

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

Councilors Present: Nemlowill, Jones, Price, Brownson, and Mayor LaMear.

Councilors Excused: None

Staff Present: City Manager Estes, Community Development Director Cronin, Parks and Recreation Director Cosby, Finance Director Brooks, Fire Chief Ames, Interim Police Chief Spalding, Public Works Director Cook, City Engineer Harrington, Library Director Pearson, and City Attorney Henningsgaard. The meeting is recorded and will be transcribed by ABC Transcription Services, Inc.

Mayor LaMear introduced the new Interim Police Chief Geoff Spalding. She called for a moment of silence for people who had lost their homes due to the recent hurricanes and fires.

### REPORTS OF COUNCILORS

**Item 3(a):** Councilor Nemlowill reported that she attended three school orientations that day, adding hats off to all of the teachers, children, and parents.

**Item 3(b):** Councilor Brownson had no reports.

**Item 3(c):** Councilor Price thanked people for speaking with her over the past couple of weeks. There are many big issues going on and children are going back to school. She invited Councilors to tour the cancer center at the hospital. She toured the facility the previous weekend and they are open to suggestions on the color of paint.

**Item 3(d):** Councilor Jones reported that he observed the police officers in action the previous day. A gentleman whose laptop had been stolen was able to track its location using a global positioning system (GPS). When the police officers responded, they found the thief's vehicle parked at the end of 45<sup>th</sup> Street in between overgrowth at the lagoon. The vehicle was full of stolen property, which the police recovered. The thief was also doing heroin, which is sad. The area where the vehicle was parked was City property, so he cleared out some of the overgrowth earlier that day. The overgrown areas attract people doing illegal activities. He appreciated the quick response of the police officers.

**Item 3(e):** Mayor LaMear thanked Fire Chief Ted Ames and the Fire Department for hosting a great open house. It was fun to see all of the shiny fire engines and the hot dogs were good. She noted the following upcoming events for which fliers were available:

- Bake Sale Fundraiser for Library Renovation – Saturday, September 9<sup>th</sup>, 2:00 pm to 4:00 pm at Astoria Place Senior Living
- Lower Columbia Hispanic Council Hispanic Culture Celebration - Saturday, September 16<sup>th</sup>, 4:00 pm to 8:00 pm at Astoria Event Center

**CHANGES TO AGENDA** There were none.

### CONSENT CALENDAR

The following items were presented on the Consent Calendar:

- 5(a) Salary Resolution Updates (Finance)
- 5(b) RARE AmeriCorps Update (Finance)
- 5(c) Authorization to Purchase Bucket Truck (Public Works)

**City Council Action:** Motion made by Councilor Jones, seconded by Councilor Brownson, to approve the Consent Calendar. Motion carried unanimously. Ayes: Councilors Price, Jones, Nemlowill, Brownson, and Mayor LaMear; Nays: None.

Councilor Price noted that Jason Pollack was the new RARE AmeriCorps volunteer helping with emergency planning.

## REGULAR AGENDA ITEMS

### **Item 6(a): Appeal of Conditional Use CU17-05 by Shooting Stars Child Development Center (Community Development)**

On June 6, 2017, Denise Giliga of Shooting Stars Child Development Center applied for a Conditional Use permit (CU17-07) to the Astoria Planning Commission (APC) to locate an educational facility at 413 Gateway Avenue. This location is zone S-2, Shoreland Development. On July 25, 2017, the APC held a public hearing and approved the request with conditions. A Notice of Appeal on the APC decision was submitted by Christopher Connaway on August 7, 2017 within the 15-day appeal period. Mr. Connaway has standing to appeal as he provided public testimony at the original hearing. It is recommended that the City Council hold the public hearing on the appeal and consider whether to uphold, reverse, or remand the Astoria Planning Commission decision for Conditional Use permit 17-07.

Director Cronin presented the Staff report and explained that the Planning Commission's key issue was Staff's definitions of the child development center. The Planning Commission debated whether to define the facility as a daycare center or an educational establishment. A daycare center is a facility that provides daycare in any setting for any number of persons excluding family daycare centers in residential homes. Daycare centers are not allowed in S-2 zones. Therefore, on Staff's recommendation, the Planning Commission decided to define the facility as an educational establishment, which is a business primarily engaged in education, including vocational and trade schools, dancing, correspondence schools, and others. Astoria's Development Code defines public uses, which includes City Hall, county buildings, school district facilities, and any public agency. He reviewed the three criteria listed as the basis of Mr. Connaway's case, which were included in the Staff report.

Mayor LaMear opened the public hearing at 7:15 pm and asked if anyone objected to the jurisdiction of City Council to hear this matter at this time. There were no objections. She asked if any Councilor had a conflict of interest or ex parte contact to declare. There were none. She explained the procedures governing the conduct of public hearings to the audience and advised that handouts of the substantive review criteria were available from Staff. She called for testimony by the Applicant.

Denise Giliga, Owner/Director of Shooting Stars Child Development Center, said she was pleased that the Planning Commission was so professional and appropriate while developing Astoria for all Astorians. Upholding the Planning Commission's ruling would be appropriate and correct. As a business owner, she was excited to bring new life to an empty and unsought property. She is a local person employing local individuals with family wage jobs. She provides needed services for the community. All of these actions are in line with the Planning Commission and the City of Astoria's development and vision. This seems like a win. She believed there were some inaccurate implications in Mr. Connaway's appeal. The Oregon State Police moved from the building because they were first responders and needed to be in line with their directions, not because the building was unsafe. The area the property occupies is zoned S-2, not industrial. The Development Code says the purpose of an S-2 zone is to provide an area where a mixture of industrial, commercial, residential, public, and recreational uses can locate, which is this location. Shooting Stars is not a multi-use facility; it is an educational service provider for all hours that it operates. As a certified educational service, she must provide adequate insurance to lease and occupy the property. Her business is inspected by fire and safety organizations, the Health Department, and the State of Oregon. She operates under such scrutiny from so many overseers that it is impossible for her to operate in a dangerous area. She would never pass all of the inspections if the area were unsafe or unsuitable for her business. Oversized industrial vehicles roll through all parts of Astoria and Clatsop County with such regularity that it seems this part of town is not unusual. These vehicles do not access the property and will not interact with clients. They pose no threat to the health and safety of her clients. She respectfully requested that City Council uphold the correct ruling by the Planning Commission. She is excited to begin a new chapter for Shooting Stars.

Mayor LaMear called for testimony in favor of the application.

Frank Spence, 5169 Birch Street, Astoria, Astoria Port Commission President, stated the Port Commission supported the application and the use of the facility. The Port is the property owner and the facility was formerly used as Highway Patrol headquarters. The structure is stable, safe, and located behind a six-foot fence that backs up to a three-story office building. The property owner across the street, Bornstein, had testified before the Planning Commission that a daycare would greatly help his employees and attract additional workers who are seeking daycare. Bornstein is willing to expand and upgrade to help the facility. Daycare is a vital service and this is a good, safe location. The Port supports the application for the daycare at this site.

Debra Reed [21:37], 311 W Niagara, Astoria, said she was a salaried employee of Shooting Stars and a certified school teacher. She works all the hours that the facility is open, from 7:00 am to 6:00 pm. At no time during the day does she provide daycare. She teaches all day long or does office duties, trainings, and other educational pursuits. If she wanted to rent a space and babysit kids, she would not be permitted to because of the way Shooting Stars is regulated. She supported the application because the facility provides valuable services.

Mayor LaMear called for testimony impartial to the application. Hearing none, she called for testimony opposed to the application.

Christopher Connaway, 637 14<sup>th</sup> Street, Astoria, stated he was President of the Longshore Union. However, he was not speaking on behalf of the union. He did not receive any advice, consent, or money from the union. Unlike what has been portrayed in the newspaper, this is not the Longshoremen against Shooting Stars. He works at the Port and had great concerns about what goes on in that area. The Port is an industrial area in an S-2 zone and there is a huge amount of commercial truck and vehicle traffic. On a log transfer day, log trucks will pass directly in front of Shooting Stars an average of 175 times. This does not include Da Yang, Marine Spill Response Corporation (MSRC), Bergerson, or Bornstein. Bornstein gets tanker loads of dangerous chemicals delivered to within 50 feet of the front door into their facility. This is not a good place for kids. Astoria Forest Products (AFP), the Murphy company that runs the log operation at the Port, said their goal has always been to double the amount of log ships each month. The traffic creates a great amount of noise and dust. The area is industrial. Star of the Sea School is in a wonderful area and he did not want to see the Applicant move from that area. He understood the school was being forced out and believed that was extremely callous of the church. However, that was a subjective decision. He handed out a color map at the dais and stated the purple area was in a tsunami zone. It is fine if City Council wants to turn a blind eye to that, but that is the reason the State Police moved. The police were happy in that location and were paying the Port for the building. No one is moving kids into a tsunami zone. Seaside just received \$30 million to build a new high school and move their kids out of the tsunami zone. The facility has infants and toddlers, not high school students. City Council can take on the liability. He believed there was a huge inherent risk, but the City has a Development Code that everyone is required to adhere to. A multiple use operation does not meet the Development Code. His daughter has friends who take her kids to the school. The kids are under two years old, so the school is not educating infants and toddlers. According to Section 2.690 of the Code, the facility must be viewed and judged at its most stringent level. The Development Code does not allow this kind of operation as a permitted or conditional use. Maybe the facility is primarily an educational facility, but primarily means that it is not 100 percent, which makes it a multiple use facility. This is not a subjective matter and the issue is black and white. He lives half a block from the facility and would prefer to have the school stay at Star of the Sea because that is the perfect location. He did not understand why the City, church, and other parties cannot make that happen. The Port is not the proper place for this school. City Council can ignore their own Development Code, but if it does, everyone who is denied will expect the same dispensation. This is a multiple use facility and there is no way to define it any differently. The packet he gave to City Council contained quotes from the director to Mr. Cronin about infants and the number of children. When you are talking about infants, you are not talking about education. The Port Commission took a very cowardly position in abdicating their responsibility about this. Despite the fact that the building and land is owned by the Port, they left it up to the City as a land use issue. Common sense says it is unwise for the City to take this kind of risk and put its most vulnerable citizens at this kind of peril. He spoke to both commercial brokers in town and learned there are adequate opportunities for Ms. Giliga and the Port. The Port never contacted these brokers. This use is not permitted in the S-2 Zone.

Mayor LaMear called for the Applicant's rebuttal.

Ms. Giliga said during the Planning Commission meeting, she was asked what percentage of her business was considered daycare versus educational services. Eight children are in her infant and toddler room. The State of Oregon requires child care centers to have an emergency plan in place no matter where the facility is located. At Star of the Sea, the facility had a plan with the community college, a plan for parents to pick up their children, and automated telephone systems. The new center would have the same procedures, including evacuation plans for tsunamis, earthquakes, power outages, and anything that could happen in that area.

Mayor LaMear closed the public hearing at 7:33 pm [33:27] and called for Council discussion and deliberation.

Councilor Price said she believed the Planning Commission and Community Development Department did everything they could to make something happen that was needed in the community, and did so by contorting the Development Code. Some of the Commissioners voted against the application for the conditional use permit because they cited the Development Code's requirement for more stringent regulations be considered when there are dual uses. Regardless of the percentage, there is a dual use. She was unclear as to how the daycare came to be defined as an educational facility instead of a daycare facility. Commissioners had stated the lack of another available site was not a reason to grant a permit. She was concerned about the tsunami zone, but realized it was not in the Development Code. As the City thinks about the future, it should consider whether to put children in vulnerable areas. If the economy stays robust and Astoria continues to be a place where people and businesses want to come, the City needs to consider how flexible the Comprehensive Plan's development standards should be. She did not understand why a daycare center was not included in the S-2 zone. There is no record of how that deliberation came about, but the long list of conditional uses allowed in the S-2 zone seems to include everything but a daycare. She did not agree with the comments about the area being an industrial site because a daycare center on Commercial would have a lot more traffic and the building would not be behind a fence with a yard.

Councilor Nemlowill agreed there was a demand for quality child care in Astoria. However, she believed demand does not mean City Council should allow daycares to go into inappropriate places. This is a land use issue, so the Development Code must be applied. She believed the business fit the definition of a daycare. The application for the conditional use permit stated there is an extreme need for child care in Astoria, so the applicant is trying to address this need. She agreed the most stringent use should be applied and in this case, the use is not permitted outright or conditionally in the S-2 zone. She was in favor of reversing the Planning Commission's decision.

Councilor Jones said he was not in favor of establishing a precedent for denying uses based on the tsunami zone because that is a separate issue and the implications would be huge. Any future proposal for any type of use of a facility would not be allowed if the City decided nothing could be built in a tsunami zone. Half of the town is in a tsunami zone and people choose to live and work here knowing that. He did not know where to draw the line between daycare and education, but believed education does occur at daycares. He has spent time with his 21-month old granddaughter going through number and letter books and helping her learn. The definition of what is educational is somewhat subjective, but based on his own experience, education takes place at a very young age. While nurturing and caring for children, education is going on the entire time. He was not opposed to the application.

Councilor Brownson agreed the tsunami zone could not be argued by City Council. Even when adding up the number of log trucks in the area, the traffic does not amount to much and the facility is behind a six-foot fence and set back. This is a for profit private enterprise, and adults take their children knowing what the environment and circumstances are. This issue is the definition of this facility as a daycare or educational facility. The business has blurred the line by calling itself a child care center on Facebook, but also a child development center. He would like to be convinced that this is primarily an educational center for children. In his opinion, a daycare center is a place where kids are dropped off while parents are working, a type of communal babysitting. It does not sound like this facility is a babysitter. Schools are also primarily education centers that kind of serve as daycare centers. The facility is not a traditional daycare center and this is not addressed in the S-2 zone. He was leaning in favor of the application, but wanted to be sure City Council was making the right decision legally. City Manager Estes explained that it is up to City Council to decide how to interpret the definition of the facility and findings.

Mayor LaMear said she worked in public education for 25 years. Early childhood education begins with birth. Everyone knows how important it is to sit down and read with children. It is an educational experience when

children are in daycare; they are being taught all day long. This is an educational operation. She agreed that City Council should not consider the tsunami zone because doing so would preclude any other development. She has visited the facility, which is very safe with a high fence. She planned to uphold the Planning Commission's decision.

Councilor Brownson noted that a parent had commented in 2012 that the facility had made the switch from daycare to educational center. This is a strong indication that the business consciously moved in the direction of education.

Councilor Price asked if it was part of Staff's role to advise applicants to change their use in order to get an application approved for a particular zone. Director Cronin stated part of his role is to interpret the Development Code, but ultimately the Planning Commission and City Council make the final decisions. During the pre-application conferences, Staff discussed the uses. Based on the information he was given about the kindergarten age group, he believed the facility was an educational services establishment.

Councilor Price said she agreed that education begins at birth. However, she was concerned that this decision would create a precedent. This is a benign use, so she would vote to uphold the Planning Commission's decision.

**City Council Action:** Motion made by Councilor Price, seconded by Councilor Jones, to adopt the Findings and Conclusions contained in the Staff report, uphold the Astoria Planning Commission's decision to approve Conditional Use CU17-05 by Shooting Stars Child Development Center, and deny the appeal. Motion carried 4 to 1. Ayes: Councilors Price, Jones, Brownson, and Mayor LaMear; Nays: Councilor Nemlowill.

Mayor LaMear read the rules of appeal into the record.

**Item 6(b): Liquor License Application by Newport Pacific Corporation, doing business as Mo's Restaurant, located at 101 15<sup>th</sup> Street, for an Additional Privilege for an Off-Premises Sales License (Finance)**

A Liquor License Application has been filed by Bob Scull for Newport Pacific Corp doing business as Mo's Restaurant, located at 101 15th Street, for an Additional Privilege for an Off-Premises Sales License. The appropriate departments have reviewed the application and it is recommended that Council consider approval of the application.

Councilor Nemlowill recused herself because the Applicant was a client of her husband's business, Cervecia Gratis, doing business as Fort George Brewery.

**City Council Action:** Motion made by Councilor Jones, seconded by Councilor Brownson, to approve the Liquor License Application by Newport Pacific Corporation, doing business as Mo's Restaurant. Motion carried unanimously. Ayes: Councilors Price, Jones, Brownson, and Mayor LaMear; Nays: None.

**Item 6(c): Transportation Growth Management Code Assistance Grant Application: Riverfront Vision Plan – Urban Core (Community Development)**

In 2009, the City of Astoria adopted a Riverfront Vision Plan (RVP) to address issues dealing with open space, land use, and transportation issues along the Columbia River. The City's north Riverfront (Columbia River to West Marine/Marine Drive/Leif Erikson Drive) was divided into four "plan areas" of development: Bridge Vista (Port/Smith Point to 2nd Street), Urban Core (2nd to 16th Street), Civic Greenway (16th to 39th Street), and Neighborhood Greenway (39th Street to east end of Alderbrook Lagoon). Since 2014, the City has been successful in implementing each section of the RVP with financial assistance from the Transportation & Growth Management Program, a state administered grant program and a Department of Land Conservation & Development grant for the Neighborhood Greenway section. The last section of the RVP that needs to be implemented through the Development Code is the Urban Core, which covers downtown Astoria. Staff would like to apply for additional funding to complete the implementation of the RVP and address a FY 17-18 City Council goal. It is recommended that the City Council authorize the Mayor to sign the letter of support for the Urban Core code assistance project and submit an application for grant funding.

**City Council Action:** Motion made by Councilor Price, seconded by Councilor Brownson to authorize the Mayor to sign the letter of support for the Urban Core code assistance project and submit an application for grant funding. Motion carried unanimously. Ayes: Councilors Price, Jones, Nemlowill, Brownson, and Mayor LaMear; Nays: None.

**Item 6(d): Memorandum of Understanding for Clatsop County Housing Study (City Manager)**

In May 2017, a meeting was called by Clatsop County to allow for dialogue on County-wide issues between members of the County Commission and city councilors from Clatsop County municipalities. One of the discussion topics was affordable housing. Part of that discussion centered on the recently completed housing study for Tillamook County. It was determined that there was interest in conducting a housing study for all incorporated and unincorporated areas of Clatsop County.

Clatsop County has determined the cost for this project would be approximately \$100,000. The County has proposed to pay fifty percent of the cost with the remainder of the municipalities (Cannon Beach, Seaside, Gearhart, Warrenton and Astoria) paying \$10,000 apiece. A memorandum of understanding (MOU) between Clatsop County and the municipalities is attached which spell out details.

County Manager Cameron Moore will be in attendance at the September 5<sup>th</sup> meeting to answer any questions. City Attorney Henningsgaard has review and approved the MOU as to form. It is recommended that City Council consider the memorandum of understanding for the Clatsop County Housing Study.

Councilor Nemlowill said she was generally in favor of this study when the idea came up a couple of years ago. She asked what results the County expected.

Cameron Moore, Clatsop County Manager, Gearhart, stated that people keep saying there is a housing problem and he asks what that means. The problem has not been defined and communities do not understand where the area is short of housing. The study will help Clatsop County understand the market, identify gaps in the market, and provide specific recommendations about how to address the gaps. He believed the recommendations would vary from community to community based on capacity to take on additional housing.

Councilor Nemlowill asked if the county-wide study would incorporate some of the work that has already been done, like the City of Astoria's Housing Study and buildable lands inventories.

Mr. Moore said the study starts by looking at the current information. Cannon Beach did a comprehensive study two years ago and their city council offered to put money into the county-wide study. He explained the study done in Tillamook County was the genesis of this project. Tillamook County found they had two housing markets, the coastal market and the inland market, which are very different markets. Both markets need to be dealt with differently. He suspected the same situation was occurring in Astoria, but more analysis could tell more. The Tillamook study made ten very specific recommendations, the first of which was to have a county-wide housing coordinator to advocate for and work on housing issues. Tillamook County has implemented the housing coordinator position, but the rest of the recommendations would be difficult to achieve. People cannot change what they are doing tomorrow, but the county has to start some place to help improve the housing market.

Councilor Brownson believed most of the housing in the county was within municipalities and asked why the county was so interested.

Mr. Moore said the county commissioners hear a lot from people who are concerned about the lack of housing and lack of affordable housing. The study will be a bit of a primer on Oregon land use and urban growth boundaries. Most new housing is in cities, which is the intent of the urban growth boundaries. However, the county is part of the solution.

Councilor Price stated the 2015 Housing Study gave Astoria quite a bit of information and the City has been interested in a second part that builds on that study. The Tillamook County housing study was passed around at the last joint meeting and she believed it was a good study. She hoped the county would take a larger role in looking at housing because it is very difficult for most cities to increase their urban growth boundaries. The

county has a lot of land adjacent to the cities. She understood that a lot has changed in the last year and a half just from minor developments like rehabilitating old apartment buildings. Adding just a few units can take a great deal of stress off the problem. She asked if Staff believed the study would build on what Astoria already has. City Manager Estes responded yes, definitely.

Councilor Brownson said he liked the Tillamook report and he would appreciate more information. Finding places for the Coast Guard families will become a county-wide issue. Understanding the coordination of the issue will help Astoria make better decisions in the future.

Mr. Moore confirmed for Mayor LaMear that developers would be included in the study. He believed it was important to have the developers' perspectives. Once the memorandum is signed by all of the municipalities, people will be pulled together to make this happen and ensure the county gets a broad perspective of the housing challenges and issues.

**City Council Action:** Motion made by Councilor Jones, seconded by Councilor Price to authorize Mayor LaMear to sign the memorandum of understanding for the Clatsop County Housing Study. Motion carried unanimously. Ayes: Councilors Price, Jones, Nemlowill, Brownson, and Mayor LaMear; Nays: None.


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

There was none.

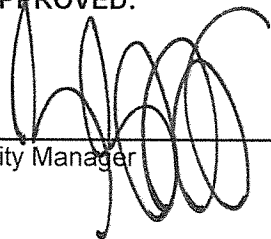
**ADJOURNMENT**

There being no further business, the meeting was adjourned at 8:06 pm.

**ATTEST:**

  
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Finance Director

**APPROVED:**

  
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City Manager