



CITY OF ASTORIA

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January 16, 2013

MEMORANDUM

TO: ASTORIA DEVELOPMENT COMMISSION

FROM:  PAUL BENOIT, CITY MANAGER

SUBJECT: ASTORIA CITY COUNCIL/PLANNING COMMISSION JOINT WORK
SESSION OF JANUARY 22, 2013

REGULAR AGENDA ITEMS

Item 3(a): Pedestrian Safety Discussion

Over the past few months, the Traffic Safety Committee (TSC) has been discussing the issue of pedestrian safety. Representatives from the Public Works, Police, and Community Development Departments have been addressing questions and issues raised by the TSC. At the work session, Chris Maciejewski from DKS Associates (project manager for the Astoria Transportation System Plan Update), will discuss issues and present information on pedestrian safety within the City of Astoria. In addition to City staff, representatives from the Oregon Department of Transportation will be present to answer questions.

Item 3(b): Solar Power Presentation

The City of Astoria received a grant from the Oregon Department of Land Conservation and Development to draft code language associated with solar and wind energy facilities. Over time, staff had been receiving quite a bit of interest from groups wanting to develop these facilities and there was no language included in the Development Code to address their construction. The grant funded development of an Oregon Coast focused model code and that grant has been closed.

In recent months the Planning Commission has been working to finalize draft Development Code language on solar energy facilities (in order to simplify the discussion, the Commission determined wind turbine facility code language will be developed subsequent to development of solar code language). At the last Planning Commission work session on this matter, Commissioners requested more information on the future of solar technology. They felt this would aid in development of the Code. Staff proposed that an expert in this field be asked to speak. Later, interest from the City Council was expressed to hear the presentation. Kacia Brockman, Senior Solar Program Manager, from Energy Trust of Oregon will make a presentation on the future of solar energy technology.

AGENDA

ASTORIA CITY COUNCIL MEETING

Tuesday, January 22, 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. 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 12/17/12

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

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

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

6. REGULAR AGENDA ITEMS

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

(b) Ordinance Establishing a Criminal History Records Check Policy (1st reading) (Police)

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

(d) Resolution Establishing Public Works Capital Reserve Fund (Finance)

(e) Authorization to Bid – Spur 12 and Cedar Creek, Watershed Forest Thinning and Road Improvements (Public Works)

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

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

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

(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)

(j) Transient Room Tax Payments (Finance)

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

<p>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.</p>



January 16, 2013

MEMORANDUM

TO: ASTORIA CITY COUNCIL

FROM: *PB* PAUL BENOIT, CITY MANAGER

SUBJECT: ASTORIA CITY COUNCIL MEETING OF JANUARY 22, 2013

CONSENT CALENDAR

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

The minutes of the City Council meeting of December 17, 2012 are enclosed for review. Unless there are any corrections, it is recommended that Council approve these minutes.

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

The minutes of the City Council special meeting of December 27, 2012 are enclosed for review. Unless there are any corrections, it is recommended that Council approve these minutes.

Item 5(a): City Council Minutes of 1/7/13

The minutes of the City Council meeting of January 7, 2013 are enclosed for review. Unless there are any corrections, it is recommended that Council approve these minutes.

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

The City has received a request from Olynxa Levy for a License to Occupy a 10 foot by 70 foot portion of the unimproved 5th Street right-of-way. Ms. Levy would like to construct a 5 foot high wooden picket fence around the perimeter of her property. The Community Development and Public Works Departments have reviewed Ms. Levy's request and believe a License to Occupy would be appropriate. City Attorney, Blair Henningsgaard has approved as to form the attached License Agreement. It is recommended that the Astoria City Council approve a License to Occupy a portion of the 5th Street right-of-way for construction of a fence.

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 I recommend that Council conduct the first reading of this proposed 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 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 first reading of the proposed 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" readoption of various Oregon Revised Statutes that appear throughout the Astoria City Code. It is recommended that Council conduct the first reading of this 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.

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.

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.

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 stormwater 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; 12th 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.

Item 6(h): Liquor License Application – Christopher Holen, dba Baked Alaska LLC, 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 12th 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.

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.

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 Council Chambers

December 17, 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, Roscoe, Warr, Mellin, Mayor Van Dusen

Staff Present: City Manager Benoit, Library Director Tucker, Interim Parks Director Moss, Public Works Director Cook, Police Chief Curzon, City Attorney Henningsgaard, Planner Rosemary Johnson, Support Engineer Cindy Moore and Finance Director Carlson. The meeting is recorded and will be transcribed by ABC Transcription Services, Inc.

Mayor Van Dusen announced that Drew Herzig has been elected to represent Ward 2 on the City Council and his term will begin at the first meeting in January 2013.

REPORTS OF COUNCILORS

Item 3(a): Councilor Warr – Councilor Warr reported that he attended an informative meeting concerning the highway issues at Tongue Point. The issues will take a while to be resolved, but a positive outcome will result.

Item 3(b): Councilor Mellin – Councilor Mellin attended the Tobacco Free Coalition meeting. The coalition is currently encouraging people to refrain from dropping cigarette butts in the parks. The County has an ordinance that prohibits tobacco use in county buildings. The coalition continues to push for more tobacco free public spaces. She also attended Christmas Carols at the PAC, which was a wonderful experience.

Item 3(c): Councilor LaMear – Councilor LaMear attended an informative meeting last week regarding economic development in the county. Representatives from several different groups gave a lot of good input about how to develop new economic engines in the county, which was very valuable.

Item 3(d): Councilor Roscoe – Councilor Roscoe reported he missed the last City Council meeting as he was attending the annual Oregon Leader's Summit. Rudy Crews, Education Director for the State of Oregon, was the keynote speaker. Councilor Roscoe gave a brief background on Mr. Crews' experience and credentials. Mr. Crews' speech explained that science, technology, engineering, and math (STEM) should be the teaching focus because current high school graduates are not able to meet the demands of employers.

He explained that the high school is currently having issues with some disenfranchised students who gather off-campus near private residences and in Tapiola Park after school begins to make the statement that they do not belong. He and the intern from Downtown Association met with the high school and vice principals and talked about the problems that are occurring. Educators want to reach them, but graduates and dropouts congregate with the absentee students and encourage this type of lifestyle, which has a negative impact.

Councilor Roscoe suggested that City Council help the school by granting an easement into Tapiola Park, so the park becomes school property in a sense and gives the school district a better position to manage the situation better. Astoria used to have an ordinance prohibiting students from being in a park during school hours. It was important to give these students a chance for education, but he does not know how to make them feel included. He suggested possibly having a flash mob in the park conducted by the other students.

Councilor Roscoe stated he has enjoyed serving on the City Council for the last eight years. He would continue helping with the Regatta, and described some of the anticipated events.

Item 3(e): Mayor Van Dusen – Mayor Van Dusen reported that the Collins Foundation has granted \$25,000 to the City of Astoria to help complete the Garden of Surging Waves. He stated he received several calls over the weekend about the wear and tear to the Riverfront during the storm. He contacted City Staff who prepared a presentation about their findings.

Riverwalk Update Presentation

City Manager Benoit explained that high winds combined with very high tides damaged the Riverwalk. Public Works Director Cook and engineering staff visited the Riverwalk to assess the damage.

Director Cook presented several pictures showing the damage and debris from the storm, noting that severe weather had also eroded some of the shoreline. He explained how the westerly winds and high tide threw debris onto the river trail at the Maritime Memorial. Staff will be working to restore and protect the shoreline over the next few weeks. He reported that wind gusts achieved 65 mph.

Councilors and Director Cook briefly discussed how weather patterns and wind directions in Astoria have affected the shoreline and how vegetation in the bay serves as a natural barrier. Public Works crews will haul rocks and large machinery will be hired to repair the trolley track area, which would be expensive. City Manager Benoit agreed to report back about the costs of the cleanup and repairs.

Mayor Van Dusen discussed Astoria's Sister City relationship with Waldorf, Germany, home of John Jacob Astor. The two cities have the longest Sister City relationship of any two WWII enemies. The relationship was established about 50 years ago when the Mayor of Astoria, Harry Steinbach, was Jewish. This was an historic event. Waldorf City Council attended Astoria's Bicentennial and now Waldorf has invited the City of Astoria to visit Waldorf to celebrate 50 years as sister cities on the 250th anniversary of the birth of John Jacob Astor. Waldorf's Bergermeister sent a post card, which Mayor Van Dusen read aloud.

Mayor Van Dusen thanked Councilor Roscoe for his service to Astoria and presented him with a City Plate.

Mayor Van Dusen proposed a moment of silence in memory of the victims of the shootings at Clackamas Town Center in Portland and Sandy Hook Elementary School in Newton, Connecticut.

CHANGES TO AGENDA

City Manager Benoit noted representatives from the Astoria Visual Arts Association were proposing to submit a National Endowment for the Arts Our Town Grant, which requires a letter of support and resolution. One requirement of the grant is that the City be listed as co-applicant. Council agreed to add this item to the Regular Agenda.

City Manager Benoit stated that Councilor Elect Drew Herzig has requested that Item 6(f) on the Consent Calendar be removed for further discussion. He suggested this also be added to the Regular Agenda, given the size of the audience.

Mayor Van Dusen announced that Item 6(f) of the Consent Calendar would be moved to Regular Agenda Item 7(f) and the National Endowment for the Arts Grant would be Regular Agenda Item 7(g) [addressed in opposite order].

PRESENTATIONS

Item 5(a): 11th Street Combined Sewer Overflow (CSO) Separation Project Update

Public Works Director Cook stated the magnitude of the project and geographic location of 8th and 11th Streets makes this project complex and very disruptive. Few north and south traffic routes exist in the central portion of Astoria, so the public is being asked to be patient as the project is underway. He introduced Carol Ruiz, Gibbs & Olson and City Support Engineer Cindy Moore, who reviewed the construction timeline, funding mechanisms, scope and scale of the project via PowerPoint, along with Public Works Director Cook. A dedicated public meeting is scheduled for January 15, 2013 from 5:30 p.m. to 7:30 p.m. The location is still to be determined and will be announced. The contractors will not be present, so only general answers would be given to questions about local access. Updated project information will be posted on the city website and people could sign up to receive periodic emails updates on the project. Tonight's presentation is being recorded and will also be available on the city website.

The design team responded to clarifying questions from Council. Key responses were as follows:

- Not all of the CSO projects are required to install new pipeline. Some of the projects are separations; some are a combination of separation and storage. The installation of new pipelines depends on several factors. The City does not have any funding mechanism to cover the expense of renewing lateral lines on private property. Where there is a lot of ground water leakage, the storage projects are implemented. The 11th Street project is only separation, with only one added pipe to carry runoff from the streets.
- Nearby businesses would be negatively impacted by this project. Detour routes involving the intersection were described using a picture of the intersection. Alternative parking locations have not been established, but possible solutions are being considered.
- Existing facilities restrict the amount of grading work that can be done to the hill at 8th and Franklin Streets. Reducing the grade would require significantly cutting into the surface, which would result in tall retaining walls on either side of the road. A little bit of the surface will be cut off to smooth out the grade so that changes in the grade are not so abrupt. The sidewalk will be replaced as well.
- Catch basins currently feed into the sanitary sewer which goes to the treatment plant overflows. New and existing catch basins will have a dedicated line to take storm water runoff to the river; it will no longer come in with sanitary sewer. No detention facility is needed because only storm water will be sent to the river. Other types of treatment have been discussed, but at this time, the focus is to take the storm water out of the sanitary sewer and sending it to the river.
- Trenching is limited to between 8th and 12th Streets and the detour routes are on 14th and 16th Streets. One open lane of traffic is required on the side street work at all times. Access to driveways and residential properties will be temporarily disrupted during construction, but will be restored after the trenching is complete. The contractor will handle these issues on a case-by-case basis during construction.
- Signage and traffic patterns related to traffic flow on 11th Street were discussed. From 8th Street at Irving coming down to 11th Street will still be a viable route. As construction begins impacting the Irving area, this will need to be instituted with signage posted accordingly. When 8th Street and Irving to Niagara Woods is dug up, signage at 11th Street and Irving will likely indicate, "Local traffic only; not a through street."
 - To discourage traffic from going up 11th Street, signage will indicate the main detour route to get over that hill as Exchange Street to 14th Street. Exchange Street is the preferred route because it is wide, and Irving Street at 13th Street has a tight S curve.
- Although both 16th Street and 14th Street will receive higher volumes of traffic during construction both streets have new pavement, so there should be no degradation because of the higher traffic volumes. Repairs will be completed if necessary once the project is done.

Mayor Van Dusen called for questions from the public.

Tom Schmidt, a business owner at 9th Street and Marine Drive, asked when construction would begin on 9th Street and how the work would affect parking on 9th Street. Engineer Moore clarified that work will be on 8th and Commercial Streets. The work the map indicated on 9th Street for the outfall replacement involves pipe bursting and slip lining, which will only require minimal trenching at the entry and exit points of the pipe. She was not sure what parking might be removed, but the City is trying to minimize the impact on the area, especially given the transit center's location.

- He explained that during the last heavy rain, the area was overwhelmed with storm water and asked if this project will improve this problem. Ms. Ruiz said the 9th Street outfall is being replaced because it is damaged, so if storm water is discharged into the 9th Street outfall, the situation will improve.
- Public Works Director Cook explained it was highly likely that the 6-inch running down 9th Street will be put into the new line so Mr. Schmidt would not experience same problems.

Charles May asked how the construction coming up the hill will affect residents during road closures expected to take three weeks per block. Engineer Moore replied residents will still be able to get in and out of their houses; however driveways on 8th Street will not be accessible while work is being done right in front of the house. This will take approximately three weeks for each block. Work along 9th Street through 12th Street will allow for more flexibility because these streets only require trench work. One lane of traffic will remain open and driveways will likely be maintained along these streets during construction. The work along these streets will not take three weeks to complete and adjacent streets will not be under construction simultaneously.

Frank Lloyd, 1140 Harrison, explained his house sits between 11th and 12th Streets. He is the pastor of the Christian Church at 1151 Harrison, which is across the street from his house. The church does not have off street parking and parishioners typically park along 12th Street and Harrison Street, where parishioners at the Presbyterian Church also park. He is concerned that simultaneous construction along both streets will negatively

impact parking. He wanted to know how to deal with the issue. Engineer Moore stated it is unlikely that both streets will be under construction at the same time. Trench work will be completed one street at a time. Director Cook emphasized that once a contractor is selected, phases of the work will be a primary topic of the pre-construction meeting to ensure everyone has an alternative route. As part of the work scope, the City will emphasize to the contractor not to open too much at once so people are not cut off.

Councilor Roscoe asked for clarification regarding a slide in the presentation showing the yellow lines representing new pipes going in that seemed to disappear. Engineer Moore explained the new storm water pipe being installed seems to end because it will connect with the existing storm water system in the downtown Astoria corridor. The existing system discharges through outfalls located at the foot of each street into the Columbia River.

Mayor Van Dusen called for a recess at 8:10 p.m. The meeting resumed at 8:15 p.m.

CONSENT CALENDAR

The following items were presented on the Consent Calendar:

- 6(a) City Council Minutes 12/3/12
- 6(b) Boards and Commission Minutes
(1) Park Board Meeting of 11/26/12
- 6(c) Intergovernmental Agreement with Oregon Building Codes Division for E-Permitting (Community Development)
- 6(d) Department of Land Conservation and Development (DLCD) Grant Amendment for Geographic Information System (Community Development)
- 6(e) Department of State Lands Easement- Overflow Sewer and Storm Outfalls (Public Works)
- 6(f) **Jeff Ellis & Associates Annual Contract (Parks)**

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

Consent Calendar Item 6(f) was removed during Changes to the Agenda from the Consent Calendar to Regular Agenda Item 7(f) for further discussion.

REGULAR AGENDA ITEMS

Item 7(a): Ordinance Regulating Facilities in City Rights-of-Way (2nd reading & adoption) (City Attorney)

This proposed ordinance received its first reading at the December 3, 2012 Council meeting. This ordinance regulates work conducted in City rights-of-way as follows:

- 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.

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. It is recommended that Council conduct the second reading and adopt the ordinance regulating facilities in City rights-of-way.

Public Works Director Cook conducted the second reading of the ordinance.

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

Item 7(b): Ordinance Granting a Nonexclusive Right and Franchise to Pacific Power and Light (2nd reading & adoption) (City Attorney)

This proposed ordinance received its first reading at the December 3, 2012 Council meeting. This ordinance grants a franchise to PacifiCorp, doing business as Pacific Power and Light (PP&L), to operate electrical facilities within City rights-of-way as follows:

- 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. It is recommended that Council conduct the second reading and adopt the ordinance granting a franchise to PacifiCorp, doing business as Pacific Power and Light.

Public Works Director Cook conducted the second reading of the ordinance.

City Council Action: Motion made by Councilor Roscoe, seconded by Councilor Mellin to adopt the ordinance granting a nonexclusive right and franchise to PP&L. Motion carried unanimously. Ayes: Councilors LaMear, Warr, Mellin, Roscoe and Mayor Van Dusen; Nays: None.

Item 7(c): Ordinance regarding Amendment A 12-03 by Mark Cary to Rezone Property Adjacent to 620 Olney from R-2 to C-3 (2nd reading & adoption) (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. A public hearing on the Amendment was held by the City Council at their meeting on December 3, 2012. At that meeting, the City Council considered public testimony including additional conditions of approval offered by the applicant. The City Council voted to approve the request and conducted a first reading of the proposed ordinance. It would be in order for Council to adopt the attached Findings of Fact for approval of the request and conduct a second reading and adoption of the ordinance.

City Council Action: Motion made by Councilor Roscoe, seconded by Councilor Mellin to adopt the Findings of Fact presented in the Staff report. Motion carried unanimously. Ayes: Councilors LaMear, Warr, Mellin, Roscoe and Mayor Van Dusen; Nays: None.

Planner Johnson conducted the second reading of the ordinance.

City Council Action: Motion made by Councilor Warr, seconded by Councilor Roscoe to adopt the ordinance to rezone 620 Olney Avenue from R-2 to C-3. Motion carried unanimously. Ayes: Councilors LaMear, Warr, Mellin, Roscoe and Mayor Van Dusen; Nays: None.

Item 7(d): Heritage Square EPA Brownfield Grant- Request for Authorization to Solicit Environmental Consultants (Public Works)

In late 2011/early 2012, the Oregon Department of Environmental Quality (DEQ) offered, and the City accepted, a grant in the amount of \$50,000 to further analyze the presence of any contaminants at the Heritage Square site. In early 2012, the City was offered an opportunity to apply for an Environmental Protection Agency's (EPA) Brownfield Multi-Purpose Pilot Grant to provide additional funds for site assessment and remediation, if required. In February 2012, the City Council held a public hearing on submittal of the grant and subsequently authorized the application in the amount of \$400,000 (\$200,000 for assessment and \$200,000 for remediation). The grant was awarded and accepted by Council on September 17, 2012. A 20% cash match is required for remediation work and no match is required for assessment work; therefore, the maximum amount of match would be

\$40,000. The match is proposed to come from the Astor-East Urban Renewal fund and/or the Capital Improvement Fund.

Staff is currently preparing a Request for Qualifications (RFQ) for an Environmental Consultant to perform the work. When a consultant is selected, a contract will be brought to Council for authorization to award. It is anticipated that the project will take one to three years to complete. It is recommended that the Astoria City Council authorize staff to solicit requests for qualifications for environmental consultant services for the Heritage Square EPA Brownfield Grant Project.

Councilor LaMear asked if the entire Heritage Square area was contaminated. City Manager Benoit answered yes; based on earlier investigations, the contamination is primarily along the southern property line of the block. The 150 years of commercial use on the block has included service stations, auto repair facilities, and dry cleaners, resulting in the contamination, which is now being addressed with the grant fund. This work will not delay the start of construction on the Garden of Surging Waves. Any soil excavated from the site will remain on site so it can be tested. If the soil tests clean, it can remain on the site.

City Council Action: Motion made by Councilor LaMear, seconded by Councilor Warr to authorize Staff to solicit requests for qualifications for environmental consultant services for the Heritage Square EPA Brownfield Grant Project. Motion carried unanimously. Ayes: Councilors LaMear, Warr, Mellin, Roscoe and Mayor Van Dusen; Nays: None.

Item 7(e): Wastewater Treatment Plant – Effluent Treatment Upgrades – IFA Funding Contract Amendment (Public Works)

In June 2012, Council authorized bid advertisement of the Wastewater Treatment Plant (WWTP) Effluent Treatment Upgrades project. In November 2012, Council authorized award of the construction contract to R&G Excavating for \$1,049,000. Due to the nature of the improvements, construction needs to occur during the drier summer months when flows to the treatment plant are at their lowest point; therefore, the contractor will begin construction in June 2013.

Current total funding available for this project is \$1,145,000. In November 2011, Council authorized a DEQ planning loan for preliminary design efforts in the amount of \$90,000. In May 2012, Council authorized an IFA Financing Contract in the amount of \$1,055,000, which is comprised of a \$500,000 grant and \$555,000 loan, at a subsidized interest rate of 1.94% for final design and construction of this project. The current project budget is as follows:

Permits, fees, misc.	\$ 18,000
Design, bidding and construction	\$ 126,000
Construction bid	\$ 1,049,000
Construction contingency (10%)	\$ 105,000
Construction management/specialty testing & inspection	\$ 58,000
TOTAL	<u>\$ 1,356,000</u>

The updated budget estimate exceeds project funding by \$211,000. The IFA Financing Contract Amendment is for \$100,000, which is less than the estimated budget due to the structure of the grant program. A condition of IFA funding stipulates that the grant funds cannot be used until the full amount of the loan is expended; therefore, it would be in the City's best interest to request funds as needed in order to avoid requesting too much contingency and not receiving the full benefit of the \$500,000 grant. Several funding contract amendments may potentially be necessary as part of this strategy. The Amendment documents have been reviewed and approved as to form by the City Attorney. It is recommended that the City Council adopt the resolution that authorizes IFA Financing Contract Amendment in the amount of \$100,000 for the construction of the WWTP Effluent Treatment Upgrades project.

Councilor Roscoe asked what cost was added in the budget. The contract was initially one amount, but then the budget exceeded the amount borrowed, so what was the nature of the overrun?

Engineer Moore explained there was no change to the project; the amendment regarded the change in preliminary numbers and the final bid. City Manager Benoit added that the City is required to have a budgeted

amount to support construction prior to obtaining bids. Based on the engineer's estimates, the City secured a grant and loan from the State. Once the project was bid, the City had definite amounts to work with. If the entire contingency is expended, the City would be about \$200,000 short; however, expending the entire contingency fund is unlikely. Staff is asking Council to add \$100,000 to the contingency fund. If the money is not used, it would be returned to the State. One challenge is the State program requires that the entire loan funds be spent before grant funds can be used. If the City takes out a loan that is too large, grant funds will have to be returned. Staff is recommending the City be conservative with the loan so that grant funds do not need to be returned.

City Council Action: Motion made by Councilor Roscoe, seconded by Councilor Mellin to adopt the resolution that authorizes IFA Financing Contract Amendment in the amount of \$100,000 for the construction of the WWTP Effluent Treatment Upgrades project. Ayes: Councilors LaMear, Warr, Mellin, Roscoe and Mayor Van Dusen; Nays: None.

City Council continued to Item 7(g) National Endowment for the Arts Our Town grant.

Item 7(f): Jeff Ellis & Associates Annual Contract (Parks)

This item was addressed following Item 7(g).

The Astoria Aquatic Center utilizes the services of Jeff Ellis & Associates which provides safety recommendations, auditing, and current up-to-date lifeguarding techniques. The Astoria Aquatic Center has used Jeff Ellis & Associates' services for the past two years. This contract is a renewal of their services for the calendar year 2013 and 2014. The cost of the services is approximately \$7,700 per year which includes lifeguard licenses, audits and a retainer for their services. Textbooks, safety equipment and safety supplies are not included in this agreement. Based on the services provided by Jeff Ellis & Associates, it is recommended that Council renew this contract so that the Astoria Aquatic Center may continue to provide a high level of safety at the Aquatic Center for the community.

Drew Herzig, 628 Klaskanine Avenue, Astoria, noted this two-year contract is with a firm based in Texas to provide lifeguard training, certification and other services to the Aquatic Center. There may be more financially reasonable ways of obtaining these services. The American Red Cross (ARC) provides lifeguard training and certifications that last for three years. Certifications obtained through Ellis & Associates (E & A) only last for one year. He encouraged City Council to examine some parts of the contract in an effort to save money. Additionally, he believes these decisions should be made by the incoming Parks Director as this two-year contract will cost more than \$15,000. It would not be fair to lock the new Parks Director into a two-year contract.

City Manager Benoit explained that after a tragic drowning at the Aquatic Center several years ago, a citizen committee was tasked to concentrate on safety as well as financial viability, with safety being the priority. No short cuts were to be taken to save money that would in any way compromise safety. The decision to hire Ellis & Associates was based on safety.

Interim Parks Director Moss explained that the State of Oregon allows four life guard certifications: the ARC, Ellis & Associates, Star Guard and the YMCA. Ellis & Associates is a one-year certification. The life guarding industry is changing so rapidly that the three-year certification through the ARC does not allow a lifeguard to stay current with these changes. He noted that in the past he has been involved in both organizations, as an ARC lifeguard instructor and on the ARC Oregon Trail Chapter Board of Directors, and as an auditor with Ellis & Associates.

- Safety at the Aquatic Center has vastly improved from the past. For example, Ellis & Associates requires that every lifeguard have four in-service training hours each month. ARC has no such requirement. Ellis & Associates conducts audits four times a year, which results in an improved training program. The ARC has a similar program; however the Oregon Trail Chapter does not provide that auditing program.
- Lifeguard classes through the ARC cost about \$200. The Astoria Parks Department also charges \$200 and Sunset Empire and Seaside charges about \$175 for their lifeguard classes.
- Last year, the Aquatic Center had 28 trained and licensed lifeguards. Ellis & Associates can revoke a license if requirements are not met to maintain that license; for instance failing an audit, the inability to do CPR properly or perform skills proficiently. ARC uses a certification system as opposed to a license. The certifications are not contingent on meeting certain ongoing criteria.

- Last year, the four audits cost \$800 each. Other area entities that use Ellis & Associates include Portland Parks and Recreation, Evergreen Water Park, the City of Vancouver, and City of Vancouver School District, Great Wolf Lodge and Wild Waves in both Washington and Bend. Ellis & Associates is based out of Texas and has clients worldwide. Auditors typically come from outside the northwest area to prevent a conflict of interest. He personally believes Ellis & Associates provides a high level of safety to the people who use the Aquatic Center. The cost differential is not significant. Ellis & Associates requires an annual retainer of \$900 and the two-year contract saves money over a one-year contract.

City Manager Benoit stated he has been impressed with the audits that Ellis & Associates conduct four times each year. The audits are unannounced and staff is not aware when an audit will occur. Auditors observe and video tape for several hours as if they were a patron. The in-service training is rigorous. Ellis & Associates has made the facility a safer place. Any time a significant incident occurs, Ellis & Associates is on site within 24 hours to analyze the incident and support the City through any potential legal process. When the last drowning occurred, the ARC required a separate contract and flew someone in from Texas. Ellis & Associates provides such services immediately. He believed the firm provided a good value and excellent safety for the Aquatic Center.

Director Moss believed absolutely that Astoria was safer since using Ellis & Associates than it had been with ARC, which was providing lifeguard services when he first began working for the City. He would challenge any outsider to observe otherwise. He also challenged anyone to compare an ARC facility to an Ellis & Associates facility because typically, the different level of safety is visually noticeable.

City Council Action: Motion made by Councilor Roscoe, seconded by Councilor Mellin to renew the annual contract with Jeff Ellis & Associates. Ayes: Councilors LaMear, Warr, Mellin, Roscoe and Mayor Van Dusen; Nays: None.

Mayor Van Dusen continued to New Business and Public Comments at this time.

Item 7(g): National Endowment for the Arts Our Town grant by the Astoria Visual Arts Association

City Manager Benoit distributed a letter of support and resolution to the Councilors at the dais. The Astoria Visual Arts Association (AVA) is proposing to submit a grant application for \$200,000 to the National Endowment for the Arts for the Our Town grant. The grant program requires that a non-profit organization and government entity apply as co-applicants. AVA would bear the full responsibility of managing the finances for performance under the grant award. The City, as co-applicant, would be obligated to conduct staff work that the Community Development Department can easily support, such as helping with survey work, identifying downtown buildings, etc.

Mayor Van Dusen confirmed there were no questions from Council and called for public testimony.

Darren Orange, 922 Denver Place, distributed a handout explaining the Creative Astoria Project (CAP) for which the funds will be used. He noted that Astoria is extremely supportive of artists, as he has made a living as a professional artist for 12 years and now wants to give back by securing funding to help others. One goal of CAP is to create affordable working spaces and live/work spaces for artists in the community. The National Endowment for the Arts (NEA) funding will help keep studio space rental below market value for artists and will help create an Artist in Residence Program for national artists coming to Astoria. Cannon Beach offers \$3,000 per year for honored members in the arts community to come to Cannon Beach.

Councilor LaMear concerned about the City's obligations as co-applicant. She noted Page 3 states the City's "...provision of space, staff time and services is considered cash based." While the City would try to be generous, it could not be held to incurring required costs or providing space.

City Manager Benoit explained the work scope associated with City Staff involves tasks that Community Development Director Estes is confident the City can support. Work would include assisting the AVA with conducting surveys in the downtown area and identifying building code or zoning issues or constraints associated with proposals to use buildings for artist or studio space. The work cannot expand beyond what has already proposed.

Councilor LaMear noted the community has several arts groups which have competed over the years. She did not want to inadvertently impact one group negatively while supporting another group. Mr. Orange believes this grant will benefit the entire Astoria community considering the large consortium involved. Language has been articulated in the budget for funding for the Performing Arts Center (PAC). The AVA is working to reach out to a bigger community of Astoria and discuss community development in a creative way.

Councilor Roscoe asked how long the \$200,000 would last or would be used. Mr. Orange clarified the goal is to create seed money that will become a sustainable, non-grant driven enterprise. Other funding options are available and being considered. The grant is a two-year grant and AVA can reapply for the grant one or two years later.

Rebecca Reubens, CAP Member, 87509 Lewis and Clark Road, added that the \$200,000 grant requires a \$200,000 community match and the NEA may not grant the entire \$200,000. The NEA will designate a certain amount of money that AVA would have to match. The AVA has already raised \$35,000 in the last month towards the community match with the total of \$62,000 expected by next week. CAP also continues to apply for other grants.

Councilor Mellin explained her hesitation involved the timing of this application, which was only presented to the AVA Board last week and the Board had been newly elected. While that presentation was concise, a lot of information was provided and she was still unclear of the impacts of this grant and had several questions about available options. There has been discussion about being given a building and she had questions about landlords who offer space for artists to rent. Ms. Reubens interjected that some of those questions would be answered during the granting process. Once the grant is received, the feasibility studies will be more complete. The AVA is still working to build the coalition to share information about the grant and what the grant entails. She noted AVA is available to provide a more concise overview of the grant's details with Council members. Because the grant has not yet been submitted, it is still being reworded, some of the budget has changed due to increasing in-kind contributions and so forth, which will be in flux until the grant is submitted on January 7, 2013. January 14, 2013 is the hard deadline date, but AVA would like to submit the application early in case the application requires any further information.

Councilor Mellin explained that City Council still has a lot of work to do to achieve its goals before the year ends. She is concerned that AVA's fundraising will conflict with other fundraising currently going on for other city projects like the Garden of Surging Waves and Heritage Square. Discussion has also begun about the need for a new library at some point. Ms. Reubens understood several organizations were competing for funds. She believed the Garden of Surging Waves was more of a humanities funded project rather than strictly an arts project. She felt strongly that with NEA providing funding to Astoria would serve as a channel to help increase future arts funding. It is important that the local arts community begins to work together to request arts funding as one group. One goal is to use part of the grant to hire an independent consultant to coordinate and survey all of the arts organizations and their needs, and help coordinate them to present as a coalition rather than as individual arts groups. The grant involved two phases; the first phase includes identification, feasibility and planning, and the second phase will start getting artists into spaces, identifying an underutilized building in a core area and start to rehabilitate that particular buildings.

Councilor Mellin noted the concern expressed about the Downtown Association not being consulted. Ms. Reubens replied the Downtown Association was recently contacted and sent electronic information about the grant yesterday, so they have not had time to respond. She hopes to hear back from the Downtown Association before the grant application is submitted. She noted AVA has received letters of support from the county commission, Clatsop Community Action, Friends of the Performing Arts Center, Heritage Museum, Chadbourne & Doss Architects, Alderbrook Association, Preservation Society, Artist Guild, Craft3, HIPFISHmonthly, Telecom Foundation, Jack Harris and Fort George, Michael Foster, and the Community Store, which is a fairly large coalition to start with.

Councilor Mellin asked if the grant would be available next year if the AVA were not awarded it this year. Ms. Reubens stated she did not know about the availability of the Our Town grant, which is related more to art and development. She noted there is not a large amount of money to be distributed throughout the United States.

Councilor Roscoe asked if the AVA would change locations with the grant money. Ms. Reubens explained the money would be used primarily for studio space, live/work space, an Artist in Residency Program, and possibly a resource room to enable artists access to DVDs, magazines, books and career development materials.

Mayor Van Dusen confirmed that Councilor Mellin and the City Council consent to delay tonight's decision and hold a special meeting since the Downtown Association was just notified of the grant today and the goal date for the application is January 7, 2013.

Councilor Mellin noted she does not doubt the abilities of the AVA, but does not want to be rushed into making a decision without having all of the information, especially with regard to the Downtown Association.

Mayor Van Dusen stated City Manager Benoit would set up a special meeting, because a City Council meeting is required to pass a City resolution.

Councilor LaMear agreed it is important to find out how the Downtown Association feels about the Our Town grant and include them in the discussion at the special meeting.

Councilor Roscoe noted the Downtown Association has received Main Street grants, which sound similar to the Our Town grant. Ms. Reubens emphasized that for the NEA, the partnership between the AVA, a non-profit arts organization, and the City is an important component for funding as is having an arts organization do the actual lead proposal. Councilor LaMear assured she was not arguing that point, she only wants to ensure that the Downtown Association is onboard.

City Council began discussion of Item 7(f) Jeff Ellis & Associates Annual Contract (Parks), which was moved from the Consent Calendar.

NEW BUSINESS & MISCELLANEOUS, PUBLIC COMMENTS

Ken Adee, 5276 Ash Street, encouraged City Council to provide comments to Federal Energy Regulatory Commission (FERC) scoping on the Warrenton Export Terminal and Williams Pipeline pre-filing of dockets, which are due on December 24, 2012. This is an opportunity for the City to voice concerns about safety, disaster readiness, and emergency plans that could impact Astoria. City Manager Benoit stated that he met two weeks ago with Cheryl Johnson on the subject and was provided a flash drive full of material. Lori Kaplan and Ms. Johnson will work with City Manager Benoit to draft a letter that addresses the facts in an unbiased manner to FERC for Council's consideration.

Mayor Van Dusen noted dates should be scheduled for a goal setting session as well as for City Manager, City Attorney and City Judge evaluations.

Item 8(a): Date Change for Council Meetings 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 City Council meeting dates have been changed to Tuesdays, January 22, 2013 and February 19, 2013.

ADJOURNMENT

There being no further business, the meeting was adjourned at 9:03 p.m. to convene the Astoria Development Commission.

ATTEST:

APPROVED:

Finance Director

City Manager

A special meeting of the Astoria Common Council was held at the above place at the hour of 3:30 p.m.

Councilors Present: LaMear, Warr, Mellin, Mayor Van Dusen; Councilor Roscoe arrived after Roll Call.

Staff Present: City Manager Benoit, City Engineer Harrington, Community Development Director Brett Estes, Assistant City Engineer Crater, Emergency Communications Manager Rusiecki and Finance Director Carlson. The meeting is recorded and will be transcribed by ABC Transcription Services, Inc.

REPORTS OF COUNCILORS: No Reports

CHANGES TO AGENDA: No Changes

PRESENTATIONS

Item 5(a): Update Regarding 5th and Duane Landslide

Assistant City Engineer Nathan Crater reviewed pictures of the landslide and subsequent landslide that occurred on December 19th and 20th via PowerPoint, noting the damage and progress of the repair and cleanup, as well as efforts made to stabilize the slope. The initial estimate for the emergency clean-up effort is about \$25,000 to date. City Staff will investigate erosion control measures and is looking for a temporary barrier to place at the toe of the slope to prevent large rocks and minor debris from falling into the road. Duane Street is currently open to one lane of traffic. The City's long-term goals include working with Landslide Technology, the City's on-call geotechnical specialist, to investigate mitigation measures that could improve safety at the site. Staff will report to Council with any projects resulting from this investigation. He responded to clarifying questions from the Council as follows:

- On Wednesday, residents were asked to leave as a safety measure. The Unsafe to Occupy notices were posted on Thursday due to the immediate hazard resulting from the contractor's work in the area, so the City wanted to make sure the homes were vacant in the event that a large tree fell. The tree was positioned very precariously at an angle over two homes and cut off access to a third home. The City's goal was to keep everyone safe.
- The soil has continued to slough since the major clearing on Saturday, and soil will continue to slough, which is why the City wants to install temporary barrier, like a concrete block wall, to catch the material. Public Works would then clear the material as needed to keep the road clear.
- About three or four feet from the actual edge of the road has been covered by debris. The geotechnical recommendation was to create a large catchment area close to the edge of the road. The slope was significantly over steep originally and the slope is still steep after a large amount of material has come off of it.
- He was not sure if the landslide cleanup was an insured loss for the City. City Manager Benoit did not believe the City was insured for landslides. FEMA assisted the City with a landslide at 3rd and Commercial; however, there was no insurance settlement.

Councilor Roscoe arrived at 3:40 p.m.

Mayor Van Dusen called for any questions or comments from members of the audience.

Chuck Baird, 555 Irvington, Astoria, stated that the City's response to this landslide was great. His questions were answered before he could ask them. He received phone calls from Assistant City Engineer Crater providing regular updates of the work and he was impressed with how well prepared the City has been. He appreciated that the City did evacuate the homes in case the tree fell.

Councilor Roscoe asked where the site of the landslide appears on the Buildable Lands Inventory. Assistant Engineer Crater replied that given the topography and access to the oddly shaped, City-owned lot, did not

believe it would appear on the Buildable Lands Inventory. The City owns a number of tax lots that are contiguous in that area.

Ben Bradshaw, 510 Duane Street, said he was happy with how fast the City worked on the landslide, working until 8:30 pm. The reality is that large rocks still exist in the area. The street was clean for only about four hours as debris continues to fall. He has debated whether to install a retaining wall to catch the rocks; however, for now, his pets and kids cannot leave the house due to the possibility of large rocks coming down the hill. He asked how tall the City's retaining wall will be, noting the rocks are large and bounce down the hill. Assistant Engineer Crater replied the wall will be about four feet high at the bottom of the slope, which will collect the majority of debris that comes down the hill. Rocks could still bounce higher than the wall. The City needs access to the back side of the wall to clear out the material; otherwise cleaning efforts will be encumbered. The City is considering temporary erosion control work, which could include installing jute or coconut matting on the face of the slope to keep some of the material on the slope. The slope is currently unstable, which makes installation of the matting dangerous. The ground needs to dry out before a crew can assess the slope closer. The City is working toward a balanced solution to prevent a large accumulation in the road. Coconut matting is made of coconut fibers, which are strong, more porous than jute and last a long time.

Councilor LaMear asked if the retaining wall would be temporary. Assistant Engineer Crater answered yes, Staff and the geotech would discuss potential options for safely bringing the extra soil safely down, so further investigation is needed. The wall is meant to be temporary until the sloughing stops or until a more permanent solution is developed.

Colby Lennon, 423 6th Street, presented a photograph taken in January 2001 of a landslide on the same hill and expressed concern about the City's slow response to that landslide. He believed the current Staff is more concerned now but the hill will continue to have landslides, so having that on the City's radar is a good thing. He thanked the City for their work on this recent landslide.

Councilor Roscoe asked if anything could be done to prevent a landslide as this particular area will continue to be a problem. Assistant Engineer Crater explained some measures, such as removing hazardous trees, can be done. Implementing anything like sloping things back or other mitigation measure can be expensive. The City focuses on areas that are known to be problematic, but some minor events are not always made a priority. The information provided by Mr. Lennon is good to know. He explained that the City is able to respond well to this landslide because the slide originated in city property and encompassed a city right-of-way. Landslides on private property limit the City's ability to respond.

Councilor LaMear asked if there was anything on top of the hill. Assistant Engineer Crater displayed a photograph and described the topography of the property. Access to the lot is on Exchange Street. Initial evaluation of the reverse side of the hill did not show any signs of sliding.

CONSENT CALENDAR

No Consent Calendar

REGULAR AGENDA ITEMS

Item 7(a): Astoria Visual Arts' Application to National Endowment for the Arts (NEA) for an "Our Town" Grant

City Manager Benoit explained that discussion of the Our Town grant began during the last regular City Council meeting on December 17, 2012. Astoria Visual Arts (AVA) is proposing to submit a grant application to the NEA. Application guidelines require that if a 501(c)(3) organization is applying, a government entity must partner with the organization as a co-applicant. AVA has asked the City to serve as co-applicant. After speaking with the AVA and lead staff at the NEA, he was assured that the AVA is considered the lead applicant by the NEA. As the lead applicant, the AVA would assume all legal and financial responsibility for managing the grant. The City would only be responsible for what is outlined in the grant application, to serve a supportive role in identifying possible live/work space and studio space in the downtown area. He stated that he was asked by the President of The Astoria Downtown Historic Association (ADHA) to convey their support of the application to City Council.

The Councilors agreed to hear comments before further discussion by Council.

Larry Taylor, 1684 Irving Avenue, AVA President, reiterated that the AVA has proposed that the City of Astoria partner with the AVA on the NEA Our Town grant, noting there would be no monetary commitment required by the City other than general services and ordinary business. If the City agrees to become a partner, the application requires a letter from the mayor on city letter head and a NEA form to be completed the City.

- He reviewed the history of the AVA, which was founded in 1989. The AVA's 501(c)(3) status is permanent, and its mission is to promote visual arts in Astoria. Since AVA is a membership organization, the Board of Directors is elected by its membership. The AVA currently has over 200 members and maintains a local bank account for its money.
 - The AVA operates a local art gallery, which features emerging artists. Past AVA projects include the Fort George mural restoration and sponsoring an exhibit at Clatsop County Community College in 2011 that included submissions from all over the United States. Under the leadership of Drew Herzig, the AVA sponsored Open Studios Tours in 2011 and 2012, which showcased over 30 artists and their work environments. The Clatsop Cultural Coalition granted the AVA a grant to repeat the Open Studios Tour in 2013. These events attracted visitors to Astoria. In 2009, the AVA created the Astoria Fiber Arts Academy, which now offers over a dozen classes each quarter and is currently contracted with Timberline Lodge to replace historic hand-woven fabrics. In 2011, the AVA established the Miss B. Johnson Endowment to support youth arts education. The first \$1,000 grant was recently given to Astoria High School.
 - The AVA is open to new ideas and projects. He did not aware of any project the AVA has not approved. He introduced the team in charge of the Our Town grant application project; Rebecca Rubens, Cindy Price, Ray Merritt, Lisa Smith, and Darren Orange. He noted each team member's credentials and involvement in the AVA. Mr. Taylor stated he is a team member as well, and noted his own credentials and involvement in the AVA.
- The Our Town grant is for \$200,000 that requires a 1-to-1 match of funds. The Creative Astoria Project includes three goals; affordable dedicated artist studio and live/work space, the Creative Astoria Commons, which is a performance space, and two programs to support artists' work. The application is due on January 14, 2013. If the grant is received, the project would begin in July 2013 and last until August 31, 2015.
 - If the grant is received, monthly updates of the project would be given to the AVA Board of Directors and he would serve as program manager.
- He responded to several questions that have arisen regarding the grant with these comments:
 - The AVA is applying for this grant, rather than another organization, because the AVA is the only organization in Astoria that meets the NEA eligibility requirements of being a non-profit arts organization.
 - Regarding the process being rushed, he noted that a grant proposal generally takes about two months to complete. Obtaining consensus from the community has taken time, but that is what will be represented by the decision of the City Council. In comparison, the Fiber Arts Academy took three months from initial concept to opening the doors.
 - This project is supported by the community. As noted, the AHDA is fully supportive, as well as the five major property owners who rent to artists. Great effort has been made to include everyone in the conversation regarding the project and so far enormous positive support has been received.
 - This project will not allow artists to move from their existing space into less expensive subsidized artist space. The intent of this project is to provide space to artists who do not currently have studio space and increase the rented spaces in downtown Astoria. Darren Orange has searched, but affordable space is not currently available. Mr. Taylor has also searched for affordable space over the years, but to no avail.
 - Regarding whether this project would compete for funding with other projects in Astoria, he explained that receiving an NEA grant reflects positively on Astoria when applying for other funding. The Our Town grant would serve as a catalyst for receiving other grants. Foundations, such as the Oregon Community Foundation, grant funding based on merit and sometimes geography. The Foundation has a specific grant for Clatsop County, which accumulates when there are no applicants. Just because a grant is awarded did not mean other money would not be allowed to come to Astoria.
- He concluded that the AVA continues to receive more support for the project. If successful, he believes the grant and project would generate about \$1 million in economic activity in Astoria. The AVA greatly appreciates the participation of the City in this project.

Councilor Mellin was concerned about this being presented to City Council one week before Christmas, which seemed like a rush from Council's standpoint, though the AVA may have been comfortable with the progress. She asked when the AVA found out about the grant. Mr. Taylor replied the grant was brought to the attention of

several AVA members the first week of November 2012. On November 13, Ms. Smith and Ms. Price attended an NEA webinar and on November 14, Ms. Price attended the ADHDA Building Blocks Community Meeting with Michelle Reeves. AVA team members held their first meeting to discuss the NEA grant on November 15 and created the first Executive Summary proposal on November 16, 2012, and when Ms. Rubens first met with Council to review the project and Ms. Price contacted Mr. Taylor. The project has just snowballed ever since.

Councilor Mellin stated Ms. Rubens had come to her home to share some information about the grant and confirmed that only Councilor Roscoe was the only Council member who did not receive same packet of information. Councilor Roscoe noted Mr. Orange had been trying to contact him.

Councilor Roscoe asked if the grant money would be used to buy, rent, or renovate artist space. He also asked to see the budget for this project and the specific property the AVA would like to obtain. Mr. Taylor responded that the team looked a number of spaces and collected prices. A specific space has not yet been chosen because the AVA does not know how much funding will be received from the grant. The AVA is asking for \$200,000; however, the NEA might grant less. He did not believe the AVA would purchase any property. The project is more of an enablement to allow artists a place to work. The scope of the project will depend on how much money is granted.

Councilor LaMear noted that she heard from a constituent that the grant cannot be used for purchasing or renovating a property. Mr. Taylor stated he had heard the same, and assured the AVA would not use the funding for purposes not allowed by the grant. Cindy Price, 1219 Jerome, stated the NEA would explain why the full \$200,000 could not be funded and note the portions of the project they support. The AVA could then negotiate with the NEA. The AVA and the City would also have to decide whether or not to proceed. The first phase of the project involves feasibility studies to determine what specific properties are viable and work with the City to see about zoning requirements, could be rehabbed in the future, etc. While the grant money cannot be used for renovations, it can be used to subsidize rent for live/work spaces, studios or exhibition performance space. Mr. Taylor noted the AVA has a fully developed budget, which can be sent to Council.

Mayor Van Dusen called for any further public comment.

Darren Orange, 922 Denver Place, submitted statements made by studio landlords, business owners, building owners, artists, galleries, the college and art patrons, who all support the application. The statements were distributed to Council.

Cheryl Silverblatt, Klaskanine Avenue, Astoria Fiber Arts Academy member, stated she attended an informational meeting where assistance for the Performing Arts Center (PAC) was discussed. She asked if grant money would be spent on the PAC since the PAC has been working hard to raise money to maintain the facility. Ms. Price replied the budget includes \$40,000 per year for rent for performance exhibition or resource space. AVA intends to allocate \$10,000 per year to PAC. The narrative identified the Astoria Commons, which would be an interconnected series of at least two spaces, including the PAC. Simply giving \$10,000 to PAC would not be appropriate to the grant; however, AVA would like to partner with anyone who would like to hold a performance at the PAC that may not be able to pay the fees that the PAC charges.

Ms. Silverblatt asked if the public could read the grant application. Mr. Taylor stated the grant is available to the public. He would send it electronically, but did not have a copy with him.

Katy Royce, 644 Alameda, Astoria, She is often asked by artists for rent space. Her gallery can accommodate up to six artists and she believes there is a need for this grant in the area, adding this community could really grow. Out of state visitors come to Astoria to participate in her workshops and spend money on hotels and restaurants while in town. She has had her studio space since 2004 and reviewed its history, noting that many shows were hosted. The AVA is a volatile part of Astoria and should be supported by local artists, businesses, and City Council.

Drew Herzig, 628 Klaskanine Avenue, Astoria stated he has concerns that judgment calls would be necessary when deciding who gets to use these artist spaces. While the City will be a partner, the City will not be making this decision and must depend on the AVA's judgment to decide whom to support. He asked for more discussion on the evaluation process for choosing artists and groups. Rebecca Rubens, 87509 Lewis and Clark Road, explained that part of the program includes an artist in residence program. The Advisory Board, which includes

the artists, Robert Adams, Gary Gibson, Preston Singletary, and M.K. Guth, would be responsible for selecting artists. She noted one goal is to include as many Native American artists in the project as possible.

Councilor Roscoe noted that legislating art is difficult. He asked if studio space would be offered to up and coming artists who are struggling financially or established artists that Astoria wants to attract by offering free space. Ms. Price replied the program involves both. Attracting outside artists is part of the artist in residency portion of the program. The amount of funding received and which portion of the grant is funded will be used to determine the details of these programs. Any local artist can volunteer to serve on the Advisory Board to make decisions about the project. She believes the Advisory Board has a total of 10 positions. Ms. Rubens stated that at the December 17, 2012 meeting, Councilors were given a packet of information that included the AVA's narrative, budget, etc. Some minor revisions have been made; however, the project remains unchanged. Another budget has not been provided tonight because a new budget would be created after the Council's action. The project offers a two-month residency to five emerging artists over a period of two years at a cost of \$3,000 each. Over the same two year period, five established artists are offered five-day residencies at a cost of \$4,000 each. Four artists' studios will be funded at \$650 per month, and three artists' studios at \$1,000 per month over the two-year period. These small efforts will add to the development of downtown. The grant is awarded in July 2013 and money is released in September 2013. This gives the AVA 2 1/2 years to raise money.

Amanda Becket, 1216 Kensington, said she moved to Astoria because she was offered an affordable space for her press. It has become impossible to find affordable space to live or work in Portland. She was given a residency in Port Townsend, which allowed her to concentrate on her art for an entire month. It was a quiet environment where she could live and work uninterrupted and she encourages artists to apply for residencies to develop their work. She agrees art is one of the attractions of Astoria and could be augmented.

Councilor Mellin stated she has seven years of grant writing experience and can see how much work has been put into this grant. This grant did not emotionally appeal to her as it does not seem to address a need in the community. She was concerned this grant may interfere with fundraising the PAC is currently doing. She noted that the Council's goal setting session is coming up and that Councilor Elect Drew Herzig would be included. The grant also imposes a goal on the City that the Council may or may not want. Receiving this proposal the week before Christmas made the process feel rushed; like no questions should be asked, just sign the letter. Other community needs create a more emotional response than this grant, such as finding space for homeless families. Her other concern is that this grant seems to indicate the City of Astoria would be partnering with the AVA in housing, which she does not support.

Councilor Warr agreed this process seems rushed. The goals and ideas are great; however, the goals appear to cost considerably more than the potential funding, though Ms. Price did a good job of explaining how that gap would be narrowed. While partnering with the AVA would not financially obligate the City in any way, he does not believe the City is in a position to assume new financial obligations at this time. AVA seems to have good support within the community and have worked hard. As long as absolutely no financial obligation is required on the part of the City, he supports the application.

Councilor Roscoe stated the handout with all the signatures of support that was distributed persuaded him to support the project as well. He believes Staff time dedicated to this project needs to remain minimal. He reiterated that it is difficult to legislate art. He supports the application as long as the City is not required to participate in the decision making process about which artists receive space.

Councilor LaMear said she has been impressed with the growth of the art community in Astoria since moving here in 1997. Cannon Beach has been known as an arts community; however, some galleries have moved from Cannon Beach to Astoria. She supports the application.

Mayor Van Dusen stated it is still unclear to him how the City is obligated as a consortium partner when artists are chosen to receive benefits from the program. Astoria has a very good reputation for applying, securing and following through with grants. He believes more time needs to be spent on this grant to ensure that the community could follow through with the grant's requirements.

Councilor Mellin stated she received a call from someone from the PAC who was adamant that the AVA did not have a PAC representative. Another concern was that Section 5 of the proclamation states "The parties agree to cooperate in a mutual endeavor to achieve the goals described," which obligates the City to work with the AVA

as a team. The Council is not in a position to take on this work at this time. She noted she may reconsider if the grant were available in 2013. Mr. Orange stated that the PAC president does support this application; however Constance could not attend the meeting. Councilor Mellin explained the phone call was received after the AVA spoke with the PAC about the grant. The caller is also a prominent citizen, so she said she would raise that point.

- Ms. Price noted that she typed the grant through Grants.gov and wanted to address the idea of the City's responsibilities. The form included in the packet provided at the December 17th meeting specifically stated the City's obligations as co-applicant, which must be delineated. That section discussed the City working with AVA to do what the City does with any developer in terms of identifying buildings suitable for the project and collecting data that would need to be reported to the NEA about whether this grant has helped increase livability, walkability, interconnectedness and development into downtown. This will be specifically laid out and the City will tell AVA exactly what it will do.
- The artists' selection committee, not AVA or its members, determine who benefits from the project. The NEA judges on artistic excellence and artistic merit, so the City would not be qualified to select artists for the program. Both the City's obligations and the artist selection committee would be spelled out in the grant.

Councilor Warr noted that Item 4 of the Memorandum of Understanding does specifically state, "If the grant is awarded, Astoria Visual Arts will assume all legal, financial, administrative and programmatic responsibilities for administering the award in accordance with the provisions included in the award, as well as laws, rules, regulations and executive orders governing assistance awards." Item 5 states, "The parties agree to cooperate in a mutual endeavor to achieve the goals described." He commented that Item 4 relieves the City of some responsibilities, while Item 5 fully obligates the City as consortium partner.

Mayor Van Dusen confirmed that these comments answered Mr. Herzig's questions.

Margaret Cleary, 1508 Exchange Street, noted Ms. Rubens' involvement in KMUN, Women's Resource Center and AVA, which were successful. She believed that having Rebecca Rubens on the team ensures that follow-through of the grant will be successful.

City Manager Benoit explained the AVA cannot submit the grant application unless the City signs the application as co-applicant and project partner. He noted a letter of support and a resolution were included in the packet.

City Council Action: Motion made by Councilor Roscoe, seconded by Councilor LaMear to support the application and serve as co-applicant for the NEA Our Town Grant. Ayes: Councilors LaMear and Roscoe; Nays: Councilors Warr and Mellin and Mayor Van Dusen. Motion failed.

Mayor Van Dusen explained that he voted against the motion because he does not believe the City is prepared for this project.

Item 7(b): Redistribution of the State 9-1-1 Funds (Finance)

City Manager Benoit explained that the State of Oregon has recently changed how tax receipts are distributed to communities in Oregon. In 2011, the State distributed a total of \$308,000 to North Clatsop County; \$237,000 of that distribution went to Clatsop County, \$46,000 went to the City of Astoria and \$25,000 went to the City of Warrenton. Each of those entities use these State tax receipts to offset their costs for services provided by the City of Astoria. Beginning January 1, 2013, all State tax receipts previously distributed will come directly to the City of Astoria. During the budget planning process, Staff will propose that the money be used to offset gross costs of operating the Emergency Communications Center (ECC). This would allow all of the aforementioned entities to benefit from the State tax receipts. All of these entities adopted their budgets effective July 1, 2012. Staff is asking Council to consider authorizing Staff to credit tax receipts as if they were being distributed to Clatsop County, so each individual entity, the City of Warrenton, City of Astoria and Clatsop County could complete their year as budgeted. Staff proposed putting the change in place in the next fiscal year.

Councilor LaMear asked how Clatsop County has been using their tax receipt money. City Manager Benoit replied that Clatsop County uses a portion of the money to cover the cost of the rural fire districts. The balance is used to pay their share of the subscriber costs. Subscriber costs for the City of Astoria are in excess of \$300,000, but the State only gives the City \$45,000. Allocations from the General Fund cover the difference. The

County has been able to cover the majority of their cost with the State allocation with only a small amount transferred from the General Fund.

Councilor Roscoe understood the mechanism for funding is out of sync with the fiscal year. City Manager Benoit explained the State is changing the distribution cycle midyear, January 1, which requires each entity to reallocate funds to meet the obligation. The County will be in the worst position. During the next fiscal year, the City of Astoria and City of Warrenton will save about \$44,000. The County will have to allocate more than \$100,000 out of their General Fund and will not see any savings because they received such a large portion of the tax receipts in previous years compared to Astoria and Warrenton.

Councilor Roscoe asked if the County Sherriff receives the majority of the 9-1-1 calls or the City. Emergency Communications Manager Rusiecki stated the City of Astoria is the largest consumer, followed by the County and Warrenton Police Department. City Manager Benoit added this benefits all 9-1-1 subscribers and should have been how the State tax should have been distributed long ago. Communications Manager Rusiecki noted the ECC meets monthly with its subscribers and all agreed that this is a fair way to handle the funds. He confirmed that the allocation of funds is now more equitable than it has been in the past. He noted the subscribers would like the City of Astoria to continue honor paying the base costs for the rural fire districts, which amounts to about \$20,000.

City Council Action: Motion made by Councilor LaMear, seconded by Councilor Warr, to allow the County's share of 9-1-1 funds to be credited to their account for the remainder of the budget year. Motion carried unanimously. Ayes: Councilors Warr, Mellin, Roscoe, LaMear and Mayor Van Dusen. Nays: None.

Item 7(c): Consideration of the LNG Comment Letter to FERC

City Manager Benoit noted the comment letter regarding the LNG would be a letter from the City, signed by the Mayor to the Federal Energy Regulatory Commission. The draft letter is included in the packet and Staff requested City Council approval sending the letter.

Councilor Mellin believed the letter covered all the important topics and issues that may be of concern to the City.

Councilor Roscoe added that any opportunity to bring in something like LNG would cause concern. If the project is allowed to happen, the City must ensure the highest standards of stewardship. He would have liked to include a statement that says once the concerns are met, the project can move forward. Astoria could not allow some LNG company come in and do what it wants; they must abide by the City's rules and he believes the letter helps ensure that.

Councilor Warr stated he would vote in favor, but noted that LNG maintains an amazing safety record, yet many entities oppose LNG. He believes the City may be making a big statement about a non-issue.

City Council Action: Motion made by Councilor Mellin; seconded by Councilor LaMear to approve sending the letter to FERC. Motion carried unanimously. Ayes: Councilors Warr, Mellin, Roscoe, LaMear and Mayor Van Dusen. Nays: None.

NEW BUSINESS & MISCELLANEOUS, PUBLIC COMMENTS

Mr. Herzig thanked the Council for scheduling the special session to hear from the public and to take action. He especially appreciated the letter of comment to FERC, noting it is important for the City to ask for more information and remain involved in discussions.

Mayor Van Dusen said he appreciated Mr. Herzig's comments on the AVA grant.

Councilor LaMear asked if a date had been determined for the goal setting meeting. City Manager Benoit replied that he had contacted Wesseir about available dates.

Council agreed to schedule the goal setting meeting for January 2013.

ADJOURNMENT

There being no further business, the meeting was adjourned at 5:00 p.m.

ATTEST:

APPROVED:

Finance Director

City Manager

DRAFT

City Council Chambers
January 7, 2013

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

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

Councilors Excused: None

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

Mayor Van Dusen announced that Item 6(b): Ken Nelson 30 Year Service Pin will occur immediately following the Oaths of Office, making the presentation Item 2(d) on the Agenda.

OATHS OF OFFICE

Item 2(a): Ward 2 Councilor Drew Herzig

Mayor Van Dusen administered the Oath of Office to Councilor Drew Herzig, elected to a four-year term representing Ward 2.

Item 2(b): Ward 4 Councilor Russ Warr

Mayor Van Dusen administered the Oath of Office to Councilor Russ Warr, reelected to a four-year term representing Ward 4.

Item 2(c): Fire Chief Ted Ames

Mayor Van Dusen administered the Oath of Office to new Fire Chief Ted Ames.

Chief Ames thanked everyone for the vote of confidence, noting the Fire Department would do its best to keep the City of Astoria safe and prosperous.

Item 2(d): Ken B. Nelson 30 Year Service Pin (Public Works)

This agenda item was moved from Presentations Item 6(b) and addressed at this time.

Mayor Van Dusen noted that Mr. Nelson's first day of work for the City was July 1, 1982. He received a raise of \$6.26 per hour on January 7, 1983. Mayor Van Dusen presented a timeline of Mr. Nelson's career with the City, noting each position he has held over his 30-year career. Mr. Nelson currently serves as Public Works Superintendent. Mayor Van Dusen presented Mr. Nelson with his 30 year Service Pin. Mr. Nelson thanked City staff, City Council and the citizens for giving him the tools necessary to do his job successfully.

Mayor Van Dusen led the traditional "Hip, Hip, Hooray" for Councilors Herzig and Warr, Chief Ames and Ken Nelson.

Mayor Van Dusen continued to Changes to the Agenda at this time.

REPORTS OF COUNCILORS:

This agenda item was addressed immediately following Item 6(a) Financial Forecast.

Item 3(a): Councilor Warr expressed his appreciation to the citizens of Astoria for allowing him to serve on the City Council for another four-year term.

Item 3(b): **Councilor Mellin** reported that she attended the League of Oregon Cities training on government ethics in Oregon, which was very interesting and valuable.

Item 3(c): **Councilor Herzig** thanked those who attended the meeting to welcome him to the City Council. He especially appreciated the support and advice he received from Charles Schweigert. He announced he would be hosting a listening session at Astoria High School on January 8, 2013 at 7:00 p.m. He invited those in Ward 2 and the City to attend to discuss any issues or concerns. City Manager Benoit will attend as well. A candlelight walk through downtown Astoria on January 21, 2013 will be hosted by the Lower Columbia Diversity Project in honor of Martin Luther King Day. The walk will begin at 5:00 p.m. and will end with a soup dinner at Peace Lutheran's Fellowship Hall.

Item 3(d): **Councilor LaMear** stated that she and Councilor Herzig met with Parks and Recreation Director Moss and some Oregon State University (OSU) representatives to discuss the future of community gardens in Astoria. One goal is to expand the idea of community gardens to raise food for the food bank.

Item 3(e): **Mayor Van Dusen** reported that he and Councilors LaMear and Herzig greeted Senator Merkley, who did a very good job at the Town Hall Meeting.

City Manager Benoit announced that Council's annual goal setting session has been scheduled for Friday, January 25, 2013 at the Cannery Pier Hotel in the Second Floor Board Room.

City Council proceeded to the Consent Calendar at this time.

CHANGES TO AGENDA:

This agenda item was addressed immediately following Item 2(d).

No changes.

PRESENTATIONS:

Item 6(a): **Financial Forecast (General Fund) 2013 – 2014**

Finance Director Carlson presented a revenue and expense forecast via PowerPoint, focusing on the expenditures, factors, and changes projected to affect the General Fund for Fiscal Year 2013-2014. He explained that Finance Staff has been working on budget projections for the next three years in preparation for the upcoming budget committee meetings in April. No recommendations are being made at this time, but recommendations will come from the various City departments as they work within their individual budgets to address forecast. The forecast would be sent to the City Council and posted on the City website tomorrow. Staff's key comments and responses to clarifying questions from the Council were as follows:

- Finance Director Carlson clarified that the Public Employees Retirement System (PERS) cost will increase about 23 percent this year, resulting in an additional \$130,000 expense from the General Fund; other payroll costs outside the General Fund, such as Public Works and emergency communications, will increase by about \$113,000. Another PERS increase will occur in 2015 that is projected to be an additional 20 to 25 percent increase.
- Grant revenues are expected to decrease because the Community Oriented Policing Services (COPS) grant, a 3-year federal grant program the City has used to employ a school resource officer, expires at the end of the 2012-2013 fiscal year. The City begins paying for the position itself on the fourth year because the City's obligation will continue for one more year.
- Anticipated deficit projections, which are carried forward into the next fiscal year. If no action is taken to balance the budget, and revenues and expenditures remain as is, the General Fund balance will decrease from \$1.3 million to about \$300,000 in three years. The Finance Department will be taking action to balance this budget and maintain a healthy balance in the fund, which is \$1.1 million to \$1.3 million for a city the size of Astoria. The entire Staff is looking for ways to reduce expenditures, because the City has little control over revenues and additional revenue sources are not likely.
- City Manager Benoit assured he would not propose a budget that anticipates another \$200,000 drawdown on reserves. The challenge is the two drivers, personnel costs and property tax revenues, are difficult to

control. While a few revenue opportunities may exist, such as with fee schedules, the primary initiative will be finding efficiencies and cuts.

- The relationship between compression and property tax revenue is complicated. Essentially, property taxes are capped at a maximum rate of 15 percent within any taxing zone or district, so the County cannot have a 10 percent rate, as well as the City and urban renewal. When the tax rate rises above 15 percent, compression forces rates to decrease. This year, the City anticipates about \$50,000 in reduction due to compression.
- The League of Oregon Cities produced a succinct article that explains compression well. City Manager Benoit agreed to email the article to each member of Council.
- On non-school properties, the maximum tax that can be collected is \$15 per \$1,000 of assessed property value. In most communities, real market values are decreasing. When the real market values drops below the assessed value, the County will re-index the tax, generally on a property by property basis. As property values decline, some neighborhoods may have properties in compression, therefore less revenue is generated.
- Currently, Astoria collects about an \$8 per \$1,000 tax rate on assessed property value. Compression would likely prevent the City from raising that amount per \$1,000 rate.
- In the next fiscal year, the City will pay a total of about \$1.1 million for PERS contributions.
- Maintaining a healthy balance in the General Fund is important because the majority of property tax revenue is collected in November and the fiscal year begins July 1. A \$300,000 fund balance would not be sufficient funds to run the City from July through November, and would likely cause the City to obtain cash receipt loans.

Mayor Van Dusen called for comments or questions from the public.

Don Webb, 3555 Harrison Drive, Astoria, understood an 8 percent increase in sewer and water rates is anticipated. Mayor Van Dusen explained that Director Carlson's presentation regarded the General Fund, and confirmed that sewer and water are part of the Enterprise Fund.

The Council returned to Agenda Item 3, Reports of Councilors, at this time.

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

This presentation was addressed following Item 2(c) of the agenda.

CONSENT CALENDAR:

The following items were submitted on the Consent Calendar, immediately following Item 3, Reports of Councilors

7(a) City Council Minutes 12/3/12

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

City Manager Benoit removed Item 7(a) City Council Minutes for correction because the required introductory remarks related to the Community Development Block Grant (CDBG) made at the meeting were not recorded into the minutes.

City Council Action: Motion made by Councilor Mellin, seconded by Councilor LaMear to approve the Consent Calendar Item 7(b). Motion carried unanimously. Ayes: Councilors LaMear, Mellin, Herzig, Warr and Mayor Van Dusen; Nays: None.

City Manager Benoit stated that the minutes of the December 3, 2012 meeting, Item 6(e) regarding submittal of a CDBG for renovation of the Astoria Senior Center, should be amended to include his introductory comments made at the December 3, 2012 meeting as follows:

- There is \$11 million available in the Community Development Block Grant program statewide in this fiscal year;
- The range of activities that can be funded include Senior Citizen Centers and other public community facilities, public infrastructure benefitting low and moderate income persons, microenterprise assistance, regional housing rehabilitation, and technical assistance.

The amount of funding proposed to be sought for the Astoria Senior Center is a grant not to exceed \$1.5 million and the renovation project will not result in the displacement of any individuals.

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.

City Manager Benoit noted the requested amount will be drawn from the contingency, which is entirely funded through the \$1.5 million State grant. The change does not involve any use of City funds.

Councilor Herzig asked if the driveway referred in COR #22 would serve as an entrance and exit, should the main driveway be blocked. He also inquired if the building was in a landslide zone and was that something the neighborhood should be aware of. Chief Curzon responded there was nothing the neighborhood should be aware of, though the department is concerned about maintaining access [inaudible 48:40] because it is a seismic area. He confirmed the referenced driveway would provide access for the fire department should the main driveway be blocked.

City Council Action: Motion made by Councilor Warr, seconded by Councilor LaMear to authorize Change Order #3 for the Public Safety Building Improvements Project. Motion carried unanimously. Ayes: Councilors LaMear, Warr, Mellin, Herzig and Mayor Van Dusen; Nays: None.

Mayor Van Dusen commented that his personal business is right next door to the Public Safety Building and commended Chief Curzon for doing such a great job as project manager. The driveway will be a major improvement.

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
3. 905-943 Commercial in the amount of \$6,600.00

Mayor Van Dusen asked why the fee amounts for two of the properties are exactly the same. Community Development Director Estes explained the penalties being assessed regarding the long term vacant portion of the Code, meaning if the building is not marketed or filled with a tenant within a certain timeframe, certain fees are assessed. The two properties in questions have been vacant for the same period of time, which is why their fees are exactly the same.

Councilor LaMear stated it seems many liens have been placed on these properties. She wanted to know what good placing liens have done and what the new liens meant. Director Estes replied the City is proceeding through the process afforded by the Derelict Building Ordinance. Being a residential property, the City had some Code provisions offering other possible ways to address the house. The City cannot use the Receivership Program on nonresidential downtown properties, but he has been working with City Attorney Henningsgaard to find other mechanisms to foreclose on those liens in the future in order to take some action. The liens must be recorded prior to taking any next steps.

Councilor LaMear said the process has been taking a long time, which is frustrating since Councilors have continually said that something needs to be done with the Flavel properties. Director Estes noted the Receivership Program could apply to the house, but the liens first needed to be recorded.

City Manager Benoit did not believe the City had any liens on the Flavel properties. He asked if the Code would allow the City to foreclose or take any other affirmative action on the properties. City Attorney Henningsgaard agreed the City does not currently have any liens against the properties and does not have a mechanism to force compliance. As a result of the liens, the City could foreclose on the liens and remove the Flavel's as owners of the properties to get a new owner who would fix up the properties.

Councilor LaMear noted people have attempted to purchase one of the properties in the past, but understood the purchase was impossible due to the amount of liens on the property. City Attorney Henningsgaard stated there was a tax foreclosure on the commercial properties, which were sold at the tax foreclosure sale; however, the Flavel's purchased the property back at the end of the redemption period. The same situation is possible if the City forecloses on liens, but at least the City will be able to recover its money. This approach allows the City to either remove the Flavel's as owners or recover the amount of the liens.

Councilor Warr asked what other liens were already on the properties and if the City would be responsible for paying off the other liens. City Attorney Henningsgaard stated he has not seen title reports but understood other liens do currently exist on the properties. If the City foreclosed on its junior lien, the City would not be responsible for any other liens on the properties. The City would take the Flavel's position, essentially acquiring the property subject to the liens.

City Council Action: Motion made by Councilor LaMear, seconded by Councilor Mellin to adopt a Lien Approval Resolution for 627 15th Street in the amount of \$10,495.95. Motion carried unanimously. Ayes: Councilors LaMear, Herzig, Mellin, Warr, and Mayor Van Dusen; Nays: None.

City Council Action: Motion made by Councilor Warr, seconded by Councilor Herzig to adopt a Lien Approval Resolution for 904-936 Commercial in the amount of \$6,600.00. Motion carried unanimously. Ayes: Councilors LaMear, Herzig, Mellin, Warr and Mayor Van Dusen; Nays: None.

City Council Action: Motion made by Councilor Herzig, seconded by Councilor Warr to adopt a Lien Approval Resolution for 905-943 Commercial in the amount of \$6,600.00. Motion carried unanimously. Ayes: Councilors Warr, Mellin, Herzig, LaMear, and Mayor Van Dusen; Nays: None.

NEW BUSINESS & MISCELLANEOUS, PUBLIC COMMENTS

Item 9(a): Election of City Council President

Mayor Van Dusen explained that the duty of the City Council President is to serve as Mayor Pro Tem if the Mayor is not available. Councilor LaMear nominated Councilor Mellin.

City Council Action: Motion made by Councilor LaMear, seconded by Councilor Warr to elect Councilor Mellin to serve as City Council President for 2013. Motion carried unanimously. Ayes: Councilors LaMear, Warr, Mellin, Herzig and Mayor Van Dusen; Nays: None.

Laurel Caplan, 766 Lexington Avenue, Astoria, thanked the Council for serving and expressed her appreciation for their hard work and for focusing on doing the right thing for the city, keeping things reasonable, sensible and sustainable.

ADJOURNMENT

There being no further business, the meeting was adjourned at 8:01 p.m.

ATTEST:

APPROVED:

Finance Director

City Manager

DRAFT



January 8, 2013

TO: MAYOR AND CITY COUNCIL

FROM:  PAUL BENOIT, CITY MANAGER

SUBJECT: LICENSE TO OCCUPY A PORTION OF THE 5TH STREET RIGHT-OF-WAY

DISCUSSION/ANALYSIS

The City has received a request from Olynxa Levy for a License to occupy a 10 foot by 70 foot portion of the unimproved 5th Street right-of-way. Ms. Levy would like to construct a 5 ft. high wooden picket fence around the perimeter of her property for privacy, as a barrier to keep deer from going into her garden, and to create a safe environment for her dogs.

Ms. Levy has discussed her desire to construct a fence with her adjacent neighbors and they are in support of her plan.

The Community Development and Public Works Departments have reviewed Ms. Levy's request and believe a License to Occupy would be appropriate.

City Attorney, Blair Henningsgaard has approved, as to form, the attached License Agreement.

RECOMMENDATION

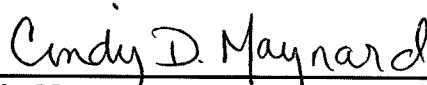
It is recommended that the Astoria City Council approve a License to occupy a 10 foot by 70 foot portion of the 5th Street right-of-way for the construction of a wooden picket fence.

Submitted By



Ken Cook, Public Works Director

Prepared by:



Cindy Maynard, PW Administrative Assistant

After recording, return to:
Public Works Administration
City of Astoria
1095 Duane Street
Astoria, OR 97103

LICENSE

AN AGREEMENT, made and entered into this ____ day of _____, 2013 between the CITY OF ASTORIA, a municipal corporation of the State of Oregon, hereinafter referred to as "City", and Olynxa Levy, 509 Kensington, Astoria, OR 97103, hereinafter referred to as "Levy".

WITNESSETH:

WHEREAS, Levy is the owner of certain real property in Astoria, Oregon, hereinafter referred to as "the Levy property", and more particularly described as: =Lot 1, Block 132, McClure, in the City of Astoria, County of Clatsop and State of Oregon, and

WHEREAS, City is the owner of a public street right-of-way adjacent to and abutting the Levy property, hereinafter referred to as "the 5th Street right-of-way", and

WHEREAS, Levy wants to construct a wooden picket fence, hereinafter referred to as "the wooden picket fence", on a 10 foot by 70 foot portion of the 5th Street right-of-way, as it abuts the Levy property, and

WHEREAS, Levy has requested from City the right to locate the wooden picket fence on a 10 foot by 70 foot portion of the 5th Street right-of-way, as shown on the attached sketch;

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL COVENANTS AND PROMISES CONTAINED HEREIN, IT IS AGREED AS FOLLOWS:

- 1) City grants permission to Levy and Levy accepts City's permission to construct the wooden picket fence on the 5th Street right-of-way as shown on attached sketch.
- 2) Levy's use of the 5th Street right-of-way is not "adverse" or contrary to the City in any way.
- 3) Neither Levy nor any subsequent owner or occupant of the wooden picket fence will acquire any prescriptive rights in the 5th Street right-of-way.
- 4) City may revoke its permission for Levy's continued use of the wooden picket fence on the 5th Street right-of-way for any reason upon sixty days prior written notice to Levy. Upon such notice, Levy or subsequent owner will remove the wooden picket fence forthwith from the 5th Street right-of-way at her sole expense and restore right-of-way to a condition acceptable to the City.
- 5) Levy or her successor shall forever defend, indemnify and hold City harmless from any and all claim, loss or liability arising out of or in any way connected with her use of the 5th Street right-of-way, her conduct with respect to the same, or any condition thereof. In the event of any litigation or proceeding brought against City arising out of or in any way connected with any of the foregoing events or claims, Levy or her successor shall, upon notice from City, vigorously resist and defend against such actions or proceedings through legal counsel reasonably satisfactory to City.

6) The provision, covenants and agreements of this license shall be binding upon and inure to the benefit of the heirs, personal representatives, successors and permissible assigns of the parties hereto.

7) In the event suit or action is instituted to enforce any of the terms of this license agreement, the prevailing party shall be entitled to recover from the other party such sum as the Court may adjudge reasonable as attorney fees at trial or on appeal of such suit or action, in addition to all other sums provided by law.

8) Fences must comply with the provisions of the Astoria Development Code with respect to fence height, location and other factors.

CITY OF ASTORIA, a
municipal corporation of
the State of Oregon,

CITY:

By: _____
Mayor

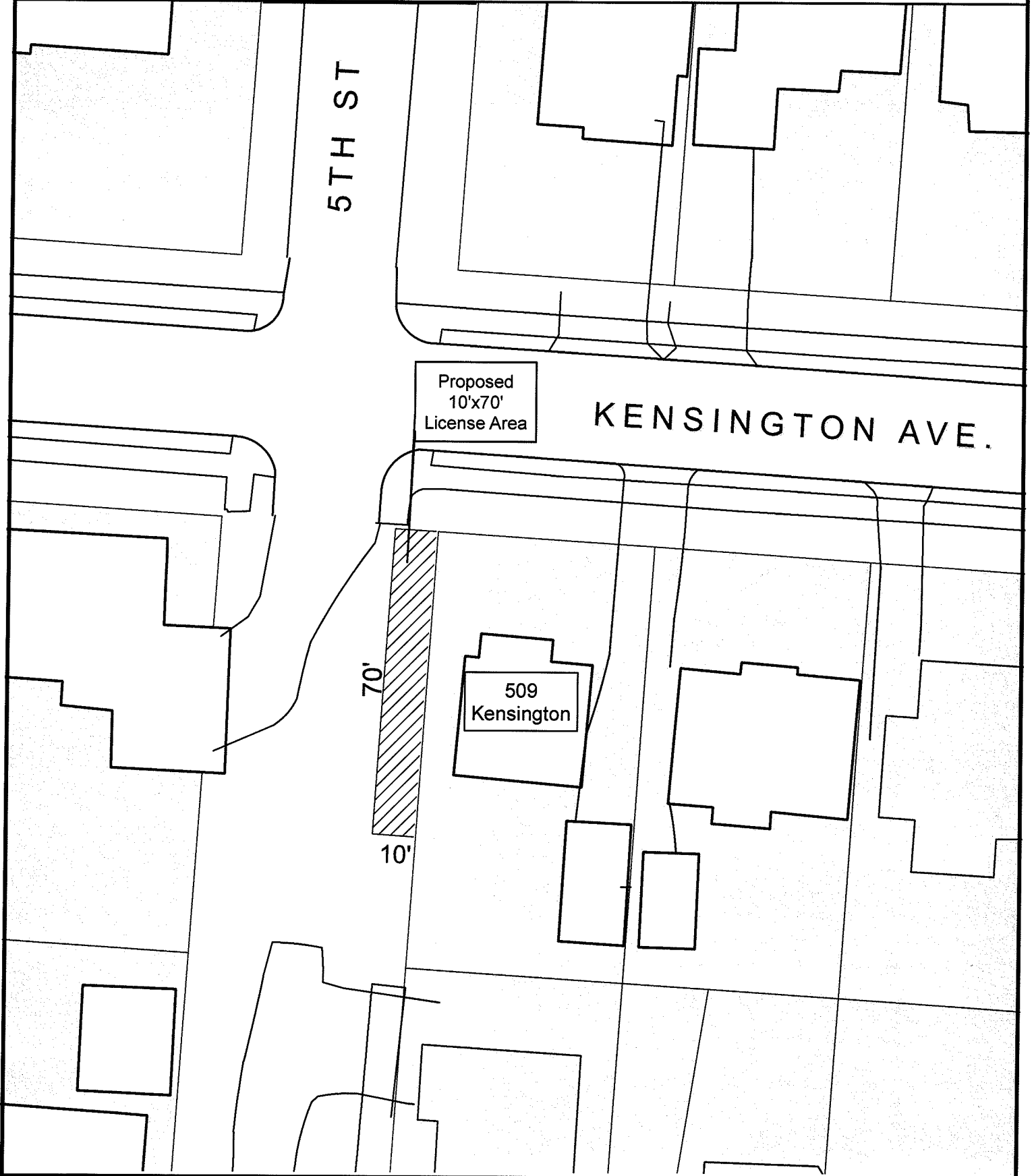
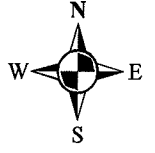
Attest: _____
City Manager

Property Owner

Proposed License to Occupy

10'x70' portion of
5th St Adjacent to
Lot 1, Blk 132
Mc Clures, Astoria

Date: 1-5-2013





CITY OF ASTORIA

Founded 1811 • Incorporated 1856

January 9, 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

Presented for your consideration is a proposed ordinance granting 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 first reading of this proposed 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 _____ DAY OF _____, 2013.

APPROVED BY THE MAYOR THIS _____ DAY OF _____, 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 9, 2013

MEMORANDUM

TO: MAYOR AND CITY COUNCIL

FROM:  PAUL BENOIT, CITY MANAGER

SUBJECT: ESTABLISHING A CRIMINAL HISTORY RECORDS CHECK ORDINANCE

DISCUSSION/ANALYSIS

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 conform with our agreement for use of the Law Enforcement Data System (LEDS), to fully comply with applicable Oregon Administrative Rules and Oregon Revised Statutes, and 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. 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 Council hold the first reading of the proposed ordinance.

By: 

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 ____ DAY OF _____, 2013.

APPROVED BY THE MAYOR THIS ____ DAY OF _____, 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 9, 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

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 first reading of the proposed 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 _____ DAY OF _____, 2013.

APPROVED BY THE MAYOR THIS _____ DAY OF _____, 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

December 26, 2012

MEMORANDUM

TO: MAYOR AND CITY COUNCIL
FROM:  PAUL BENOIT, CITY MANAGER
SUBJECT: CREATION OF NEW FUND

DISCUSSION/ANALYSIS

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. As an example, beginning in FY 12-13 the department set aside the first of five annual \$200,000 installments in anticipation of resanding the slow sand filtration system. These funds were placed in the Public Works Improvement Fund which is designed to provide funding for expenditures for major annual capital projects within the Public Works Department. In addition to the slow sand filter cleaning, the Department has the need to accumulate funds for the purchase of large capital pieces of equipment, such as the street sweeper and the vector truck, that are often in excess of \$100,000. Generally, these purchases cannot be made from a single year budget set aside and instead need to have funds set aside for a number of years in order to accumulate a sufficient balance.

In order to facilitate the tracking of these funds, the Public Works Department along with the Finance Department is 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 Council. Attached to this memorandum is a resolution for consideration.

RECOMMENDATION

Staff is asking that the City Council consider the attached resolution which would create a new Public Works Capital Reserve Fund.

By: 

Mark Carlson, CPA
Finance Director

Resolution No. 13-

A RESOLUTION TO ESTABLISH A NEW FUND

WHEREAS, a fund is a set of accounts established to report the financial status of specific functions, and;

WHEREAS it is desirable to create a fund for the accumulation of funds for future Public Works capital projects and acquisitions, and;

WHEREAS, the scope of the Public Works Department includes the need to manage funds for large capital projects and acquisitions;

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

Section 1. That the Public Works Capital Reserve Fund # 178 be established to account for the accumulation of funds for future capital projects and acquisitions.

ADOPTED BY THE CITY COUNCIL THIS _____ DAY OF _____, 2013.

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

Mayor

ATTEST:

City Manager

ROLL CALL ON ADOPTION YEA NAY ABSENT

Commissioner LaMear
 Herzig
 Mellin
 Warr

Mayor Van Dusen



January 14, 2013

MEMORANDUM

TO: MAYOR AND CITY COUNCIL

FROM:  PAUL BENOIT, CITY MANAGER

SUBJECT: **SUBJECT: AUTHORIZATION TO BID - SPUR 12 & CEDAR CREEK FOREST THINNING AND ROAD IMPROVEMENTS**

DISCUSSION/ANALYSIS

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 part of the proposed sale, watershed road Spur 12 would be improved to assure needed access to this area of the watershed well into the future. 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, and that prices offered will be very favorable.

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 and it has significantly deteriorated over the years despite interim efforts to keep it in service. It is in need of major repairs to prevent it from becoming increasingly unsafe to traverse, and ultimately it will be unusable.

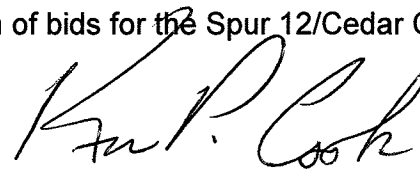
Proposed road improvements would include roadside ditching, culvert improvement, proper sloping of the road surface, and placement of compacted crushed rock. The cost of the road improvements would be paid from a portion of the proceeds derived from the sale.

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.

RECOMMENDATION

It is recommended that Council authorize solicitation of bids for the Spur 12/Cedar Creek Forest Thinning.

Submitted By



Ken P. Cook, Public Works Director

Prepared By



Mike Barnes, City Forester



January 7, 2013

MEMORANDUM

TO: MAYOR AND CITY COUNCIL

FROM:  PAUL BENOIT, CITY MANAGER

SUBJECT: **11th STREET CSO SEPARATION – GIBBS & OLSON DESIGN ENGINEERING SERVICES CONTRACT AMENDMENT**

DISCUSSION/ANALYSIS

In June, Council awarded the 11th St. Combined Sewer Overflow (CSO) Separation project design engineering services contract to Gibbs & Olson. Since that time, Gibbs & Olson has been making steady progress on this complex project, and is finalizing plans and specifications for bid advertisement. Bid advertisement is scheduled to begin in early February.

The 11th St. CSO Separation project primarily consists of installing over 10,000 feet of new stormwater pipe in 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 St, 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 in the following locations:

8th St from Commercial to Niagara
9th St from Duane to Harrison
10th St from Duane to Jerome
11th St from Exchange to Irving

12th St from Exchange to Kensington
Irving Ave from 11th St to 12th St.
9th St from Marine Dr to the outfall

When the original scope and fee was prepared by Gibbs & Olson, \$10,000 was allocated for limited excavation (potholing) of City utilities during the design phase. At 90% design completion, there are more conflicts than originally estimated, so the potholing effort is now estimated at \$14,060 for a requested increase of \$4,060. This investment during the design phase to accurately depict the location of the various utilities is expected to reduce potential change orders during construction, which potentially could exceed the cost of the design contract amendment.

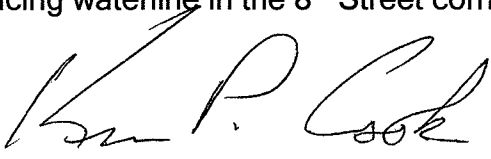
The contract amendment also includes a fee for including design for replacement of old, existing waterline that runs east-west through the 8th Street intersections. It is in the best interest of the City to invest in the replacement of these deteriorated pipes within the new 8th Street pavement to minimize the potential of cutting into the new roadway soon after construction. The fee to design the replacement of these pipes and include them in the bid documents is \$5,323. Based

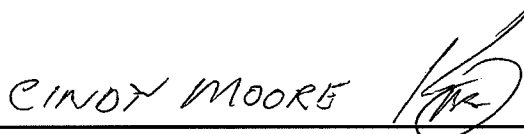
on City staff's detailed review, it has been determined that the added scope and associated fee is reasonable and justified.

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. Funding for this project is available through the IFA funding contract that was authorized by Council in May 2012.

RECOMMENDATION

Recommend Council execute a contract amendment with Gibbs & Olson for the 11th St. CSO Separation Project in the amount of \$9,383.00 for additional design engineering services associated with potholing existing City utilities and replacing waterline in the 8th Street corridor.

Submitted By: 
Ken P. Cook, Public Works Director

Prepared By: 
Cindy D. Moore, City Support Engineer



CONTRACT AMENDMENT
BETWEEN
THE CITY OF ASTORIA AND GIBBS & OLSON, INC.
FOR
11TH STREET CSO SEPARATION PROJECT

The AGREEMENT dated June 25, 2012, by and between THE CITY OF ASTORIA, hereinafter called "THE CITY" and GIBBS & OLSON, INC., hereinafter called "CONSULTANT", is hereby amended as follows:

Amend Scope of Services of the AGREEMENT for additional design level potholing and design engineering for additional waterline replacement on 8th Street (see attached scope and fee).

Amend Compensation of the AGREEMENT to increase contract amount by \$9,500.00.

IN WITNESS WHEREOF, THE CITY AND CONSULTANT have executed this AMENDMENT as of _____, 2013.

THE CITY OF ASTORIA a municipal
corporation of the State of Oregon

CONSULTANT:
Gibbs & Olson, Inc.

BY: _____
Willis Van Dusen Date
Mayor

BY: Richard A. Bush 1/15/2013
Consultant Date

BY: _____
Paul Benoit Date
City Manager

PROJECT DESCRIPTION – CONTRACT AMENDMENT #4

This work shall consist of additional costs associated with potholing existing waterline locations on 8th through 12th Streets, and surveying locations of potholes for inclusion to the drawings. In addition, work for this amendment shall include designing and adding to the plans additional waterline replacement on 8th Street.

It remains the assumption that the potholing work is necessary for identifying the location and depth of existing waterlines to ensure conflicts with the proposed storm drainage do not occur during construction. It is further assumed that additional topographic survey will be necessary to complete the tasks described for Amendment #4.

SUBCONSULTANTS UTILIZED

- Applied Professional Services, Inc.

SCOPE OF WORK: PS&E ENGINEERING

Tasks 3.2 and 3.5 are amended as follows:

TASK 3– PS&E ENGINEERING

- 3.2 Provide additional waterline design for waterline replacement on 8th Street, and incorporate onto waterline plan sheets for 8th Street.
- 3.5 Provide additional potholing through the subconsultant Applied Professional Services, Inc.

Gibbs & Olson shall coordinate the subconsultant efforts and add the following to the PS&E Engineering:

- Provide topographic survey of potholed waterline locations. The City will provide measure down information for the depth of the potholed waterlines.
- Incorporate information into the drawings showing the location and elevations of the existing waterline where crossings with proposed storm drainage occur.

FEE ESTIMATE

**City of Astoria
11st Street CSO Separation Project
PS&E Engineering - Contract Amendment #4**



TASK 3.0 - PS&E Engineering

Classification	Hours	Pay Rate		Cost
Senior Engineer	2	\$	157.50	\$ 315.00
Project Manager	8	\$	150.00	\$ 1,200.00
Design Engineer	16	\$	90.00	\$ 1,440.00
Technician	8	\$	92.00	\$ 736.00
Licensed Land Surveyor	2	\$	112.00	\$ 224.00
2 Person Crew w/ GPS	8	\$	176.00	\$ 1,408.00
Clerical	0	\$	63.00	\$ -
Subtotal				\$ 5,323.00
Reimbursables:				
Mileage	\$	100.00		
Reproduction Expenses	\$	17.00		
Computer Time	\$	-		
Subtotal				\$ 117.00
Subconsultants:				
Applied Professional Services (additional above \$10,00)		\$	3,360.00	
Gibbs & Olson Administrative Fee (5%)		\$	700.00	
		\$	-	
Subtotal		\$	4,060.00	\$ 4,060.00
Total Estimated Fee				\$ 9,500.00



January 7, 2013

MEMORANDUM

TO: MAYOR AND CITY COUNCIL

FROM:  PAUL BENOIT, CITY MANAGER

SUBJECT: **11TH STREET CSO SEPARATION PROJECT – AUTHORIZATION TO BID**

DISCUSSION/ANALYSIS

The upcoming 11th St. Combined Sewer Overflow (CSO) Separation project primarily consists of installing over 10,000 linear feet of new stormwater pipe in established City rights-of-way. In certain instances, it will be necessary to replace existing water and sanitary 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 St., 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 in the following locations:

8th St. from Commercial to Niagara
9th St. from Duane to Harrison
10th St. from Duane to Jerome
11th St. from Exchange to Irving

12th St. from Exchange to Kensington
Irving Ave from 11th St. to 12th St.
9th St. from Marine Dr. to the outfall


Gibbs & Olson is working on the final bid documents including design plans and specifications, which are expected to be available during the last week of January. The 90% engineer's estimate of construction cost, without contingency, is \$6,092,565. Due to the high probability of unforeseen conditions on this project, a 20% budget contingency is recommended. With this level of contingency, the total project cost is estimated at \$7,311,078. City staff is working with Business Oregon Infrastructure Finance Authority (IFA) on a loan amendment for a Financing Contract increase to the original loan amount totaling \$4,062,500. IFA has provided written support for the justified increase and availability of loan funds. The IFA Financing Contract Amendment will be presented to Council for approval prior to, or in conjunction with the construction contract award for this project.


Due to the nature of the improvements, the majority of the construction will need to occur during the drier summer months when the groundwater level is at a minimum. This will reduce the risk of land movement and allow construction activities such as paving to be done in the most efficient manner. In order to meet regulatory deadlines for project completion, it is critical that the City bid the project as soon as final design documents are completed. Bid advertising is expected to begin on February 5th. Award of the construction contract and authorization of the IFA Financing Contract Amendment is expected to be presented to Council at the March 18th meeting.

Operational completion of this project must occur by December 1, 2013 according to the Amended Stipulation and Final Order signed by the City and DEQ.

RECOMMENDATION

It is recommended that the City Council authorize staff to solicit bids for the 11th St CSO Separation project.

Submitted By: 
Ken P. Cook, Public Works Director

Prepared By: 
Cindy D. Moore, City Support Engineer



CITY OF ASTORIA

Founded 1811 • Incorporated 1856

January 8, 2013

MEMORANDUM

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

Discussion & Analysis

A liquor license application has been filed by Baked Alaska LLC doing business as Baked Alaska, located at No. 1 12th Street, Suite 1, Astoria. The application is an Additional Privilege and Extension of Premises for an Off-Premises Sales License. A copy of the application is attached.

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

Recommendation

Staff recommends that the City Council consider this application for approval.

Respectfully submitted,



Mark Carlson, CPA
Finance Director



OREGON LIQUOR CONTROL COMMISSION LIQUOR LICENSE APPLICATION

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
- Other EXENSION OF PREMISES

CITY AND COUNTY USE ONLY

Date application received: 12-21-12

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: LVB

Date: 12/18/12

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 BAKED ALASKA L.L.C. ③ _____

② _____ ④ _____

2. Trade Name (dba): BAKED ALASKA

3. Business Location: NO 1 12TH ST. Ste#1 ASTORIA CLATSOP OR. 97103
(number, street, rural route) (city) (county) (state) (ZIP code)

4. Business Mailing Address: NO 1 12TH ST. Ste#1 ASTORIA OR. 97103
(PO box, number, street, rural route) (city) (state) (ZIP code)

5. Business Numbers: 503-325-7414 503-325-7418
(phone) (fax)

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

7. If yes to whom: BAKED ALASKA L.L.C. Type of License: FULL ON-PREMISE

8. Former Business Name: _____

9. Will you have a manager? Yes No Name: CHRISTOPHER J. HOLEN
(manager must fill out an Individual History form)

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

11. Contact person for this application: CHRISTOPHER J. HOLEN 503-298-0838
(name) (phone number(s))
NO 1 12TH ST. Ste#1 ASTORIA, OR. 97103 503-325-7418 chefhollen@bakadak.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 12/3/12 ③ _____
Date _____ ④ _____

RECEIVED
OREGON LIQUOR CONTROL COMMISSION
Date
DEC 07 2012



CITY OF ASTORIA

Founded 1811 • Incorporated 1856

January 8, 2013

MEMORANDUM

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

Discussion & Analysis


A liquor license application has been filed by MAD, Inc. doing business as Beach Burrito, located at 11 W Marine Drive, Astoria. The application is a New Outlet for a Limited On-Premises Sales License. A copy of the application is attached.

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

Recommendation

Staff recommends that the City Council consider this application for approval.

Respectfully submitted,



Mark Carlson, CPA
Finance Director



OREGON LIQUOR CONTROL COMMISSION LIQUOR LICENSE APPLICATION

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
- Other _____

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

CITY AND COUNTY USE ONLY

Date application received: 12-14-12

The City Council or County Commission:

City of Astoria
(name of city or county)

recommends that this license be:

- Granted
- Denied

By: _____
(signature) (date)

Name: Mark Carlson, CPA

Title: Finance Director

OLCC USE ONLY

Application Rec'd by: R. Sanchez

Date: 12/05/12

90-day authority: Yes No

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

① MAD Inc. ③ _____

② _____ ④ _____

2. Trade Name (dba): BEACH BURRITO

3. Business Location: 11 W. Marine Drive ^{SUITE #2} Astoria, Clatsop, Oregon, 97146
(number, street, rural route) (city) (county) (state) (ZIP code)

4. Business Mailing Address: 89905 Manion Drive Warrenton, Oregon, 97146
(PO box, number, street, rural route) (city) (state) (ZIP code)

5. Business Numbers: 503-325-2176
(phone) (fax)

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

7. If yes to whom: n/a Type of License: n/a

8. Former Business Name: n/a

9. Will you have a manager? Yes No Name: Jon and Candy Pior
(manager must fill out an Individual History form)

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

11. Contact person for this application: MIKE DAVIES 503-738-2776
(name) (phone number(s))
89905 MANION DR. WARRENTON, OR crashbeat@msn.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 Nov 5, 2012 ③ _____
OREGON LIQUOR CONTROL COMMISSION RECEIVED Date Nov 5, 2012

② Mary P. Davies Date Nov 5, 2012 ④ _____
DEC 04 2012 Date _____




CITY OF ASTORIA

Founded 1811 • Incorporated 1856

January, 2013

MEMORANDUM

TO: MAYOR AND CITY COUNCIL
FROM:  PAUL BENOIT, CITY MANAGER
SUBJECT: **DELINQUENT TRANSIENT TAXES**

DISCUSSION/ANALYSIS

As of the end of the December of 2012, the Best Western (Genesis Hotel LLC) is delinquent in their transient tax payment to the City. They have been contacted and verbal agreements are in place. With Council approval this agreement will be formalized in writing. As shown on the attached document, 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 reached specifies for them to continue to file monthly reports with the City and keeping current on all monthly remittances by the 15th of the month following the reporting month and then to pay off the balance in four equal payments over the months of February through May.

RECOMMENDATION

It is recommended that the City Council consider approval of the proposed extended payment agreement and to approve the filing of a lien on the property as called for in Transient Room Tax code 8.045.7(e) and 8.045.12 respectively.

By:


Mark Carlson, CPA
Finance Director



INVOICE

City of Astoria

1095 Duane Street
Astoria, OR 97103
Phone: (503) 325-5821
Fax: (503) 325-2997

DATE: JANUARY 10, 2013

INVOICE # 11013

DUE UPON RECEIPT

TO Genesis Hotel LLC
Lincoln Asset Management
5809 Jean Road
Lake Oswego, OR 97035
Phone: (503) 542-4761

Customer ID #18

Make checks payable to City of Astoria

DATE	DESCRIPTION	AMOUNT
01/10/13	Month Ended September 30, 2012 - Room Tax Due 10-15-12	\$ 19,317.61
01/10/13	Month Ended September 30, 2012 - Penalty – 10%	1,931.76
01/10/13	Month Ended September 30, 2012 - Additional Penalty – 15%	2,897.64
01/10/13	Month Ended September 30, 2012 - Interest – 1% per month (11-1-12 through 1-31-13)	579.53
	Total due for September 2012:	24,726.54
01/10/13	Month Ended October 31, 2012 - Room Tax Due 11-15-12	6,911.60
01/10/13	Month Ended October 31, 2012 - Penalty – 10%	691.16
01/10/13	Month Ended October 31, 2012 - Additional Penalty – 15%	1,036.74
01/10/13	Month Ended October 31, 2012 - Interest – 1% per month (12-1-12 through 1-31-13)	138.23
	Total due for October 2012:	8,777.73
	Total Amounts Due:	\$ 33,504.27