



# **AGENDA**

## **ASTORIA CITY COUNCIL SPECIAL SESSION**

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**WEDNESDAY, FEBRUARY 14, 2018  
9:00 AM  
2<sup>nd</sup> Floor Council Chambers  
1095 Duane Street · Astoria OR 97103**

- 1) CALL TO ORDER**
- 2) ROLL CALL**
- 3) DISCUSSION REGARDING SALE OF CITY-OWNED PARKS LAND**
- 4) ADJOURNMENT**

**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 JENNIFER BENOIT WITH THE CITY MANAGER'S OFFICE  
AT 503-325-5824**



## CITY OF ASTORIA

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### MEMORANDUM • PARKS AND RECREATION

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**DATE: FEBRUARY 7, 2018**  
**TO: MAYOR AND CITY COUNCIL**  
**FROM: BRETT ESTES, CITY MANAGER**  
**SUBJECT: PROPOSED SALE OF CITY-OWNED PARKS LAND**

#### **DISCUSSION/ANALYSIS**

Earlier this year, the City Council directed the Parks and Recreation Department to consider sale of several City-owned parcels that are currently maintained by Parks staff. Based on the recently adopted Astoria Parks and Recreation Master Plan, several sites were identified by the Council due to the underutilized nature of the sites and/or development potential of the sites. The sites Council identified to be investigated included: Birch Ballfield, US Custom House Reconstruction, Tidal Rock/Chairwall, First US Post Office, and Yacht Club. It was later determined to not pursue the sale of the Yacht Club at this time due to the complications concerning relocation of the Parks facilities located at the Rec Center (Yacht Club).

Sale of any City-owned property is governed by processes identified in City Code, State Code, and City Administrative Practices. Staff has prepared a summary of the process for sale of City-owned property. The process includes several City Council meetings at different stages, an appraisal, and hiring a real estate firm to handle the sale documents. Staff has also prepared a fact sheet on each of the four sites identified with a list of issues that would need to be considered and/or resolved prior to sale of the properties.

Three of the sites (Birch Field, Custom House, and First Post Office) are designated as "City Parks" in City Code 5.926. By this designation, the park is protected by the Parks Rules and Regulations in City Code 5.926 to 5.933, which include rules concerning smoking, drinking, offensive activities, hours of operation, and other restrictions for use of a City Park. In order to sell these properties, the Council would need to amend Section 5.926 to remove the designation.

Three of the sites (Custom House, First US Post Office, and Tidal Rock/Chairwall) are designated as "historic". Historic designation cannot be removed unless the structure/site complies with the criteria in City and State Codes. Oregon Revised Statute 197.772, Consent for Designation as Historic Property, states that a property owner may object to historic designation "during the designation process". On January 31, 1997, the Oregon Department of Justice clarified that the ORS does not allow the removal of historic designation of a property unless the owner objected to the designation prior to the historic designation. The City was the applicant of the designations and did not object; therefore, removal of the historic designation is not possible. In 2016, the Oregon Supreme Court (*Lake Oswego Preservation Society v City of Lake Oswego*) ruled that a designation could not be removed if the owner did not object at the

time of the designation. Therefore, the historic designation of these three properties cannot be removed.

City Development Code Section 6.080 addresses “Demolition and Moving” of historic structures. The reconstructed US Custom House building is not on the original site of the Customhouse and therefore, if an appropriate location could be found, the structure may meet the Code criteria for movement to another site. Comprehensive Plan Section CP.255.4 requires that City-owned historic structures be “. . . used for purposes that have general public benefit. . .” The Customhouse is the only site that has a building and the public could benefit from the structure at its current location or other appropriate location. Tidal Rock/Chairwall and First US Post Office sites are the original sites and would not meet the criteria for “moving”.

Oregon Revised Statute 358.653 addresses the “Protection of Publicly Owned Historic Properties”. Public agency ownership of the sites may be required or a mitigation, such as moving the building to another site, may be possible. ORS 358.653 requires review and recommendation by State Historic Preservation Office to determine if there would be any adverse impact with a proposed sale or change of property ownership. This requires submittal of a formal request to SHPO. The feasibility of obtaining a “no adverse impact” determination from SHPO is addressed below in each of the property discussions.

### **Birch Field (designated Park):**

This property would be the most feasible to sell and redevelop. It has no improvements on the site other than a neighborhood ball field configuration. The property is approximately one acre which could accommodate a maximum of eight single-family residential units as an outright use, or up to a maximum of 16 multi-family units with a conditional use approval in the R-2 Zone (Medium Density Residential). The site is wet at times but could be developed. It is listed as a “designated” City park. To sell this property, the City Council would need to amend the City Code Section 5.926 to remove the site from the list of designated City parks. The Council could then proceed with the standard process for sale of City-owned property.



On January 31, 2018, the City Department representatives met to review any issues or concerns with potential sale of this property. City Engineer Nathan Crater has advised that in the next 25 to 50 years, the City may need additional storm water treatment facilities. This site is close to four sewer outfalls and may be a good location for this facility in the future. It was noted that since the area is wet and marshy, that it may be advisable to have CREST review the site to determine if it is a potential “wetlands”.

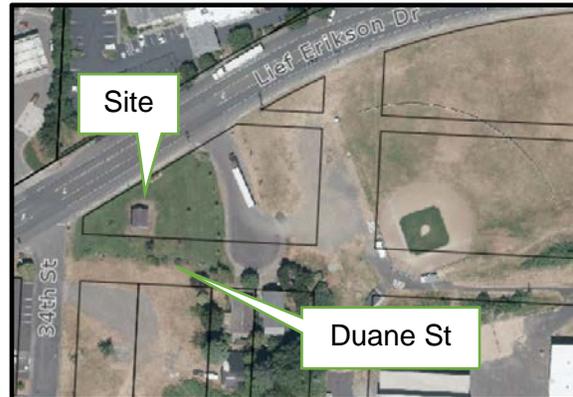
### **Recommendation, if Council wishes to proceed with possible sale of this property:**

Amend City Code Section 5.926 and direct staff to proceed with the standard process for sale of City-owned property.

### **Custom House (designated Park and Historic):**

The site includes the historic reconstruction of the First US Custom House West of the Rocky Mountains and is designated as a local historic landmark. This property could possibly have a small portion that could be redeveloped as noted below. With the possibility of moving the historic reconstructed building, the building could retain its benefit to the public and the site may be put to other uses.

The site has issues concerning other current uses such as the cul-de-sac access for adjacent residences to the south, access and parking for the adjacent Columbia Field ballfield to the east, and possible location of historic trolley tracks. The historic trolley line ran along Duane Street to the south of the site and would need to be researched if any excavation was done near the former tracks. The cul-de-sac was constructed through a Local Improvement District (LID). Engineering staff is researching the LID and any conditions.



On January 31, 2018, the City Department representatives met to review any issues or concerns with potential sale of this property. City Engineer Nathan Crater indicated that the cul-de-sac possibly should be dedicated as a right-of-way if it was constructed with an LID. He also advised that there is a major City sewer line that is located on the east side of the property that services the motel across Lief Erikson Drive. There are two main City sewer lines located in the Duane Street right-of-way that serves the entire City which would prevent vacating Duane Street. As noted in the Birch Field section, this site also could possibly serve as a storm water treatment facility location in the future. Each of these issues would need to be addressed prior to initiating the sale of the property.

It may be possible to divide the site and realign some of the access and parking to allow for a portion of the lot to be sold for development. This could result in approximately 0.25 acres of land for development which could possibly accommodate a maximum of five residential units in the R-3 Zone (High Density Residential).

The site may provide public access to the waterfront. The State has determined that “access” is defined to include physical and “visual” access from any publicly owned property and/or right-of-way. Public Access would need to be reviewed and addressed either by retention of the site in City ownership, determination that the site does not provide Public Access, or mitigation of the loss of the site in accordance with Development Code Section 3.130, Maintenance of Public Access to the Water. This determination is made by the Planning Commission at a public hearing in accordance with ORS 271.300 to 271.360. With the retention of a portion of the site for public use, and the relocation of the reconstructed historic building, the City may be able to meet the “public access” criteria.

The structure was constructed with a Federal grant from the US Customs Service. In reviewing the 1990 grant document, there are sections that appear to require notification to the granting agency if the property is sold or there are any changes to the property, and City compliance with Section 106 of the National Historic Preservation Act. At minimum, the US Customs Service

should be notified of any proposed actions by the Council on this site and historic designation should be maintained or mitigated by moving the building to another site.

As noted above, the City Comprehensive Plan and Oregon Revised Statutes would require that the site remain in City ownership or be mitigated. One mitigation could be to move the building to an appropriate site. The Custom House site is listed as a “designated” City park. To sell this property, the City Council would need to amend the City Code Section 5.926 to remove the site from the list of designated City parks.

**Recommendation, if Council wishes to proceed with possible sale of this property:**

Research the feasibility of relocating the building to an appropriate site. Direct staff to evaluate the feasibility of reconfiguring the access/LID and parking, and locate if any historic trolley tracks exist. Once this information is obtained, the Council should re-evaluate whether to proceed with the next steps concerning the Federal grant, historic designation issues (should it be moved), and public access to the water to allow possible sale of the property.

**Tidal Rock/Chairwall (designated Historic):**

The site includes the historic Tidal Rock and the exposed chairwall, both designated as historic within the Downtown National Register Historic District. It is not listed as a “designated” City park in City Code Section 5.926. This property could possibly have a small portion that could be redeveloped in the C-4 Zone (Central Commercial).

Due to historic designation of the tidal rock and the chairwalls, the site cannot be filled, and the historic features must remain visible. The designation of this and two other City-owned chairwall sites was a mitigation for the filling of the lot at 900 Marine Drive for the construction of the Sunset Empire Transportation District building and parking lot in 2001. With Federal money involved in that project, it had to meet the Federal Section 106 historic review leading to the required mitigation to protect other examples of exposed chairwalls within the City. The mitigation was to guarantee that the chairwalls would remain visible to the general public. As noted above, the City Comprehensive Plan and Oregon Revised Statutes would require that the site remain in City ownership or be mitigated. It may be feasible to divide the lot and retain the historic features with an access easement on the portion of the lot to be sold. As noted above, there would be additional historic reviews should this property be sold or altered.

The site is considered to have archaeological features and any excavation may need archaeological review.

The property was acquired from PP&L and they retained easements 10' wide along the north (Commercial Street) and east (15th Street) sides of the lot which restrict construction in these areas. The deed and purchase agreement should be reviewed by a professional for any other possible restrictions. In addition, there may be environmental contamination on the site.

On January 31, 2018, the City Department representatives met to review any issues or concerns with potential sale of this property. City Engineer Nathan Crater advised that the chairwalls contain access doors used by Public Works Department for access to under the sidewalk area along Commercial and 15th Streets. He stated that any change in this property

ownership should include an access easement for these portals, and/or the installation of an access door in the sidewalks. It was also noted that “Tidal Rock” is an identified “bench mark” / survey monument from 1853 which is used as the basis for other surveys in Astoria. Oregon Revised Statute Section 209 addresses survey “monuments” with regulations concerning their protection. Additional research may be needed to determine any issues relative to the bench mark designation.

If the site is divided and the southwest portion is sold, development and access would be challenging due to the topography of the site. Most of the site sits several feet below the adjacent right-of-way elevation. The exposed chairwalls are on the north and east sides which are the sides adjacent to the rights-of-way. The property to the west is developed with the JJ Astor Hotel Apartment parking lot, and the property to the south is developed with the Fort George Brewery parking lot. The property may be of most value to these two property owners.

If a portion of the site is sold, another option would be for the City to enter into a recorded agreement with the new property owner, as part of the sale agreement/compensation, to require the new owner to maintain the City-owned portion for regular maintenance with structural maintenance responsibility remaining with the City. Another option would be to lease the site for use by an adjacent property owner with their maintenance of the public area in lieu of a lease fee.

At its January 2, 2018 meeting, the City Council approved a Memorandum of Agreement with Jessica Schleif for care and renovation of the park, and installation of temporary visual art pieces in the park. The agreement’s duration will be for one year and the City will have the prerogative to remove any portion of any installed items, if any of the conditions of the agreement are not met.

**Recommendation, if Council wishes to proceed with possible sale of this property:**

Research the feasibility of dividing the lot for potential private development of the southwest portion of the lot and contact the adjacent property owners to inquire if they would be interested in the purchase and/or lease. The site might be able to be divided with City retention of the Tidal Rock and chairwalls with public access easement along the PP&L easement, or some other public access arrangement and/or public/private partnership. Once this information is obtained, the Council should re-evaluate whether to proceed with the next steps concerning the historic designation issues, and access to allow possible sale of the property. Prior to sale of this property, the City should have a Phase 1 Environmental Study completed on this site.

**First US Post Office Site (designated Park and Historic):**

The site, not a building, is designated as historic. The historic designation identifies “Noteworthy Landscape Features” to include the Shore Pines in two rows, ornamental plantings, and picket fence (which was inadvertently removed a few years ago). As a designated historic site, these features are included in the designation and would require review and approval by the Historic Landmarks Commission if changed. In addition to the historic



landscaping, the site is developed with a monument and obelisk commemorating the First US Post Office West of the Rocky Mountains and is important to the early history of Astoria.

The site is considered to have archaeological features and any excavation may need archaeological review. If the site is sold, it would need to be removed from “dedicated park” status in City Code by an amendment to the Code.

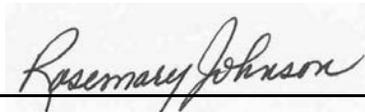
As noted above, the City Comprehensive Plan and Oregon Revised Statutes would require that the site remain in City ownership or be mitigated. Since it is the “site” and landscaping that is dedicated as historic, it may not be possible to develop the site for commercial or residential use. In accordance with ORS 358.653, any changes to or development of this site would probably be an adverse impact to the historical significance. In a discussion with SHPO, staff was advised that it is unlikely that SHPO would support sale of this site out of public ownership. Therefore, the site should remain in City ownership.

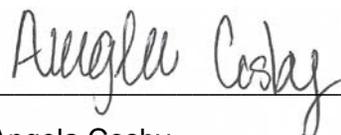
At its December 18, 2017 meeting, the City Council approved a Memorandum of Agreement (MOA) with the adjacent property owners David and Pam Armstrong to provide for the maintenance of the Park. The agreement’s duration is for five years and will be reviewed annually by both parties to ensure that all conditions are being met.

**Recommendation:** With the historic importance of this site, the lack of feasible development potential, the code requirements to protect publicly-owned historic properties, and the MOA for the Park’s maintenance, it is recommended that this site not be considered for potential sale.

### **RECOMMENDATION**

It is recommended that City Council determine which of these properties and/or any other possible properties should be researched further for possible sale. Should Council wish to have staff proceed further based upon the information above, actions to consider include proceeding with sale of Birch Field; relocation evaluation and engineering evaluation of Customhouse; contact adjacent property owners to Tidal Rock.

By:   
Rosemary Johnson, Planning Consultant

Through:   
Angela Cosby  
Director of Parks & Recreation