for this project is \$900,000 to \$1,100,000. Should bids come in above available funds, staff will negotiate with the contractor to delete portions of the project and reduce expenses. It is recommended that Council authorize staff to solicit bids for the Heritage Square Phase 1 Garden of Surging Waves Project.

City Manager Benoit explained that in addition to the funds raised to date, the City has submitted funding requests to two foundations, the Meyer Memorial Trust and the Collins Foundation. The City is requesting \$50,000 from the Collins Foundation and Project Designer Suenn Ho gave a presentation to two program officers from the Collins Foundation and responded to their questions. That board meets within the week and the City hopes to receive a positive decision on the funding application.

City Council Action: Motion made by Councilor Mellin, seconded by Councilor Warr to authorize staff to solicit bids for the Heritage Square Phase 1 Garden of Surging Waves Project. Motion carried unanimously. Ayes: Councilors LaMear, Warr, Mellin and Mayor Van Dusen; Nays: None.

Item 6(h): Public Hearing regarding Amendment A12-03 by Mark Cary to Rezone Property Adjacent to 620 Olney R-2 to C-3 (1st Reading) (Community Development)

The applicant has requested an amendment to the Land Use and Zoning Map to rezone a parcel of land north of and adjacent to 620 Olney Avenue from R-2 Zone (Medium Density Residential) to C-3 (General Commercial) to improve existing parking and allow for future growth of the business. At its October 23, 2012 meeting, the Astoria Planning Commission (APC) held a public hearing. Staff initially recommended approval of the request.

Following receipt of public testimony the APC amended the Findings and recommended denial of the request as indicated in the attached minutes. A public hearing on the Amendment has been advertised and is scheduled for the December 3, 2012 City Council meeting. It is recommended that the Council hold a public hearing and the Planning Commission has recommended that the City Council deny the request. If the Council is in agreement with the recommendation of the Planning Commission, it would be in order for Council to adopt the attached Findings of Fact for denial of the request.

Mayor Van Dusen asked if anyone objects to the jurisdiction of the City Council to hear this matter at this time. There were no objections. Mayor Van Dusen asked if any member of the City Council had a conflict of interest or ex parte contact to declare.

Mayor Van Dusen stated he had both a conflict of interest and an ex parte contact to declare. His company sells soft drinks to Fultano's Pizza, but he believed he could rule on this issue impartially. He has also discussed the proposed zone change with the Applicant. He has visited the site without the Applicant being present and looked at the proposed area.

Councilor Warr stated he attended a meeting where the Applicant was present and the subject came up briefly, but he did not discuss it with Applicant. He believed he could be impartial about this matter.

Mayor Van Dusen read the rules of the public hearing format, noting that the substantive approval criteria were listed in the Staff report, which was available from Staff. He opened the public hearing at 7:35 p.m. and called for testimony by the Applicant.

Mark Cary, 620 Olney Avenue, Astoria, said he is applying for a zone change from R-2 to C-3 on Lots 900 and 904. He and his wife purchased Fultano's in 1998 and expanded in 2003. Business has grown and the need for parking has grown. Fultano's has 21 designated parking spots, but they seat 144 people. A typical lunch crowd includes two people per car, which current parking cannot accommodate. Customers have told Mr. Cary that they chosen not to eat at Fultano's because the parking lot was full, a loss of business that cannot be replaced. Unlike a clothing store where a customer will return at a later time to make their purchase, potential restaurant patrons simple take their business elsewhere.

- He disagreed with the Planning Commission's recommendation to City Council and fully agreed with Staff's original report that recommended approval of his request. City Code CP 200 states that the City of Astoria will strengthen, improve and diversify the area's economy to increase local employment opportunities. This proposed zone change is a great example of how to achieve CP 200. He emphasized that CP200.1, Economic Development Goal 1, states the City will encourage, support and assist existing businesses. Again, this request is a prime example. Fultano's has grown and he would like it to continue to grow in the future. The more business Fultano's has, the more employees he can hire. He confirmed that the Comprehensive Plan was adopted in 2011 after the Buildable Land Inventory.
- The letter submitted by Sherri Williams referenced CP 065, which discourages strip development on the South Slope. He explained this does not involve strip development on the South Slope, which has a combination of businesses, homes, etc.
- He distributed copies of a couple maps showing how much commercial land currently exists in the area, noting he wants to add one spot to help enhance his property and make it more viable for use. He noted his business location on the map, and reviewed the land use zones of properties in the area, noting several are zoned C-3. He also indicated on a map in the Staff report the lots he is asking to rezone to commercial. He noted that plenty of land is currently zoned C-3 in the area, so he would not be going against the character of the South Slope by doing strip development.
- He noted that Ms. Williams expressed concerns in her testimony that if the lots are changed to C-3, the maximum height allowance is 45 feet with a maximum lot coverage of 90 percent. He sympathizes with these concerns, but still needs more parking to stay competitive with other restaurants. He proposed a compromise that would restrict Lots 900 and 904 to a maximum height restriction of 28 feet and maximum lot coverage of 50 percent.

City Attorney Henningsgaard explained that this compromise could be implemented through a condition on the approval or a covenant could be filed. Mr. Cary stated he is open to either option.

Councilors LaMear asked if City Council had the authority to grant a compromise, or did the item have to return to the Planning Commission. Director Estes replied this is a new public hearing before Council that would not have to go back to the Planning Commission. He clarified this is not an appeal, just part of the normal zone change process. City Attorney Henningsgaard verified that City Council was required to hold this public hearing regardless of how the Planning Commission voted.

Mr. Cary asked if City Council had the original Staff report. Planner Johnson said that Council was only given the denial and the minutes of that Planning Commission meeting.

Mr. Cary pointing out a small residential lot on the map that is zoned R-2 and owned by Ms. Williams. That lot is another lot between the two zones that would create an additional buffer. He currently owns both of the lots he is asking to rezone, which were included in the purchase of Fultano's. He believed the previous owner, who was in the audience, had intended to expand the parking lot.

Mayor Van Dusen asked for clarification about Ms. Williams's lot creating a buffer. Mr. Cary noted the locations of the Williams' lot, Lots 900 and 904, and a substandard lot on a displayed map. Nothing would be built on the substandard lot, which would create a buffer between the proposed parking lot and Ms. Williams's house.

He clarified that the proposed compromise was not offered at the Planning Commission hearing and was not in the original Staff report. It is a new offer.

Councilor Warr asked if the parking lots would be paved. Mr. Cary said he intended to pave the lot, which would have to be approved by the Planning Department. Councilor Warr noted several complaints were related to the noise created from driving on gravel. Mr. Cary added that paving the lot would decrease maintenance costs.

Mayor Van Dusen asked if restaurants in the city are allowed to have gravel parking lots. City Manager Benoit believed that the only gravel lots allowed have been grandfathered in. New development is required to have paved and striped parking lots.

Councilors LaMear noted references to height limitations and asked if Mr. Cary intended to install a covered parking garage. Mr. Cary explained that his compromised height allowance would serve as a permanent solution to address the concern that a future owner could build up to 45 feet. City Council can restrict the maximum height allowance as a condition of approval. He confirmed he has no plans to build a building on the lots, and with his proposal, any future owner's proposed structure would be limited to 28 ft.

Mayor Van Dusen called for testimony in favor of the application.

Erin Cary, 620 Olney Avenue, stated that she and her husband, Mark, were both raised in Astoria and are now raising their children in Astoria. Fultano's has been a great opportunity for them, to which they are committed. The business has prospered and grown to require more parking. The success of Fultano's has allowed Mr. and Mrs. Cary to support the community through volunteerism and donations. Supporting local business strengthens the community. Support of this zone change will help the Applicants continue to support the community.

Cary Johnson, 37751 Highway 30, stated that City Council has an opportunity to support a small business that has been supportive to the community. He agreed with the original Staff report and believed the request is reasonable and presents an opportunity to help a small business grow and prosper. The 28-ft height restriction and lot coverage compromises are a reasonable solution, as they are similar to the requirements of the current R-2 zone. He urged City Council to approve the zone change with the proposed conditions of approval.

Tom Alfonse, 37665 Timberlane, stated that he is a customer of Fultano's. When he plans to meet his wife at the restaurant, she must arrive before noon to get a parking space because the lot gets full. He was concerned about safety as well. Years ago, when the football team would meet at Fultano's, parking would fill quickly and people would have to park along Olney Avenue, requiring people to get out of their cars in the traffic, then get through the bushes to Fultano's, which was a scary situation. He supported the zone change.

Robert Fulton, 713 Ocean Court, Hammond, stated he and his father started a business called Pizza Vendor in 1977. Mr. Fulton bought Pizza Vendor in 1982. Mr. Cary began working for Mr. Fulton when he was 14 years old, left for college, then returned to purchase the business in 1998. Parking has always been an issue. People see a full parking lot and assume that the restaurant is full when only 20 people were in the restaurant. This zone change is important to Mr. Cary, as the restaurant business is tough. He noted the pizza restaurant has been in Astoria for a long time.

Jared Rickenbach, 37804 Eagle Lane, explained that he is a general contractor and his crew likes to have pizza at Fultano's. It is difficult to find parking, especially when driving a construction rig. PP&L will also park their trucks in Fultano's parking lot, which fills up fast at lunch. He supports the zone change. He believed it was good to see business investing in the community and Fultano's has been in Astoria for a long time supporting the community. He appreciated that Fultano's was investing in building; making space to park is a big investment.

Jim Varner, 91870 Youngs River Road, owner, Varner's Automotive, said he was taking his employees out to lunch at Fultano's. As they drove by the restaurant, Mr. Alfonse's excavator and truck were parked in front and the parking lot was full. His employee suggested driving into town to eat at a less busy restaurant, where they ended up eating. He urged City Council to approve the zone change.

Greg Peterson, 35599 Montrose Court, believed growth is a key word in this issue, as there has not been a lot of business growth over the last three or four years. Mr. and Mrs. Cary work very hard and they support the schools and the Assistance League, which assists 700 to 800 kids per year who live below the poverty line. He asked City Council to support the Applicants, so that they can grow and continue to support the community.

Randy Stemper, 7 Skyline Place, believed the Comprehensive Plan was correct to add CP 200.1 to give the Council the flexibility and opportunity to encourage growth in the community. The community has seen business leave, fail and move to Warrenton. The City should take the opportunity to support a business. He believed Mr. Cary's proposed height limitation and reduction in lot coverage shows his commitment to Astoria and to his neighborhood. He highly encouraged City Council to support the zone change.

Mike Sarin, 91724 Lewis and Clark Road, stated that he owns a business at 1050 Olney Avenue, just up the road from Fultano's. He and his employees enjoy having lunch at Fultano's and everyone has experienced the lack of parking at the restaurant. He believed additional parking is needed and that Fultano's is a great family restaurant. The Applicants work hard and support the community and the community should support the Applicants. He urged City Council to vote in favor of the zone change.

Don Patterson, 1635 SW 14th, Warrenton, said he is a small business owner with businesses in both Astoria and Warrenton. Unfortunately people in Warrenton are infatuated with big box stores and big retailers. Being successful as a small business owner is difficult and he urged City Council to support small businesses, jobs, and the retention of customers in Astoria. His stated he owns Mini Marts located at 95 West Marine Drive in Astoria and 58 SE Harbor in Warrenton.

Ron Williams, 303 Clatsop, said he was born and raised in Astoria. He remembers when Pizza Vendor began and he has seen it grow. He works for Clatsop Distributing and services their account with Fultano's. He understands how hard the Applicants work. Speaking on behalf of Astoria Youth Football and the Cal Ripken Little League, he stated that the Applicants have sponsored these youth sports for years. He believed the City should support this local, growing business and agreed with Mr. Alfonse that safety is a concern.

Howard Rue, 92054 Drucker Place, supports the Applicants because they support the community. He understands how often small businesses are asked to contribute to the community and believed it is important for the community to support local businesses so that they can continue to give back to the community.

Dean Gauge, 710 West Marine Drive, stated the Applicants cannot support the community without a successful business. Ample parking would contribute to their success. Helping Fultano's to remain successful would not only allow them to continue to support youth sports, but also jobs for youth, which Astoria does not have a lot of. More parking would lead to more business, which would lead to more hiring. Fultano's hires those in high school, recently graduated and returning on summer break from college. Without more parking, Fultano's cannot bring in more business because it looks like the restaurant is full, but it is not.

Pete Gimre, 89322 Highway 202, supported the Applicant, who has shown respect to his neighbors by offering a compromise and shown compassion in giving back to the community. While the Fultano's

parking lot does have designated parking spots, many people park in the middle of the lot where there are no designated spots, creating another safety issue. He urged City Council to approve the zone change.

Mayor Van Dusen called for testimony opposed to the application.

Sherri Williams, 1840 6th Street, stated she lives directly behind Fultano's. She supports Fultano's and appreciates what the Applicants do for the community and youth sports. She submitted a letter to the Planning Commission, which was also included in Council's meeting packet. She highlighted key portions of her letter with these comments:

- Tonight's issue is not about a parking lot. Nine of those who just spoke in favor of the application do not live in the Astoria city limits or no one who testified live in the same neighborhood as Fultano's. She understood that Fultano's needs more parking and while the amount of parking could be a concern, the key issue was the rezoning from residential to commercial. If the property is rezoned to commercial, the building could be expanded in the future without review by the Planning Commission. The commercial zone allows for 32 outright and conditional uses that could be implemented on this property, including a car sales lot, auto repair lot, or recycling center, all of which increase noise and traffic.
- She was notified that the Applicant wanted to propose a maximum height allowance and maximum lot coverage compromise. Without the height restriction, commercial zones allow for a four-story building, which could be built five feet from property lines adjacent to Fultano's; 90 percent of the lot could be covered with only a five-foot landscape buffer. Neighbors looking out their windows would see a four-story building whose occupants could look into the neighbors' windows
- Ms. Williams addressed some of the City Codes listed in the public notice as applicable to this application.
 - Development Code 10.070(b) states that certain criteria must be satisfied in order to approve a zone change and that the amendment be compatible with land use development patterns in the vicinity of the request. The Applicant's map shows a majority of commercial property along Olney Avenue. The rest of the property is residential. She submitted a map with her original letter to the Planning Commission that shows residential and commercial property in the vicinity of the proposed zone change, noting the amount of residential properties in certain areas to give Council some perspective
 - Comprehensive Plan CP .060 states the South Slope area is considered Astoria's future residential growth area. CP .0151 states it is the primary goal of the Comprehensive Plan to maintain Astoria's existing character by encouraging compact urban form by strengthening the downtown core water front areas and by protecting residential and historic character of the city's neighborhoods. CP .0654 states that zoning along Olney Road, State Highway 202, will remain residential in order to discourage strip commercial development and to protect the residential character of the adjacent areas
 - The Applicant may not be proposing a strip commercial development, however, the residential character of the residential area still needs to be protected. She does not want to discourage the support of businesses, but noted that residential properties still need to be protected.
- While the rezoning of the property was her concern, not the parking lot, she noted the Applicant currently has one more parking space than required for the size of his building. She believes the Applicant does not have sufficient parking space. The Applicant currently owns a 50' X 100' lot that is zoned commercial and could accommodate between 16 and 18 additional parking spots. This lot is closest to his currently paved parking lots. The Applicant has not offered this as a compromise, but wants to rezone the two larger lots adjacent to residential lots.
- Ms. Williams clarified that her small lot directly behind Fultano's is her yard, not a buffer. She does not want this land to be considered a buffer from any noise or views. The trees in her yard do help buffer some of the noise. Two trees were lost in a storm and she anticipates more trees will perish because of the bigger trees being gone.
- She does experience a lot of noise. Mr. and Mrs. Cary have been good neighbors and do everything they can to resolve issues. The existing parking lot lights were shining into Ms. Williams's bedroom windows and Mr. Cary moved the lights. The lights still shine into the house, which makes it hard for people to get to sleep. Noise from the gravel roadway was an issue, too. People tend to use the 6th Street, which is gravel, and drive all the way around Fultano's and out 7th Street. This is very noisy.

- She asked City Council to consider the neighborhood. She wants to protect her property and peacefulness in her home. More parking would require additional lights and additional traffic. The 6th Street right-of-way may be required to be improved, which will increase traffic.
- The Planning Commission discussed the possibility of having to cut into the hillside between 6th Street and 7th Street to create a parking lot on the Applicant's property. She is very concerned about how this will affect her property. She currently has a retaining wall that must be pushed back into the hillside every few years as the land on the hillside erodes from her property. Once the Applicant's property is zoned commercial, anyone could do construction on the property, which may require cutting into the hillside.
- She asked that City Council to vote to deny the zone change.

Kendall Long, 1851 6th Street, stated she agrees with all of the previous speakers about the Applicants being very responsible and help the community. Every time she has come to Mr. Cary with a concern about the neighborhood, he does what he can to resolve the issues. Some issues that Mr. Cary cannot control are boisterous customers who linger outside the restaurant, garbage pick-up times at 5:30 a.m., and cars driving on the gravel lot. A lot of noise and light pollution come from the business.

- Fultano's was expanded in 2003, which moved the noise 40 feet closer to Ms. Long's house. The garbage cans were moved back and every Friday morning, between 5:30 a.m. and 6:30 a.m. the garbage trucks make noise when picking up the garbage.
- The gravel creates a lot of noise and sports teams make noise and are disruptive.
- Lot 901 on the map is zoned commercial and is not currently being used for parking. This lot allows the Applicant to expand without a zone change. The expansion in 2003 required a five-foot vegetative buffer. She had previously submitted a picture of this landscaping buffer, showing that the landscaping no longer exists due to lack of maintenance and traffic. A paved parking lot would reduce noise, but there is no way to prevent landscaping from being run over by motorists. She is concerned that landscaping buffers will not be maintained.
- Ms. Long referred to CP 220, noting that Part 6 states the City should protect neighborhoods from incompatible uses, including large scale commercial, industrial and public uses or activities.
- She asked City Council to decide if they would like the neighborhood to remain livable and quiet or continue to make the neighborhood commercial, loud and noisy.

Drew Herzig, 628 Klaskanine Avenue, stated he was aware that speaking on this issue set him up for a future ex parte contact. He attended the Planning Commission hearing, and many more people spoke against this zone change than in favor of it. The counter proposal offered tonight was a bit unexpected.

- He said that Michelle Reeves presentation at the Building Blocks for a Successful Downtown workshop discussed how parking lots are not good for the community. The City is paying Ms. Reeves as a consultant and ignoring her advice seems counterproductive.
- He suggested that Mr. Cary build a parking lot on his lot currently zoned commercial and then apply for the zone change on his other lots if that does not satisfy his business needs.
- A gravel lot is not the same as a paved parking lot that has clearly defined parking spaces.
- When parking at Fultano's, he has no idea where the spaces are located; people park on the perimeter and the center of the existing lot is empty. Another parking lane could be created. If people love Fultano's as much as they say, they will make the effort to find a parking space.
- The lot currently zoned commercial could also be paved. The City Planner has estimated that this lot could accommodate about 20 parking spots. He believes turning this lot into a parking lot and paving this and the existing lot would demonstrate good will by the Applicant.

Mayor Van Dusen called for testimony in partial to the application. Hearing none, he called for the Applicant's rebuttal.

Mark Cary, 620 Olney Avenue, made the following comments:

- He explained it is not possible to add 20 parking spots on his other C-3 commercial lot. The lot could only accommodate about eight parking spaces and due to a transformer, the lot is not accessible because traffic would have to cross a residentially zoned (R-2) lot. He indicated on a displayed map why his existing commercial (C-3) lot is not accessible.
- Expansion of his building is possible; however his main focus is parking. His proposed restrictions would help alleviate concerns regarding future expansions. A 28-foot tall building is currently allowed

on the subject lots. A parking lot would be required to be paved, which would eliminate most of the noise currently being created on the gravel. He has no control over 6th Street, which unimproved and currently gravel. While a building could be constructed on the property, the parking lot was a better use.

- Referencing Ms. Williams' comments about protecting residential, he stated he would not be adding additional commercial zone frontage to Olney Avenue, but just making his current lot deeper and making it more useful.
- Mr. Cary did not understand Ms. Williams' concerns regarding her retaining wall, noting that the land is flat. A parking plan would have to be approved by Staff, including lighting, which is required to shine away from housing. He did have a light that was installed incorrectly. Once Ms. Williams notified Mr. Cary of the problem, the light was redirected within two days. He has proven to be a good neighbor.
- He had concerns with the garbage being picked up at 5:30 a.m. so he called Western Oregon Waste (WOW) to request a record of all garbage pick-up times over the previous three months. The record shows the earliest time recycling was picked-up was at 6:23 a.m. He handed out copies of the report provided via email from WOW. City policy states that garbage pick-up in residential zones cannot occur prior to 7:00 a.m. and Astoria Waste confirmed they had not violated this policy.
- Every person who spoke in opposition of the application purchased their residential properties after Fultano's had opened for business. These residents knew the restaurant existed as well as C-3 property. He has always done his best to immediately resolve issues the neighbors have brought to his attention. The neighbors knew they were purchasing property near a commercial zone and restaurant. The proposed zone change fits the South Slope. The Comprehensive Plan included language and the city was designed to have C-3 land there, as indicated on his map.
- The Buildable Lands survey revealed a surplus of R-2 zones and a shortage of C-3 zones. This proposed zone change would help an existing business expand to provide more jobs in the future.
- He noted the presentation by Michelle Reeves referred to the downtown area of Astoria. The Applicant's property is not downtown. Fultano's is a standalone building that needs parking. The downtown area has different issues and businesses are within walking distance. Standalone buildings need their own parking. Parking in the street creates a safety issue.
- He urged City Council to support his small business and approve the zone change request with his proposed conditions.

Mayor Van Dusen closed the public hearing at 8:40 p.m. and called for Council deliberation.

Councilor LaMear asked if a condition could be added that restricted the use of the two lots to parking only. Director Estes explained that the conditions regarding height limitations and lot coverage were items that can be offered by the Applicant. The City cannot add a condition on a zone change that limits the type of development that could occur on the property without acceptance by the applicant. Councilor LaMear noted if the Applicant wants to expand his business, he could build on the existing building without having to build on the two lots if their use were restricted to parking.

Councilor Warr stated he favors the application. The Applicant has demonstrated that he is a good neighbor. The neighbors in opposition of the application mentioned that he has worked towards resolving any issues with his property. The proposed conditional use of the property offered by the Applicant goes a long way toward appeasing the neighborhood. Councilor Warr believed Council should vote in favor of the application.

Councilor Mellin agreed, noting that the findings show the need for commercially zoned properties. The neighborhood is already a mixture of residential and commercial zones. Fultano's is a great business on that side of town. Councilor Mellin stated she supports the application.

Mayor Van Dusen believed the concerns about the possibility of a 45-foot building are valid. A 28-foot building is currently allowed but a 45-foot building would not be compatible. Mr. Cary offered a resolution to this issue. Ninety percent lot coverage allowed by C-3 would not be compatible with the neighborhood and Mr. Cary offered to restrict lot coverage to 50 percent. The City can require the Applicant to pave the parking lot, which will reduce noise and dust. When Mayor Van Dusen visited the lot, he noticed the lot was different than the other lots and believed the lot was zoned incorrectly. The lot is flat, like a lot of commercial properties in Astoria. Ms. Williams's lot is at a higher elevation than the Applicant's lot. He believed that changing the zone of the lot will not change the character of the neighborhood.

Mayor Van Dusen assured that he has listened to everyone's concerns, but he favors voting for the zone change. He noted the lot was already being used for parking illegally. Zoning the lot properly and using the lot legally will improve the area. He noted that Ms. Williams work and comments helped to protect the neighborhood as her comments facilitated the proposed conditions to limit height and reduce the lot coverage.

City Council Action: Motion made by Councilor Warr, seconded by Councilor LaMear [114:25] to approve the request to rezone property adjacent to 620 Olney R-2 to C-3 with the conditional covenants proposed by the Applicant. Motion carried unanimously. Ayes: Councilors LaMear, Warr, Mellin and Mayor Van Dusen; Nays: None.

Director Estes distributed a draft copy of an ordinance and suggested the first reading of the ordinance be conducted at this meeting. Staff would then prepare revised Findings and present them to City Council for consideration at the next meeting.

City Manager Benoit read the details of the draft ordinance [conducted the first reading of the ordinance.]

City Council Action: Motion made by Councilor Mellin, seconded by Councilor Warr to approve the first reading of the ordinance amending A12-03. Motion carried unanimously. Ayes: Councilors LaMear, Warr, Mellin and Mayor Van Dusen; Nays: None.

Mayor Van Dusen called for a brief 5 minute recess and reconvened the meeting at 8:45 p.m.

NEW BUSINESS & MISCELLANEOUS, PUBLIC COMMENTS

Item 7(a): Change Second Meeting Dates in January and February, 2013

Astoria City Hall will be closed on Monday, January 21, 2013 for Martin Luther King, Jr., Day, and Monday, February 18, 2013 for Presidents' Day; therefore, the second meeting dates in January and February will need to be changed.

Don Webb, 3555 Harrison Drive, stated he anticipates a parking issue at the senior center as they will lose some of their current parking spots in the Safeway parking lot. Currently, the only parking that is close to the senior center is at the Methodist church across the street and he believes some kind of an agreement could be made for senior center patrons to park there. The City should help find some additional parking. The senior center plans to increase the number of people who use the center and more parking will be needed.

ADJOURNMENT

There being no further business, the meeting was adjourned at 8:55 p.m.

ATTEST:

APPROVED:

Finance Director

City Manager



CITY OF ASTORIA
ASTORIA PUBLIC LIBRARY
Founded 1811 • Incorporated 1856

December 28, 2012

MEMORANDUM

TO: MAYOR AND CITY COUNCIL
FROM: *PB* PAUL BENOIT, CITY MANAGER
SUBJECT: READY TO READ GRANT 2012/2013

DISCUSSION/ANALYSIS

In July, 2012, Council approved the Ready to Read 2012/2013 grant submittal. The Ready to Read Grant program is administered by the State Library to “establish, develop, or improve library services for children” ages birth to five.

The State Library has again designated the Ready to Read Grant to support Early Childhood Literacy and/or Summer Reading for children. Staff wrote the 2012/2013 grant to support early literacy outreach to the parents of children entering kindergarten. A check for \$1,080.00 has been received by the Astoria Public Library.

RECOMMENDATION

It is recommended Council accept the Ready to Read Grant in the amount of \$1,080.00.

By: *Jane Tucker*
Jane Tucker, Library Director



CITY OF ASTORIA
Police Department
 Founded 1811 • Incorporated 1856

December 21, 2012

M E M O R A N D U M

TO: MAYOR AND CITY COUNCIL

FROM:  **PAUL BENOIT, CITY MANAGER**

**SUBJECT: ASTORIA PUBLIC SAFETY BUILDING IMPROVEMENTS PROJECT –
 PAY ADJUSTMENT #3**

DISCUSSION/ANALYSIS:

The purpose of this change order is to account for work not covered in the bid items or revised following the bid process. This change order amount constitutes total compensation for the changes indicated below.

Item	Description	Quantity	Unit Cost	Total Cost
Misc Project Changes				
COR #19	Deduct - Credit for Window Flashing Labor	1 LS	(\$1,716.00)	(\$1,716.00)
COR #20	Add - Restrooms Replacement Exhaust Fan	1 LS	\$1,530.00	\$1,530.00
COR #21	Add - New Carpet and Painting Training Room	1 LS	\$6,074.00	\$6,074.00
COR #22	Add - New Driveway Access NW Corner of Site	1 LS	\$12,505.00	\$12,505.00
COR #23	Add - New Split Cooling System Server Room	1 LS	\$7,143.00	\$7,143.00
COR #24	Add - Additional Paint Apparatus Bay Wall	1 LS	\$2,602.00	\$2,602.00
COR #25	Add - Relocate Building Signage	1 LS	\$374.00	\$374.00
COR #26	Add - Floor Prep 911 Center & Door Ramp	1 LS	\$1,591.00	\$1,591.00
COR #27	Add - Ceiling Grid Corrections & Drywall Add	1 LS	\$1,650.00	\$1,650.00
COR #28	Add - Stainless Steel Window & Parapet Pans	1 LS	\$1,251.00	\$1,251.00
COR #29	Add - Revisions East Restroom	1 LS	\$6,178.00	\$6,178.00
COR #30	Add - Roofing System Upgrades	1 LS	\$4,225.00	\$4,225.00
COR #31	Add - Ductwork Removal Mechanical Room	1 LS	\$806.00	\$806.00
COR #32	Add - Electrical Switchgear Adds	1 LS	\$2,747.00	\$2,747.00
COR #33	Add - Replacement of Fire Alarm System	1 LS	\$17,395.00	\$17,395.00
Change Order Total =				\$64,355.00
Previous Contract Amount =				\$965,685.00
Revised Contract Amount =				\$1,030,040.00

This Change Order becomes part of and in conformance with the existing contract. The above changes warrant a 0 day time extension. The contract completion date remains the same.

An overall project budget contingency of 15% (\$200,000.00) was established to cover project needs in terms of changes related to additional services required, unforeseen conditions, scope changes/adds and owner driven changes. The contingency is covered by grant funds and is part of the overall established budget, not an additional cost burden from City funds. The contingency will be utilized to fund the Change Order Request (COR) noted below as well as any future COR's.

- Contingency Total = \$200,000.00
- **Contingency Balance after Change #3 = \$65,960.00**

EXPLANATIONS

COR #19 - Credit for Window Flashing Labor related to the East and West replacement windows, the majority of the existing flashings were reusable, surplus new flashing materials were provided to the Owner, credit noted is for unspent labor only.

COR #20 - Restrooms Replacement Exhaust Fan, the original (1975) Main Restrooms Exhaust Fan was in very poor condition, housing rusted out, motor barely operating, it was determined this was the time to replace it.

COR #21 - At the Owner's request New Carpet including Rubber Base was installed as well as Painting of all the walls in the Fire Dept Training Room was performed.

COR #22 - New Driveway Access at the NW Corner of Site was created to provide the Fire Dept equipment with an alternative entry when returning to the building in the event of the seismic activity or other potential catastrophe.

COR #23 - New Split Cooling System Server Room, based on the condition of the older unit that had functionality issues over the years it was determined to replace it with a larger unit that could handle the expanded space in the Server Room provided during the remodel process.

COR #24 - Additional Paint Apparatus Bay Wall, the original painting scope only specified to paint the new low walls created on the North side of the Apparatus Bay Wall, it was determined to repaint the entire wall in consideration of the deteriorating condition of the existing paint on the entire wall.

COR #25 - Relocate Building Signage, at the Owner's request the Police & Fire Dept. signage located on the South side of the building entrance was relocated to the East side of the building entrance for clearer direction for clients to identify which side of the entrance serves which department.

COR #26 - Floor Prep 911 Center & Door Ramp, the raised steel floor panels in the 911 Center required patching the existing holes prior to the installation of the new Carpet Tiles. A transitional ramp was required at the new Man Door installed leading out of the Apparatus Bay to the exterior of the building.

COR #27 - Ceiling Grid Corrections & Drywall Add, the original Ceiling Grid installation in the 911 Center and adjacent Break room was not installed on the same horizontal plane, adjustments were required due to the enlarged 911 Center remodeling. Drywall

taping and finish was added to the scope at the new West wall of the Fire Dept Training Room, the Drywall was installed by another contractor and was not part of their scope to finish.

COR #28 - Stainless Steel Window & Parapet Pans, it was determined to better protect the weatherproof integrity of the building envelope installation of Stainless Steel Pans were installed at the bottom of the New North facing Windows and at the Roof Parapet Corners.

COR #29 - Revisions East Restroom, additional costs were associated with replacing the existing Wet Wall which was rotten due to plumbing leaks over the years, plumbing fixture repairs were also done to ensure this problem would not re-occur, additionally the existing Door & Frame leading into this space was not wide enough to meet ADA code requirements, the Door and Frame were replaced.

COR #30 - Roofing System Upgrades, to ensure the 30 year Warranty for the new Membrane Roofing System would be secured the installation of Hurricane Bars were required under the Membrane at all perimeter locations.

COR #31 - Ductwork Removal Mechanical Room, to accommodate the installation of the new Building-Wide Electrical Service Upgrades it was determined to remove a section of Abandoned Ductwork in the Mechanical Room.

COR #32 - Electrical Switchgear Adds, as a result of the condition of the existing Building-Wide Electrical Service Conductors located within the Service Entrance it was determined it would be in the best interest of the Owner to replace these conductors.

COR #33 - Replacement of Fire Alarm System, during the course of the project it was discovered there had been numerous problems with the original Building-Wide Fire Alarm System that were un-repairable nor upgradeable due to the age of the system. A new addressable Fire Alarm System was installed including code compliant Notification Devices (Horns & Strobes).

RECOMMENDATION

It is recommended that Council authorize Pay Adjustment #3 for the Public Safety Building Improvements Project.

Submitted By: 
Peter Curzon, Police Chief



CITY OF ASTORIA
COMMUNITY DEVELOPMENT
DEPARTMENT

MEMORANDUM

December 28, 2012

TO: ASTORIA CITY COUNCIL

FROM:  PAUL BENOIT, CITY MANAGER

SUBJECT: FLAVEL PROPERTIES LIEN APPROVAL RESOLUTION

DISCUSSION

The Flavel properties, located at 627 15th Street, 905 to 943 Commercial Street, and 904 to 936 Commercial Street, have been the subject of numerous Code enforcement actions since adoption of the Property Maintenance Code (Derelict Building Ordinance). All properties have been vacant for many years and are in a state of deterioration.

Since adoption of the Derelict Building Ordinance, the City has sent numerous enforcement letters to the property owner, Mary Louise Flavel, concerning the three properties. In July 2012, after exhausting all other options, the City abated some of the nuisances at the residence on 15th Street. The yard was cleared, and the house was boarded up and the roof covered in plastic. The building was also declared a "long-term Vacant Building" and a chronic nuisance. City expenses for the abatement work, vacant building fines, and administrative fees amounts to \$10,495.95. The downtown commercial properties are in violation of the "long term vacant" ordinance and are subject to yearly Vacant Building fees and are augmented by the "chronic nuisance" provision of the ordinance which doubles some of those fees. Letters have been sent to Ms. Flavel concerning enforcement of the nuisances and payment of vacant building fees to no avail. Current fees on the two commercial buildings amount to \$6,600.00 on 904-936 Commercial and \$6,600.00 on 905-943 Commercial. The total amount owed on all three properties is \$23,695.95.

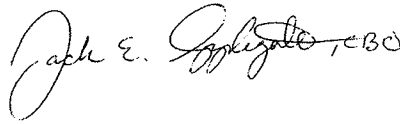
The charges on these three properties have not been paid. The Derelict Building Ordinance addresses the process and procedure for enforcement, abatement, and collection of fines/fees. In accordance with City Code Section 5.726(A)1, the City may record a lien on the property. If the lien is not paid by the building owner, the lien will bear interest at the rate of 7% per year. The interest would begin from the date of entry of the lien in the lien docket. If the lien is not paid, the City may eventually foreclose on the property as provided by Oregon law.

Resolutions addressing the issues and authorizing recording of liens concerning the nuisances on these three properties are attached for Council consideration. The Resolutions have been reviewed and approved by City Attorney Blair Henningsgaard.

RECOMMENDATION

It is recommended that the City Council adopt the attached Resolutions, by three separate motions, to authorize the City Attorney to file a lien as follows:


1. 627 15th Street in the amount of \$10,495.95;
2. 904-936 Commercial in the amount of \$6,600.00; and
3. 905-943 Commercial in the amount of \$6,600.00.



Prepared by: _____
Jack Applegate, Building Official/ Code Enforcement Officer



Rosemary Johnson, City Planner



Through: _____
Brett Estes, Community Development Director

RESOLUTION 13-_____

A RESOLUTION OF THE CITY OF ASTORIA RELATING TO AUTHORIZATION TO RECORD A LIEN ON 627 15TH STREET FOR CITY CODE VIOLATIONS

WHEREAS, the property located at 627 15th Street (otherwise known as Map T8N-R9W Section 8CD, Tax Lot 8600; Lots 1, 2, 3, Block 17, Shively; in the City of Astoria, County of Clatsop, Oregon) has been maintained contrary to the provisions of the Property Maintenance, Vacant Building, and Derelict Building Ordinance (Astoria Code §§5.670-5.728) and notice of Nuisance and Chronic Nuisance pursuant to 5.702 and 5.682.D has been provided to the owner and person in charge of the property, Mary Louise Flavel; and

WHEREAS, repeated written notices, warnings, and official declarations, were sent by both certified and regular US mail, concerning the long-term vacant building situation, nuisance violations, and fees incurred. These notices were sent to Mary Louise Flavel, the person in charge of the property, to her last known address and to the address of record with the Clatsop County Assessor's Office as required by City Code; and

WHEREAS, Mary Louise Flavel has neglected or refused to correct the many violations existing on the property at 627 15th Street and the property is a continued source of blight in this residential neighborhood; and

WHEREAS, as a result of this failure to correct existing violations, the Astoria City Council authorized the City to obtain a warrant from the Astoria Municipal Court to inspect and partially abate these violations; and

WHEREAS, the City has incurred \$10,495.95 in abatement costs, vacant building fees, chronic nuisance fees, penalties, and administrative fees; and

WHEREAS, on July 19, 2012, notice of these fees, costs and penalties was provided to Mary Louise Flavel which she failed to pay within 30 days of the date of the notice; and

WHEREAS, pursuant to Astoria Code §5.726, fees, fines, and costs associated and imposed as a result of these violations shall, by resolution of the City Council, become a lien on the property and entered in the electronic lien docket of the City.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ASTORIA:

Section 1. Authorization. The sum of \$10,495.95 are fees, fines, and costs associated with and imposed in accordance with the abatement of a public nuisance at 627 15th Street and in accordance with City Code Section 5.726, this sum is assessed as a lien on that property.

Section 2. Lien Amount. A lien in the amount of \$10,495.95 shall be recorded in the electronic lien docket of the City on the property located at 627 15th Street; Map T8N-R9W Section 8CD, Tax Lot 8600; Lots 1, 2, 3, Block 17, Shively; in the City of Astoria, County of

Clatsop, Oregon, annual interest of 7% shall accrue on this lien from the date of entry in the lien docket.

Section 3. Effective Date. This Resolution is effective as of January 1, 2013.

ADOPTED BY THE COMMON COUNCIL THIS ____ DAY OF _____, 2013.

APPROVED BY THE MAYOR THIS ____ DAY OF _____, 2013.

Mayor

ATTEST:

Paul Benoit, City Manager

ROLL CALL ON ADOPTION: YEA NAY ABSENT

Commissioner LaMear
 Herzig
 Mellin
 Warr

Mayor Van Dusen

APPROVED AS TO FORM:



Blair Henningsgaard, City Attorney

RESOLUTION 13-_____

A RESOLUTION OF THE CITY OF ASTORIA RELATING TO AUTHORIZATION TO RECORD A LIEN ON 904 TO 936 COMMERCIAL STREET FOR CITY CODE VIOLATIONS

WHEREAS, the property located at 904 to 936 Commercial Street has been declared a chronic nuisance and long term vacant building. The property is a continued cause and source of blight in this non-residential neighborhood and the owner continues to fail to actively maintain and manage the building. Vacant buildings like this discourage economic development and retard appreciation of property values. It is the responsibility of property ownership to prevent owned property from becoming a burden to the neighborhood and community and a threat to the public health, safety, or welfare. This vacant building which is not actively and well maintained and managed is the core and cause of repeated complaints from the community and adjoining businesses; and

WHEREAS, the City has sent repeated written notices, warnings, and official declarations, by both certified and regular US mail, concerning the long-term vacant building situation, nuisance violations, and fees incurred. Notices were sent to the last known address and to the address of record with the Clatsop County Assessor's Office as required by City Code; and

WHEREAS, the owner has failed in each case to respond, correct the violations, file any appeals to the written notices, and to pay the amount due to the City; and

WHEREAS, the City has taken all available steps to have the property owner voluntarily abate the nuisance violations and correct the long term vacant building violations; and

WHEREAS, from October 2011 through December 31, 2012 the property owner owed \$6,600.00 in vacant building fees and administrative fees. The owner has failed to pay the amount due as required by the end of the year in which it is due.

WHEREAS, on July 19, 2012, notice of these fees, costs, and penalties was provided to the owner and person in charge of the property, Mary Louise Flavel, which she failed to pay within 30 days of the date of the notice; and

WHEREAS, pursuant to City Code Section 5.680.D.2 a person in charge is liable for payment of vacant building fees; and

WHEREAS, pursuant to City Code Section 5.726, fees, fines, and costs associated and imposed as a result of these violations shall, by resolution of the City Council, become a lien on the property and entered in the electronic lien docket of the City.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ASTORIA:

Section 1. Authorization. The sum of \$6,600.00 are vacant building fees imposed upon property at 904 to 936 Commercial Street and in accordance with City Code Section 5.726,

this sum is assessed as a lien on that property. In accordance with City Code Section 5.680.D.2, this sum is assessed as the personal liability of Mary Louise Flavel.

Section 2. Lien Amount. A lien in the amount of \$6,600.00 shall be recorded in the electronic lien docket of the City on the property located at 904 to 936 Commercial Street; Map T8N-R9W Section 8CB, Tax Lot 5900; Lots 7 & 8, Block 25, McClure; in the City of Astoria, County of Clatsop, Oregon, annual interest of 7% shall accrue on this lien from the date of entry in the lien docket.

Section 3. Effective Date. This Resolution is effective as of January 1, 2013.

ADOPTED BY THE COMMON COUNCIL THIS ____ DAY OF _____, 2013.

APPROVED BY THE MAYOR THIS ____ DAY OF _____, 2013.

Mayor

ATTEST:

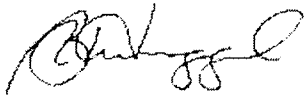
Paul Benoit, City Manager

ROLL CALL ON ADOPTION: YEA NAY ABSENT

Commissioner LaMear
 Herzig
 Mellin
 Warr

Mayor Van Dusen

APPROVED AS TO FORM:



Blair Henningsgaard, City Attorney

RESOLUTION 13-_____

A RESOLUTION OF THE CITY OF ASTORIA RELATING TO AUTHORIZATION TO RECORD A LIEN ON 905 TO 943 COMMERCIAL STREET FOR CITY CODE VIOLATIONS

WHEREAS, the property located at 905 to 943 Commercial Street has been declared a chronic nuisance and long term vacant building. The property is a continued cause and source of blight in this non-residential neighborhood and the owner continues to fail to actively maintain and manage the building. Vacant buildings like this discourage economic development and retard appreciation of property values. It is the responsibility of property ownership to prevent owned property from becoming a burden to the neighborhood and community and a threat to the public health, safety, or welfare. This vacant building which is not actively and well maintained and managed is the core and cause of repeated complaints from the community and adjoining businesses; and

WHEREAS, the City has sent repeated written notices, warnings, and official declarations, by both certified and regular US mail, concerning the long-term vacant building situation, nuisance violations, and fees incurred. Notices were sent to the last known address and to the address of record with the Clatsop County Assessor's Office as required by City Code; and

WHEREAS, the owner has failed in each case to respond, correct the violations, file any appeals to the written notices, and to pay the amount due to the City; and

WHEREAS, the City has taken all available steps to have the property owner voluntarily abate the nuisance violations and correct the long term vacant building violations; and

WHEREAS, from October 2011 through December 31, 2012 the property owner owed \$6,600.00 in vacant building fees and administrative fees. The owner has failed to pay the amount due as required by the end of the year in which it is due; and

WHEREAS, on July 19, 2012, notice of these fees, costs, and penalties was provided to the owner and person in charge of the property, Mary Louise Flavel, which she failed to pay within 30 days of the date of the notice; and

WHEREAS, pursuant to City Code Section 5.680.D.2 a person in charge is liable for payment of vacant building fees; and

WHEREAS, pursuant to City Code Section 5.726, fees, fines, and costs associated and imposed as a result of these violations shall, by resolution of the City Council, become a lien on the property and entered in the electronic lien docket of the City.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ASTORIA:

Section 1. Authorization. The sum of \$6,600.00 are vacant building fees imposed upon property at 905 to 943 Commercial Street and in accordance with City Code Section 5.726,

this sum is assessed as a lien on that property. In accordance with City Code Section 5.680.D.2, this sum is assessed as the personal liability of Mary Louise Flavel.

Section 2. Lien Amount. A lien in the amount of \$6,600.00 shall be recorded in the electronic lien docket of the City on the property located at 905 to 943 Commercial Street; Map T8N-R9W Section 8CB, Tax Lot 6000; north 40' Lot 1, Lot 2 excluding the south 50' of the west 14', Block 26, McClure; in the City of Astoria, County of Clatsop, Oregon, annual interest of 7% shall accrue on this lien from the date of entry in the lien docket.

Section 3. Effective Date. This Resolution is effective as of January 1, 2013.

ADOPTED BY THE COMMON COUNCIL THIS ____ DAY OF _____, 2013.

APPROVED BY THE MAYOR THIS ____ DAY OF _____, 2013.

Mayor

ATTEST:

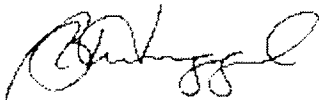
Paul Benoit, City Manager

ROLL CALL ON ADOPTION: YEA NAY ABSENT

Commissioner LaMear
 Herzig
 Mellin
 Warr

Mayor Van Dusen

APPROVED AS TO FORM:



Blair Henningsgaard, City Attorney