



# AGENDA

## ASTORIA CITY COUNCIL

Tuesday, January 3, 2017  
7:00 p.m.  
2<sup>nd</sup> Floor Council Chambers  
1095 Duane Street · Astoria OR 97103

1. **CALL TO ORDER**
2. **ROLL CALL**
3. **OATHS OF OFFICE**
  - (a) Councilor Thomas Brownson, Ward 2
  - (b) Councilor Bruce Jones, Ward 4
  - (c) Police Sergeant Andrew Randall
4. **REPORTS OF COUNCILORS**
5. **CHANGES TO AGENDA**
6. **PROCLAMATIONS**
  - (a) School Board Recognition Month
7. **CONSENT CALENDAR**

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

  - (a) City Council Minutes of 12/5/16
8. **REGULAR AGENDA ITEMS**

All agenda items are open for public comment following deliberation by the City Council. Rather than asking for public comment after each agenda item, the Mayor asks that audience members raise their hands if they want to speak to the item and they will be recognized. In order to respect everyone's time, comments will be limited to 3 minutes.

  - (a) Ordinance Readopting Certain State Statutes to Reflect Changes Made by the 2016 Oregon Legislature (1<sup>st</sup> reading) (City Attorney)
  - (b) Ordinance Adopting Changes to 3% Marijuana Tax on Sale of Marijuana Items by a Marijuana Retailer (1<sup>st</sup> reading) (Finance)
  - (c) Resolution Amending Fee Schedule for Astoria Aquatic Center (Parks)
9. **NEW BUSINESS & MISCELLANEOUS, PUBLIC COMMENTS (NON-AGENDA)**
  - (a) Election of City Council President
  - (b) City Council FY 2017-18 Goal Setting Session
10. **EXECUTIVE SESSION**
  - (a) ORS 192.660(2)(h) – Legal Counsel

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 YUILL, CITY MANAGER'S OFFICE, 503-325-5824.



# CITY OF ASTORIA

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December 29, 2016

## MEMORANDUM

TO: MAYOR AND CITY COUNCIL

FROM:  BRETT ESTES, CITY MANAGER

SUBJECT: ASTORIA CITY COUNCIL MEETING OF JANUARY 3, 2017

### OATHS OF OFFICE

**Item 3(a): Councilor Thomas Brownson, Ward 2**

The Oath of Office will be administered to Councilor Thomas Brownson who was elected to a four year term for Ward 2.

**Item 3(b): Councilor Bruce Jones, Ward 4**

The Oath of Office will be administered to Councilor Bruce Jones who was elected to a four year term for Ward 4.

**Item 3(c): Police Sergeant Andrew Randall**

The Oath of Office will be administered to new Police Department Sergeant Andrew Randall.

### PROCLAMATIONS

**Item 6(a): School Board Recognition Month**

The Mayor will proclaim the month of January 2017 as School Board Recognition Month.

### CONSENT CALENDAR

**Item 7(a): City Council Minutes**

The minutes of the City Council Meeting of December 5, 2016 are enclosed for review. Unless there are any corrections, it is recommended that Council approve these minutes.

## **REGULAR AGENDA ITEMS**

**Item 8(a): Ordinance Readopting Oregon Revised Statutes (Code Section 1.047) (1<sup>st</sup> reading) (City Attorney)**

The 2016 legislation passed by the Oregon Legislature, for the most part, became effective on January 1, 2017. 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 re-adoption", which was the technique recommended by the League of Oregon Cities. The City is legally unable to prospectively adopt Oregon legislative changes, that is, 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. It is recommended that Council conduct the first reading of the proposed ordinance.

**Item 8(b): Ordinance Adopting Changes to 3% Marijuana Tax on Sale of Marijuana Items by a Marijuana Retailer (1<sup>st</sup> reading) (Finance)**

City Council Adopted Ordinance 16-02 on February 16, 2016 imposing a 3% tax on the sale of marijuana items by a recreational marijuana retailer and referring ordinance to electors of Astoria. On November 8, 2016, Local Ballot Measure 4-180 passed with Yes votes totaling 3,420 and No votes totaling 1,251. Additionally, on November 29, 2016 City Council approved an intergovernmental agreement with Oregon Department of Revenue for the collection and distribution of the 3% tax on recreational marijuana sales. The Oregon Department of Revenue has worked in conjunction with the League of Oregon Cities to provide suggested code language which provides authority for penalty and interest language in the enforcement of local marijuana tax collection. The attached ordinance, enacting the tax approval adopted by voters and adding language necessary for the collection and enforcement of the tax, was prepared by Attorney Henningsgaard and is attached for your consideration. Council would hold a first reading at the January 3, 2017 meeting and second reading at the January 17, 2017 meeting. It is recommended that Council consider holding a first reading of the ordinance enacting the voter approved 3% marijuana tax with collection and enforcement language incorporated.

**Item 8(c): Resolution Amending Fee Schedule for Astoria Aquatic Center (Parks)**

The Astoria Aquatic Center partners with the Astoria School District and the North Coast Swim Club (NCSC) to provide space within the lap pool for youth swim team members to practice. The Astoria Aquatic Center's current lane rental fee is \$25 per lane per hour, but neither the Astoria School District nor the NCSC can afford the \$25 per hour rate due to the length of their practices and amount of space they require.

During the November 7, 2016 City Council meeting, staff suggested that in addition to our current \$25 per lane per hour rental fee, an additional rental option specifically for youth swim teams to practice be added to the fee resolution at a reduced rate of \$5 per lane per hour. This rate would be contingent upon the

rented space being used by youth swim teams for the purpose of practicing for a minimum of 100 hours per year and that all participants would be required to purchase a monthly or daily pass. After public comment and a discussion by Council, City Council stated that private youth swim teams should pay less than \$5 per lane per hour and declared a 60 day moratorium on lane rental fees at the Astoria Aquatic Center charged to the Astoria School District and NCSC to allow staff time to re-negotiate with the organizations.

Negotiations with NCSC were conducted on December 1, 2016. During this meeting City staff discussed the challenges and impacts swim teams have on the facility as well as options to reformat NCSC's current practice schedule to reduce the number of lanes utilized, thus reducing the additional cost incurred. NCSC explained that fee increases would negatively impact their organization and that reducing lanes was not a favored option. Differing rates were discussed between the NCSC and City staff. It was agreed that the parties would reconvene to discuss further.

On December 7, 2016, Parks and Recreation Director Angela Cosby discussed with the Parks, Recreation, and Community Foundation Board the possibility of partnering with NCSC on assisting with lane rental fees. The Parks, Recreation, and Community Foundation Board seemed very interested in partnering with the NCSC and requested that representatives from NCSC contact them to discuss the option further. Also on December 7, 2016 City staff met with NCSC representatives to negotiate a mutually agreeable fee. During this meeting, City staff shared the potential partnership with the Parks, Recreation and Community Foundation; provided contact information; and encouraged the NCSC to contact them. Staff also attempted to negotiate a further reduced lane rental fee of \$2.50 per lane per hour. If the NCSC maintained its current practice schedule of two hours per day, in three lanes, for six days a week, the annual additional cost would be \$4,158. NCSC representatives were appreciative of the offered reduction and were understanding of the high costs associated with operating the Aquatic Center. They agreed to meet with the Parks, Recreation and Community Foundation to see if they would be willing to pay the lane rental cost for the years to come before agreeing to the rate.

The NCSC is scheduled to meet with the Parks, Recreation and Community Foundation on January 25, 2017. Unfortunately, no agreement has been made and City staff is requesting an additional 60 day moratorium to provide time to continue negotiating with the North Coast Swim Club and provide them an opportunity to seek out additional financial support. It is recommended that Council extend the moratorium on lane rental fees charged to the North Coast Swim Club and Astoria School District for an additional 60 days.

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

### **Item 9(a): Election of City Council President**

The City Council will elect a President to serve for the 2017 calendar year.

**Item 9(b): City Council FY2017-18 Goal Setting Session**

The City Council will meet with Department Heads on Friday, January 6, 2017 from 8:00 a.m. to 1:00 p.m., as part of their goal setting preparation for Fiscal Year 2017-18. The Council will then meet with facilitator Wes Hare on Friday, January 13, 2017 beginning at 8:00 a.m., and if needed, Saturday January 14, 2017, to further conduct their Fiscal Year 2017-18 goal setting session. These sessions will be held in the Council Chambers located on the 2<sup>nd</sup> Floor of City Hall, 1095 Duane Street.

**EXECUTIVE SESSION**

**Item 10(a): ORS 192.660(2)(h) – Legal Counsel**

The City Council will recess to Executive Session to consult with counsel concerning legal rights and duties regarding current litigation or litigation likely to be filed.



## CITY OF ASTORIA

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### PROCLAMATION

**WHEREAS**, school boards maintain the mission, vision, and core beliefs in the decisions that they make that allow students to learn at high levels; and

**WHEREAS**, school boards establish clear standards for student performance; and

**WHEREAS**, school boards are accountable to the community for operating schools that support student achievement; and

**WHEREAS**, school boards align strategic plan focus areas and school district resources to ensure that students meet standards; and

**WHEREAS**, school boards create a climate that supports our core belief that all students can learn; and

**WHEREAS**, school boards build collaborative relationships based on trust, teamwork and shared accountability; and

**WHEREAS**, school boards are committed to continuous education and training on issues related to student achievement.

**NOW, THEREFORE**, I, Arline LaMear, Mayor of Astoria, hereby declare my appreciation to the members of the Astoria School District School Board and proclaim the month of January to be

### SCHOOL BOARD RECOGNITION MONTH

and I urge all citizens to join me in recognizing the dedication and hard work of local school board members in preparing today's students for tomorrow's world.

**IN WITNESS WHEREOF**, I have herewith set my hand and caused the Seal of the City of Astoria to be affixed this day of , 2017.

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Mayor

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

Councilors Present: Nemlowill, Warr, Price, Mayor LaMear, and Ward 2 vacant.

Councilors Excused: None

Staff Present: City Manager Estes, Community Development Director Cronin, Parks and Recreation Director Cosby, Finance Director Brooks, Police Chief Johnston, 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.

City Manager Estes noted that Fire Chief Ames was not at the meeting because he was working on the Food Parade, which starts in east Astoria and extends through the Alderbrook, Emerald Heights, and Uppertown neighborhoods. The parade will be in the central neighborhoods on Tuesday night and in the western neighborhoods and the south slope on Wednesday night. He invited residents to donate canned goods during the parades.

### **REPORTS OF COUNCILORS**

**Item 3(a): Councilor Warr** reported that he left a box of canned goods on his porch for the parade.

**Item 3(b): Councilor Price** No report.

**Item 3(c): Councilor Nemlowill** said her family looks forward to the Food Parade each year and it has become their Christmas tradition.

**Item 3(d): Mayor LaMear** reported that she met with Jennifer Crockett, the new Director at the Liberty Theatre, and she believed Ms. Crockett will be a great addition to the city. She noted she would be in the Food Parade on Tuesday night to help pick up food donations. She announced the Astoria High School Football Team was now world famous, as the Cowapa All-League included 14 Astoria High School Football Team members. She recognized the following coach and players chosen for the Cowapa All-League team, who were:

Fridtjof Fremstad, Senior, Offensive Player of the Year  
Samboy Tuimato, Defensive Player of the Year  
Howard Rub, Coach of the Year  
Olaf Englund, Wide Receiver  
Ryan Palek, Wide Receiver  
Matthew Mather, Guard  
Keldon Littell, Tackle and Defensive Line  
Isaac Villa, Tackle  
Andrew Schauerman, Kicker  
Jared Lucore, Center  
Kyle Strange, Wide Receiver

She added that she had season tickets to the football games and was proud of the team. She asked the football players present to stand for a round of applause.

### **CHANGES TO AGENDA**

City Manager Estes requested the addition of Regular Agenda Item 7(c): Aquatic Center and Recreation Center Holiday New Year Promotion. The agenda was approved with changes.

## PRESENTATIONS

### Item 5(a): Astoria School District Strategic Plan

Craig Hoppes, Superintendent, Astoria School District, 111 McClure, Astoria, gave a PowerPoint presentation regarding the district's Strategic Plan. He briefly noted the process used to develop the Strategic Plan, reviewed the Plan's mission, vision, core beliefs, and focus areas, and described the school district's efforts to improve their engagement with the community and close the achievement gap for at risk students.

David Oser, Astoria School District Board Member, 254 W. Irving, Astoria, stressed the importance of working together, networking, making connections, and finding ways to bring resources together. A strong, vibrant, resilient community is not possible without strong, vibrant, and resilient schools. Opportunities for the school district to work and be creative with the community are essential to the health of the community. He thanked Councilor Warr for helping to pass an essential referendum when he was on the school board.

Councilor Warr noted that as a school board member, he also served on the hiring committee when Mr. Hoppes was hired.

Councilor Price thanked Mr. Hoppes and said his presentation gave her about seven different ideas for opportunities to help the students.

Councilor Nemlowill said her family was very happy with the schools in Astoria and thanked Mr. Hoppes for sharing the strategic plan and vision with the City.

Mayor LaMear said she worked in education for 21 years and was delighted to see the district's vision statement and focus areas. The entire country is trying to figure out how to improve graduation rates and she appreciated all of the school district's efforts to try different things to figure out what works.

Mr. Hoppes said partnerships are the key to success. The school district participates in the new Juntos Program with Clatsop Community College and the Lower Columbia Hispanic Council, working with 20 to 25 families in the county on higher education.

### Item 5(b): Sanctuary City

Police Chief Brad Johnston prefaced his presentation by saying he believed some of his comments would have a negative impact or be considered offensive. He was concerned, but hoped any action taken would be informed, effective, and not create ambiguity that is worse than what currently exists. He would not make a recommendation because any decision would be political; Staff is simply informing City Council about the concept of Sanctuary Cities. He supported doing the right thing, regardless of costs. Therefore, he would not mention funding. His presentation covered the following topics:

- The Sanctuary City concept, including the goals and purpose
- Issues related to the lack of formal recognition by the federal government
- A 2015 report by the Congressional Research Service on Sanctuary Cities
- Oregon statutes that support the concept by preventing public funds from being spent on the enforcement of federal laws
- Concerns that Sanctuary Cities create a false sense of security and potential impacts to the City created by its inability to provide expected protection services
- The ability of the Astoria Police Department to protect people regardless of immigration status
- If City Council passes a resolution declaring Astoria a Sanctuary City, he requested the resolution contain language regarding Council's specific policy determinations. Vague language could create the impression that City Council was asking the Police Department to ignore the law. The Police Department is committed to respecting the rights of everyone in the community and is willing to hold anyone accountable regardless of status. The Law Enforcement Code of Ethics requires the Department to protect the weak against oppression and respect the constitutional rights of all. He is proud to lead the Police Department because of their dedication to those principles. He hoped the commitment to the rights of all would be seen first through this discussion and that the singular issue of a Sanctuary City never defines the Department's relationship with the community.

Councilor Warr believed it was illegal for City Council to declare Astoria a Sanctuary City or otherwise refuse to cooperate with federal law. City Attorney Henningsgaard explained that the term Sanctuary City has no meaning and the City has no role in enforcing immigration laws. However, in certain situations, federal agents have the authority to issue directives to City employees. Most Sanctuary City resolutions address the limitations of the use of City funds to enforce immigration laws. The term Sanctuary City began in 1992, when the Los Angeles Police Department enacted a policy to refrain from inquiring about the immigration status of arrestees. Each Sanctuary City has defined the term in their own way, but none of them propose to violate any federal laws. Sanctuary Cities simply limit the use of municipal resources to enforce immigration laws, which is legal.

Chief Johnston said some Sanctuary Cities prohibit employees from sharing information with federal authorities, which is a violation of Oregon's open records laws. City Attorney Henningsgaard added that federal authorities conduct their own investigations of public records, which they have access to under Oregon law. City of Astoria employees do not transfer information directly to federal authorities.

Councilor Price said she reviewed the State Statutes, the Astoria Police Department's policy on immigration law enforcement, and Sanctuary City policies and ordinances enacted by Chicago, San Francisco, New Haven, and Portland. She did not believe the City of Astoria could do anything more than what the existing State and local laws already do. She has only seen resolutions that state the City affirms the laws and intends to abide by them.

Mayor LaMear agreed that declaring Astoria as a Sanctuary City would be nothing more than a window dressing. The Astoria Police Department is doing their job by not considering immigration status when they make arrests. City Council supports Astoria's Hispanic community and does not want to see them unfairly targeted. She invited the public to speak.

Cathy Korcheck, 1025 Franklin Avenue, Astoria, believed it was clear that people were not stopped on suspicion of immigration status; however, she wanted to know if the police would inquire about immigration status once a person is stopped for an offense.

Chief Johnston answered police have no reason to inquire about immigration status. Doing so would not violate state law, but the Police Department cannot enforce federal laws. The county jail does ask because they are required to inform arrestees of their right to an embassy counselor. Treaties affirm an obligation to provide warnings and other information to citizens of other countries. However, he was unaware of the County's specific procedures.

George McCartin, 490 Franklin Ave., Astoria, believed many people wanted more than just the assurance that the Police Department would refrain from inquiring about immigration status. The federal administration is changing to include a person who has proclaimed and campaigned to quickly deport three million people to Mexico who are in America illegally. The federal government does not have the resources to transport that many people. He asked how the City would respond if federal immigration agents called on the Astoria Police Department to help pick up undocumented people.

Chief Johnston said he would be prohibited by State law from taking such action.

Mayor LaMear thanked Chief Johnston for his report and stated she was opposed to bullying, racism, and anything damaging to people from other countries.

## **CONSENT CALENDAR**

The following items were presented on the Consent Calendar:

6(a) City Council Minutes of 11/7/16

**6(b) Outfitting of Police Vehicle (Police)**

6(c) Authorize Contract for Professional Services for Combined Sewer Overflow (CSO) Modeling Support (Public Works)

6(d) Federal Emergency Management (FEMA) Storm Damage Public Assistance Grant Acceptance (Public Works)

6(e) Authorization to Add Job Description for Building Inspector (Community Development)

**6(f) Authorization to Approve Amendment #1 to Cooperative Improvement Agreement with the Oregon Department of Transportation (ODOT) for 23<sup>rd</sup> Street Closure (Public Works)**

Councilor Price requested Items 6(b) and 6(f) be removed for further discussion.

**City Council Action:** Motion made by Councilor Warr, seconded by Councilor Nemlowill, to approve Items (a), (c), (d), and (e) of the Consent Calendar. Motion carried unanimously. Ayes: Councilors Price, Warr, Nemlowill, and Mayor LaMear; Nays: None.

**Item 6(b): Outfitting of Police Vehicles (Police)**

City Manager Estes explained that City Council authorized the purchase of communications equipment for Police Vehicles. Staff has received a quote from Wire Works Incorporated for \$13,696.86 to install the equipment.

Councilor Price said she had no issues with the cost, but wanted to publicly forward a request she often hears to make police vehicles more friendly and visible to the public whenever possible. She had spoken to Chief Johnston about this earlier in the day and learned why the lettering on the vehicles is so subtle.

Chief Johnston explained several years ago, the previous Police Chief wanted to restore the vehicles to black and white; however, efforts to engage the public revealed that the Police Department and the public did not support any of the black and white designs. Most of the comments received indicated the public preferred a color in contrast to white, but not as drastic as black. Staff found an appropriate design, but the vinyl that was applied to the vehicles ended up darker than they had anticipated. The two newest cars are a bit lighter than the two earliest cars. Staff wanted a reflective design that looked grey during the day and bright white at night. However, all of the reflective materials looked more brown, which looked horrible against the black.

Councilor Price believed the cars have had the current design for a long time. When she was younger, she never would have stopped for one of these cars because they are too unmarked. She knew the police officers were good people, but she hears from younger women that they would not stop for a car that only kind of looked like a police vehicle.

Chief Johnston said State law allows a person to drive to a place they feel safe. From the front, the cars look just like every other police car. The Police Department spends a lot of time making sure the lighting on the front and back of the police cars is very good.

**City Council Action:** Motion made by Councilor Price, seconded by Councilor Warr, to approve Item 6(b) of the Consent Calendar. Motion carried unanimously. Ayes: Councilors Price, Warr, Nemlowill, and Mayor LaMear; Nays: None.

**Item 6(f): Authorization to Approve Amendment #1 to Cooperative Improvement Agreement with the Oregon Department of Transportation (ODOT) for 23<sup>rd</sup> Street Closure (Public Works)**

Councilor Price said in the future, she wanted Council to consider a Development Code amendment to require larger sizes of container plants and larger trees in the landscaping of new and redeveloped parking lots. The requirements should particularly apply to entrances and exits to the city along Highway 30 to hide the parking lots. The lot just east of the hospital will look much better after the street improvements, but the city could use more greenery.

City Manager Estes said he spoke with Councilor Price about her concern earlier. In the last week, shrubs have been planted at the parking lot east of the hospital. The shrubs are just the first step in a complete landscaping plan, which he had reviewed. He confirmed with Eric Thorsen, CEO of Columbia Memorial Hospital that the additional plants are currently on backorder.

Councilor Price added that Michelle Reeve's assessment of the downtown area done three or four years ago indicated a lack of trees. She hoped the City would take opportunities to add more landscaping.

Mayor LaMear invited public comments.

Chris Farrar, 3023 Harrison Avenue, Astoria, said he walks by the parking lot all the time and the work done on the east end is weird. He did not believe the shrubs had been planted properly, as part of the root balls were above ground. Freezing temperatures will kill all of the plants unless two or three inches of mulch or soil is added to the landscaping.

City Manager Estes noted that adequate visibility to street rights-of-way must be considered when reviewing landscaping plans.

Mayor LaMear said she was glad the building on the lot was gone. The City has worked very hard to put this project together with the hospital and in the end, the look of the area will be an improvement.

**City Council Action:** Motion made by Councilor Price, seconded by Councilor Nemlowill, to approve Item 6(f) of the Consent Calendar. Motion carried unanimously. Ayes: Councilors Price, Warr, Nemlowill, and Mayor LaMear; Nays: None.

## REGULAR AGENDA ITEMS

### Item 7(a): Heritage Square Environmental Protection Agency (EPA) Grant – AMEC Contract Amendment #4 (Public Works)

The City of Astoria was awarded a \$400,000 Environmental Protection Agency grant in 2012 for assessment and cleanup of the Heritage Square site. At the September 8, 2015 City Council meeting, a project update was presented. Council was also notified that staff would be bringing a request to the Astoria Development Commission to allocate \$40,000 from the Astor East Urban Renewal District (AEURD) for use as the required match for the \$400,000 EPA grant. At the December 7, 2015 Astoria Development Commission (ADC) meeting, expenditure of additional funds in the amount of \$109,842 from the AEURD was approved to complete the cleanup. The original cleanup estimates were obtained prior to the final approvals per standard EPA Grant procedures. At the February 4, 2016 special meeting, Council approved a contract amendment in the amount of \$46,909.23 for AMEC for additional cleanup work identified once cleanup began. At that meeting, Council was told that staff anticipated a grant in the amount of \$82,000 from Business Oregon to pay for the requested change order and provide for installation of a groundwater monitoring well.

The City Council accepted the Business Oregon grant at the April 18, 2016 Council meeting. At the May 2, 2016 Council meeting, Council authorized Contract Amendment #3 with AMEC Foster Wheeler for a total not-to-exceed amount of \$37,000 for additional site cleanup and groundwater monitoring. While it was anticipated that Amendment #3 would be adequate for the remaining work, additional consultant and Oregon Department of Environmental Quality (DEQ) oversight time was realized.

Amendment #4 does not include additional tasks, but more time to complete the tasks identified in the last contract amendment that is required to finalize the Oregon DEQ requirements for receiving a No Further Action (NFA) letter for the site. This work will be funded by the Astor East Urban Renewal District. Once work is complete, our consultant will request an NFA letter from DEQ. Our DEQ representative has indicated that the actual letter may not be issued until all conditions are met.

Additional DEQ oversight fees will be billed directly to the City for payment. At this time, DEQ estimates fees to be approximately \$6,000. A separate action will be required by the Astoria Development Commission to allocate funds for the contract amendment and DEQ oversight fees. It is recommended that Council execute a contract amendment with AMEC Foster Wheeler in a total not-to-exceed amount of \$18,100 for Additional Site Cleanup Work and Groundwater Monitoring for the Heritage Square EPA Grant Cleanup Project.

City Manager Estes noted that regardless of how the site is used in the future, DEQ has required that the elevated parking lot be capped because it is hollow underneath. This must be done before DEQ will issue a Letter of No Further Action. Staff anticipates a condition of approval from DEQ.

Engineer Harrington added that studies have revealed the site contained four categories of contaminants, which have all been removed. Closure sampling detected residual contaminants that still remained on site. These contaminants are not hazardous, but DEQ wants to avoid human contact with the substances by requiring the area to be capped. Capping will be done as part of the development of the site. Modeling has verified that the

contaminates will not make their way into the Columbia River through groundwater. The City has done a good job cleaning up the site and as DEQ has learned more about the project, they have begun to work harder towards finalizing the work.

Mayor LaMear said it seems as if Council keeps reviewing more and more amendments with more and more fees. She hoped the project would come to an end and the area would really be clean. She had understood the City would receive a No Further Action letter when the contaminated material was removed. City Manager Estes explained that Staff hoped the post removal testing would alleviate any concerns. However, the amount of residual contaminants left behind required DEQ to impose additional work on the City in order for the site to meet standards. The soil had to be removed without disturbing the footings that support the elevated parking lot. The City may have been able to get a Letter of No Further Action if the parking lot had been demolished as part of the soil removal, but downtown merchants may have been opposed to losing parking spaces.

Mayor LaMear asked if this last expenditure would be enough to get the Letter of No Further Action. Engineer Harrington said he hoped so. AMEC is working very hard to be as efficient as possible. DEQ is working through some unknowns because the grant is for a pilot project, so the requirements and documents are a bit different. DEQ has been very helpful to the City, but he believes they underestimated how much effort this project would require of them. City Manager Estes said the City will not get a Letter of No Further Action until development begins on the site, and noted there is no final redevelopment plan. This contract amendment will get the project to the point where all of the DEQ analyses are completed. The City will then need to decide what will happen at the site. Once a development plan has been approved by the City, DEQ will reengage with the City after the cap has been installed. Engineer Harrington added that the scope of work already includes the protective cap and an easement and equitable servitude document or deed restrictions. The only deed restriction is that no drinking water well can be installed on the site. However, a drinking water well will not be necessary because the City will supply potable water to the site. The cap and the deed restriction are both tied to the development.

Councilor Nemlowill understood that the City must bear the expense of capping the property in order to satisfy the grant requirements and receive a Letter of No Further Action. City Manager Estes explained that the federal EPA grant would be closed out before the City receives a Letter of No Further Action. The grant required assessments and remediation, which the City will complete to the EPA's satisfaction. The cap is being required by DEQ, which is a State agency. The cost of the capping will depend on what type of development occurs at the site. The cap could be a concrete basement floor under a building or fill material underneath a park.

Councilor Nemlowill said that while Staff did a good job describing the project, she wanted to make sure the history of the site was accurately understood. The City purchased the property from Safeway, knowing the site was contaminated. However, she did not believe the City knew it would have to clean up the site, especially to this level. The City could have developed the site with no cleanup or minimal cleanup, but the City has cleaned up the site so much that housing could be built on the property, which gives the City many development options. City Manager Estes clarified that the City knew it would be responsible for removing the contaminated material when it purchased the property. The City signed agreements with DEQ acknowledging the levels of contamination on the site and the requirement for remediation. When the EPA grant was received, the City had to determine whether the site would be cleaned up to residential standards. Since the City did decide to clean the property to residential standards, DEQ has had to spend more time on reviews and assessments. However, the City would have been required to remove the same amount of contaminated materials even if residential standards were not being met. The City decided to meet residential standards because the potential for residential development at the site was being discussed at that time.

Mayor LaMear understood it was the City's responsibility to cap the site. Engineer Harrington said yes if the City develops the site. Otherwise, the cap could be part of a private development project. He explained that when Mill Pond was built, the capping and other requirements were met by the developer.

**City Council Action:** Motion made by Councilor Price, seconded by Councilor Warr, to execute a contract amendment with AMEC Foster Wheeler in a total not-to-exceed amount of \$18,100 for Additional Site Cleanup Work and Groundwater Monitoring for the Heritage Square EPA Grant Cleanup Project. Motion carried unanimously. Ayes: Councilors Price, Warr, Nemlowill, and Mayor LaMear; Nays: None.

**Item 7(b): Resolution Amending Fee Schedule for Public Works Department (Public Works)**

A primary duty of the Public Works Department is to efficiently manage and maintain City infrastructure including streets, water, sanitary sewer and storm drainage. As required through various City codes, the Public Works Department utilizes applications and permits to manage improvements and maintenance work completed by homeowners, commercial businesses, developers and franchise utility providers. The fees associated with these applications and permits have not been updated since 2005. The current fees are outdated and in several cases, no fees are charged for time intensive tasks such as processing applications to fell/cut trees. The Public Works Department is proposing a fee update with the following goals:

1. Simplify the Public Works fee schedule by eliminating outdated and fragmented items.
2. Increase fees to cover the cost to review and process applications and permits.
3. Strategically reduce fees for maintenance items required by City Code, i.e. sidewalk repair.
4. Update the fee structure to allow third party costs, such as County filing and Geotechnical Review, to be passed on to the applicant when applicable.

The updated fees are based on the average time it takes to process the various permits and utilized current staff rates. Fees were also compared to other cities our size and in the region to check compatibility. Fees associated with development review and Public Works inspections are not included at this time. Staff plans to work with the Community Development Department to bring a comprehensive fee update associated with development review and building permit review for Council's consideration in early 2017. It is recommended that Council adopt the resolution amending the fee schedule for the Public Works Department.

Mayor LaMear requested a three-ring binder to which new fees could be added as they are approved by City Council. Council members are asked about City fees all the time and for the most part, they do not know what the fees are. She understood why not all of the fees could be reviewed at once, but it would be helpful to have one book of fees. City Manager Estes explained that all of the fees are included in one resolution. The agenda packet contains a list of current fees, proposed fees, and the fee resolution. He asked if Mayor LaMear was concerned that all of the City's fees were presented to Council at the same time.

Mayor LaMear clarified that she wished all of the fees were brought before Council together at one time. The problem is that each department presents their own resolution to raise fees. If this resolution is passed, the new fees could just be slipped to a binder so that Council members know what the current fees are. She wanted to know the current fees for each department so that she could accurately answer her constituents' questions. City Manager Estes noted that Councilors could always contact Staff to obtain the information. The fee resolution included in the agenda packet contains the fees for all of the City's departments. Staff could prepare a three-ring binder, but it would include the most recently adopted resolution. Additionally, Staff could provide the most recent fee schedule to Councilors. Director Brooks confirmed that as soon as the fee resolution is readopted, the new fee schedule is uploaded to the City's website. City Manager Estes explained that every time the fee resolution is readopted, the resolution gets a new date. So, if these fees were approved, the new resolution date would be December 5, 2016.

Mayor LaMear suggested a paper copy of the new resolution be sent to Council members so they can answer questions about fees. City Manager Estes confirmed Staff would send copies after the resolution is adopted.

Councilor Price said the proposed fees reflect some serious changes, which she believed were well overdue. She anticipated Staff compromised more than they wanted to in some cases, but developers will still complain once the new fee schedule is implemented. She encouraged developers to get their applications in before January 8, 2017.

**City Council Action:** Motion made by Councilor Price, seconded by Councilor Warr, to adopt the resolution amending the fee schedule for the Public Works Department. Motion carried unanimously. Ayes: Councilors Price, Warr, Nemlowill, and Mayor LaMear; Nays: None.

**Item 7(c): Aquatic Center and Recreation Center Holiday New Year Promotion**

This item was added to the agenda during Item 4: Changes to the Agenda.

City Manager Estes said Parks Staff has proposed an incentive of one free month with the purchase of an annual pass or when signing up for automatic withdrawals between December 15<sup>th</sup> and January 15<sup>th</sup>. Staff believes this would promote active living, generate new customers, and increase the department's revenue.

Director Cosby confirmed this deal would only apply to customers that have not held an annual pass in the last six months.

Councilor Nemlowill asked how this would be promoted. She also wanted to know what this would cost the City, and if this was just an experiment to see if there would be any financial benefit. Director Cosby said Communications Coordinator Jennifer Benoit has written a press release, radio announcement, an advertisement in the newspaper, and a social media campaign. She explained that Staff does not have the personnel to estimate the return on investment for this incentive, so the deal is an experiment. No additional costs will be incurred. Staff's goal is to offer the best experiences possible to gain new customers.

Councilor Nemlowill believed it was okay to do tests. She did not believe Staff had any way of knowing what kind of outcome the City would have. She confirmed that the new point of sale system allowed Staff to track the success of this offer and asked if the Parks Department planned to implement a marketing plan. While marketing plan is part of the Parks Master Plan, she understood Staff was constrained. In an ideal world, this incentive would be part of a marketing plan with goals, objectives, and measurable results. Director Cosby confirmed a marketing plan was on the Department's wish list and to-do list, but Staff does not currently have the capacity to work on it.

**City Council Action:** Motion made by Councilor Nemlowill, seconded by Councilor Price, to adopt the resolution allowing the Parks and Recreation Sales Promotion. Motion carried unanimously. Ayes: Councilors Price, Warr, Nemlowill, and Mayor LaMear; Nays: None.

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

Dulcye Taylor, 1287 Commercial, Astoria, President of the Astoria Downtown Historic District Association (ADHDA), introduced Sarah Heath, ADHDA's new Executive Director.

Sarah Heath, 854 Glasgow, Astoria, said she had found housing and was excited to be with the ADHDA. Astoria is a great community with a great downtown.

Fred Bohne, 824 35<sup>th</sup> Street, Astoria, said he purchased his house about 20 years ago. The house was a duplex at the time and he has converted it back to a single-family residence. During the remodel, he found newspapers dated 1943 underneath the linoleum in the upstairs kitchen. He read in these newspapers that a studio apartment rented for \$20 a month and a one bedroom was \$25 a month. Astoria expanded its capacity to accommodate soldiers and sailors who fought in the war. When the soldiers and sailors went back home, the houses were converted back to single-family homes, like his house. Now, the housing situation is tight again and rents are going up fast. Therefore, he supported the accessory dwelling unit (ADU) ordinance. He understood discussion of the ordinance had been postponed until February.

City Manager Estes confirmed no date had been set yet.

Mr. Bohne said ADU's should not be allowed for bed and breakfasts, visitors, or short-term rentals; they should only be used for long-term rentals.

Deborah Hazelett, 91906 Lewis and Clark Road, Astoria, Executive Director for Butterflies Forever, explained that Butterflies Forever is a local non-profit that is trying to build a permanent butterfly exhibit. They had a temporary exhibit in Seaside several years ago, but they are now looking for property in Astoria. The non-profit is considering a property owned by the City. Butterflies Forever is a 20-year old organization and their business plan has been published on their website. She just wanted to introduce herself and let Council know about their plans. Butterflies Forever would be participating in Gifts that Make a Difference at the Liberty Theatre from noon to 4:00 pm over the weekend. She hoped everyone would attend and support all of the non-profits that would be there.

Mayor LaMear asked which City-owned property the non-profit was considering. Ms. Hazelett said it was the property east of the Maritime Museum and the railroad. The property is about two acres, which is a minimum for the butterfly exhibit because a lot of parking for busses and motor homes would be needed. The building project will cost more than \$2 million, which is a substantial investment.

**ADJOURNMENT**

There being no further business, the meeting was adjourned at 8:32 pm to convene the Astoria Development Commission meeting.

**ATTEST:**

**APPROVED:**

\_\_\_\_\_  
Finance Director

\_\_\_\_\_  
City Manager

DRAFT



## CITY OF ASTORIA

Founded 1811 • Incorporated 1856

December 23, 2016

### MEMORANDUM

TO: MAYOR AND CITY COUNCIL

FROM:  BRETT ESTES, CITY MANAGER

SUBJECT: ORDINANCE READOPTING CERTAIN STATE STATUTES TO REFLECT  
CHANGES MADE BY THE 2016 LEGISLATURE

### **DISCUSSION/ANALYSIS**

The 2016 legislation passed by the Oregon Legislature, for the most part, became effective on January 1, 2017. 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. 17\_\_\_\_\_

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, 1.345, 1.365, 1.555, 1.602, 1.608, 1.620, 1.632, 1.638, 1.640, 1.705, 1.900, 1.960, 1.961, 1.962, 1.963, 1.964; 1.965, 1.967, 1.970, 1.971, 2.220, 2.360, 2.700, 2.705; 2.710, 3.010, 3.015, 3.118, 5.000, 5.010, 5.100, 5.110, 5.255, 5.260, 5.300, 5.335, 5.385, 5.425, 5.726, 5.740, 5.925, 5.931, 5.933, 6.005, 6.010, 6.025, 6.030, 6.060, 6.135, 6.220, 6.250, 6.255, 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, 9.030, 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 2016 legislative session.”

Section 2. Repeal. Ordinance No. 16-01 adopted January 19, 2016 is repealed.

Section 3. This ordinance will be effective thirty (30) days after its passage.

ADOPTED BY THE COMMON COUNCIL THIS \_\_\_\_\_ DAY OF JANUARY, 2017.

APPROVED BY THE MAYOR THIS \_\_\_\_\_ DAY OF JANUARY, 2017.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Manager

ROLL CALL ON ADOPTION	YEA	NAY	ABSENT
Councilor Nemlowill			
Brownson			
Price			
Jones			
Mayor LaMear			



## CITY OF ASTORIA

Founded 1811 • Incorporated 1856

December 21, 2016

### MEMORANDUM

TO: MAYOR AND CITY COUNCIL

FROM:  BRETT ESTES, CITY MANAGER

SUBJECT: ORDINANCE ADOPTING CHANGES TO 3% MARIJUANA TAX ON SALE OF MARIJUANA ITEMS BY A MARIJUANA RETAILER

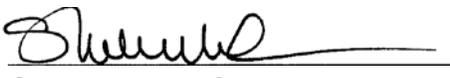
### DISCUSSION/ANALYSIS

City Council Adopted Ordinance 16-02 on February 16, 2016 imposing a three percent tax on the sale of marijuana items by a recreational marijuana retailer and referring ordinance to electors of Astoria. On November 8, 2016, Local Ballot Measure 4-180 passed with Yes votes totaling 3,420 and No votes totaling 1,251. Additionally, on November 29, 2016 City Council approved an intergovernmental agreement with Oregon Department of Revenue for the collection and distribution of the 3% tax on recreational marijuana sales. The Oregon Department of Revenue has worked in conjunction with the League of Oregon Cities to provide suggested code language which provides authority for penalty and interest language in the enforcement of local marijuana tax collection.

The attached ordinance, enacting the tax approval adopted by voters and adding language necessary for the collection and enforcement of the tax, was prepared by Attorney Henningsgaard and is attached for your consideration. Council would hold a first reading at the January 3, 2017 meeting and second reading at the January 17, 2017 meeting.

### RECOMMENDATION

It is recommended that Council consider holding a first reading of the ordinance enacting the voter approved 3% marijuana tax with collection and enforcement language incorporated.

By:   
Susan Brooks, CPA  
Director of Finance & Administrative Services

ORDINANCE NO. 17-\_\_\_\_\_

**AN ORDINANCE OF THE CITY OF ASTORIA IMPOSING A THREE PERCENT TAX ON THE SALE OF MARIJUANA ITEMS BY A MARIJUANA RETAILER**

**Recital**

Whereas, ORS 475B.345 provides that a city council may adopt an ordinance to be referred to the voters that imposes up to a three percent tax or fee on the sale of marijuana items by a marijuana retailer in the area subject to the jurisdiction of the city;

Whereas, during the November 8, 2016 general election, the voters of the City of Astoria approved a proposal to impose a three percent tax on the sale of marijuana items by a marijuana retailer in the City of Astoria.

Whereas the City Council of the City of Astoria wishes to provide for the effective collection of the tax approved by the voters.

**THE CITY OF ASTORIA DOES ORDAIN AS FOLLOWS:**

**Section 1. Definitions.**

**Marijuana item** has the meaning given that term in ORS 475B.015(16).

**Marijuana retailer** means a person who sells marijuana items to a consumer in this state.

**Retail sale price** means the price paid for a marijuana item, excluding tax, to a marijuana retailer by or on behalf of a consumer of the marijuana item.

**Section 2. Tax Imposed.** As described in ORS 475B.345 the City of Astoria imposes a tax of three percent on the retail sale price of marijuana items by a marijuana retailer in the City of Astoria.

**Section 3. Collection.** Every marijuana retailer shall collect this tax at the point of sale at the time at which the retail sale occurs.

**Section 4. Tax Returns.** Every marijuana retailer shall pay the taxes collected to the Oregon Department of Revenue and shall file all returns reporting this tax as required by any rules and procedures established by the Oregon Department of Revenue.

**Section 5. Interest and Penalty.**

(A) Interest shall be added to the overall tax amount due at the same rate established under ORS 305.220 for each month, or fraction of a month, from the time the return to the Oregon Department of Revenue was originally required to be filed by the marijuana retailer to the time of payment.

- (B) If a marijuana retailer fails to file a return with the Oregon Department of Revenue or pay the tax as required, a penalty shall be imposed upon the marijuana retailer in the same manner and amount provided under ORS 314.400.
- (C) Every penalty imposed, and any interest that accrues, becomes a part of the financial obligation required to be paid by the marijuana retailer and remitted to the Oregon Department of Revenue.
- (D) Taxes, interest and penalties transferred to the City of Astoria by the Oregon Department of Revenue will be distributed to the City's General Fund.
- (E) If at any time a marijuana retailer fails to remit any amount owed in taxes, interest or penalties, the Oregon Department of Revenue is authorized to enforce collection on behalf of the City of the owed amount in accordance with ORS 475B.700 to 475B.755, any agreement between the Oregon Department of Revenue and the City of Astoria under ORS 305.620 and any applicable administrative rules adopted by the Oregon Department of Revenue.

**Section 6. Severability.** If any provision of this Ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable.

**Section 7. Effective Date.** This ordinance will be effective thirty (30) days after its passage.

ADOPTED BY THE CITY COUNCIL THIS \_\_\_\_\_ DAY OF JANUARY 2017.

APPROVED BY THE MAYOR THIS \_\_\_\_\_ DAY OF JANUARY 2017.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Manager

ROLL CALL ON ADOPTION	YEA	NAY	ABSENT
Councilor Nemlowill			
Brownson			
Price			
Jones			
Mayor LaMear			



CITY OF ASTORIA  
Founded 1811 • Incorporated 1856

December 28, 2016

MEMORANDUM

TO: MAYOR AND CITY COUNCIL

FROM:  BRETT ESTES, CITY MANAGER

SUBJECT: RESOLUTION AMENDING FEE SCHEDULE FOR ASTORIA AQUATIC CENTER

**DISCUSSION/ANALYSIS**

The Astoria Aquatic Center partners with the Astoria School District and the North Coast Swim Club (NCSC) to provide space within the lap pool for youth swim team members to practice. The Astoria Aquatic Center's current lane rental fee is \$25 per lane per hour, but neither the Astoria School District nor the North Coast Swim Club can afford the \$25 per hour rate due to the length of their practices and amount of space they require.

During the November 7, 2016 City Council meeting, staff suggested that in addition to our current \$25 per lane per hour rental fee, an additional rental option specifically for youth swim teams to practice be added to the fee resolution at a reduced rate of \$5 per lane per hour. This rate would be contingent upon the rented space being used by youth swim teams for the purpose of practicing for a minimum of 100 hours per year and that all participants would be required to purchase a monthly or daily pass. After public comment and a discussion by Council, City Council stated that private youth swim teams should pay less than \$5 per lane per hour and declared a 60 day moratorium on lane rental fees at the Astoria Aquatic Center charged to the Astoria School District and North Coast Swim Club to allow staff time to re-negotiate with the organizations.

**Negotiations**

December 1, 2016:

City staff met with North Coast Swim Club representatives on December 1, 2016 to negotiate a mutually agreeable fee. During this meeting City staff discussed the challenges and impacts swim teams have on the facility as well as options to reformat NCSC's current practice schedule to reduce the number of lanes utilized, thus reducing the additional cost incurred. NCSC explained that fee increases would negatively impact their organization and that reducing lanes was not a favored option. Differing rates were discussed between the NCSC and City staff. It was agreed that the parties would reconvene to discuss further.

December 7, 2016:

On December 7, 2016, Parks and Recreation Director Angela Cosby discussed with the Parks, Recreation, and Community Foundation Board the possibility of partnering with NCSC on assisting with lane rental fees. The Parks, Recreation, and Community Foundation Board seemed very interested in partnering with the North Coast Swim Club and shared their passion for youth swimming and requested that representatives from NCSC contact them to discuss the option further.

December 7, 2016:

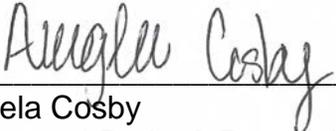
City staff met with North Coast Swim Club representatives subsequently on December 7, 2016 to negotiate a mutually agreeable fee. During this meeting, City staff shared the potential partnership with the Parks, Recreation and Community Foundation; provided contact information; and encouraged the NCSC to contact them. Staff also attempted to negotiate a further reduced lane rental fee of \$2.50 per lane per hour. If the NCSC maintained its current practice schedule of two hours per day, in three lanes, for six days a week, the annual additional cost would be \$4,158. NCSC representatives were appreciative of the offered reduction and were understanding of the high costs associated with operating the Aquatic Center. They agreed to meet with the Parks, Recreation and Community Foundation to see if they would be willing to pay the lane rental cost for the years to come before agreeing to the rate.

To date:

The NCSC is scheduled to meet with the Parks, Recreation and Community Foundation on January 25, 2017. Unfortunately, no agreement has been made and City staff is requesting an additional 60 day moratorium to provide time to continue negotiating with the North Coast Swim Club and provide them an opportunity to seek out additional financial support.

### **RECOMMENDATION**

It is recommended that City Council extend the moratorium on lane rental fees charged to the North Coast Swim Club and Astoria School District for an additional 60 days.

By:   
\_\_\_\_\_  
Angela Cosby  
Director of Parks & Recreation