

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, Interim Parks and Recreation Director Dart-McLean, Finance Director Brooks, Interim Fire Chief Curtis, Police Chief Spalding, Public Works Director Harrington, Library Director Pearson, and City Attorney Henningsgaard. The meeting is recorded and will be transcribed by ABC Transcription Services, Inc.

REPORTS OF COUNCILORS

Item 3(a): Councilor Price reported that she received a call from Pat Boyle, a reporter at KXL, two weeks ago before Staff and volunteers went to the camps at 40th and Franklin. Ms. Boyle took the word camp to mean that there were multiple tents at each site and projected Portland on to Astoria. However, there were only 10 or 12 tent sites. On October 9th, she, Detective Hanson, Vern Hall, and other volunteers went to the camps. Mr. Hall was a City employee for a number of years and has been living in the woods for six or eight years. He recently found housing. Almost all of the campers were gone, except for a few people packing up their stuff. There was 8.64 tons of debris at sites way up in the hills. The sites were tricky to get to, so some trash had to be piled on tarps and dragged or thrown down into big dumpsters. Detective Hanson discovered two new tents across the street in low growing bamboo to the east of the storage units around Pier 39. Viviana from Clatsop Community Action reported that 10 or 11 people had gone to Clatsop Community Action asking about services, but no one took advantage of the available transitional housing at Helping Hands. She reported on Fairy Street Friday, a new event on 14th Street hosted by the merchants to create an environment similar to 11th Street. Stores are open late and Street 14 offers a special menu. She congratulated Councilors Elect Joan Herman and Roger Rocka and Mayor Elect Bruce Jones.

Item 3(b): Councilor Brownson reported that on November 20th in the Library Flag Room, the American Association of University Women (AAUW) was hosting a program on immigration beginning at 6:00 pm. Nancy Anderson from the Columbia River Quarantine Station and Quinn Andres from the U.S. Citizenship and Immigration Service would be speaking. The first Uniontown Reborn public meeting was held to discuss the urban renewal project on the west end. He congratulated to all those who were elected to office.

Item 3(c): Councilor Nemlowill encouraged everyone to shop plaid and shop local this Black Friday and wished everyone Happy Thanksgiving.

Item 3(d): Councilor Jones reported that he attended the Uniontown Reborn event. It was nice to see such a good crowd interested in economic development in Uniontown, improving livability, facades, historic preservation, landscape improvements, and transportation improvements. There will be a lot of work to do. He also attended two of the three Veteran's Day events he knew about in town. At the 100th anniversary of the armistice ending the First World War, the Doughboy Monument work was looking tremendous. Later, in the Library Flag Room, there was a nice informative and moving ceremony. He thanked Rosemary Johnson for her excellent work shepherding both events.

Item 3(e): Mayor LaMear reported that the community always has so many events going on at the same time and the last few weeks were no exception. The Maritime Museum had their annual meeting. The Liberty Theatre had their gala. The United Way had Iron Chef in Seaside. It is fun to attend the events and the turnout is always great. The generosity is just phenomenal. She was proud to be a part of the community.

CHANGES TO AGENDA

There were none.

CONSENT CALENDAR

The following items were presented on the Consent Calendar:

- 5(a) City Council Minutes of 11/8/18
- 5(b) Boards and Commission Minutes
 - (1) Design Review Commission Meeting of 10/9/18
 - (2) Design Review Commission Meeting of 10/25/18
 - (3) Historic Landmarks Commission Meeting of 10/16/18
- 5(c) Waiver of Fees for Holiday Downtown Parking
- 5(d) Addition of Job Titles for Schedule F-2 Salary and Change in Job Title for Schedule E – Resolution No. 18-14

Councilor Price confirmed that Item 5(c) Waiver of Fees for Holiday Downtown Parking would not impact the salary of the community outreach officer. City Manager Estes explained that the community outreach officer was not employed by the City of Astoria. The Astoria Downtown Historic District Association (ADHDA) would keep the officer employed during the waiver period as other parking issues would still need to be addressed during that time. The exemption of parking fines is intended to allow shoppers to park longer in downtown, not the merchants or property owners.

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

REGULAR AGENDA ITEMS

Item 6(a): Ordinance – First Reading and Resolution: Homestay Lodging Code Amendments and Fee Resolution

Over the last few years, the number of illegal transient lodging facilities in Astoria has increased substantially. Enforcement is difficult as the units are not identified by address or owner in the advertising platforms (such as Airbnb, VRBO, etc.) and it is time consuming and difficult for staff to research where the specific facilities are located in order to initiate code enforcement. At the December 13, 2017 and October 13, 2018 work sessions, staff reviewed the existing permit /enforcement process, approved facilities, and proposed Code amendments that would provide better codes, clarify terminology, establish a license process, and address code enforcement. The draft documents presented on October 13, 2018 included “tracked” changes to the draft code language and “annotated” notes explaining the intent and/or issues for specific code entries. These notes have been removed from the final draft but would be a reference document on some of the proposed changes. Based on Council input at the work sessions, staff have revised the draft amendments and prepared them for Council adoption.

Attached to this memo is a copy of the proposed draft Code amendment for Home Stay Lodging Licenses, and a proposed draft Code amendment for the Transient Lodging Tax. This proposal would put the regulations and license requirements into the City Code. However, since the Development Code includes some regulations related to transient lodging and identifies the specific zones in which they are allowed, some code amendments will be required to the Development Code so that it coincides with the proposed City Code. Once the Council adopts the City Code amendments, staff will proceed with the Development Code amendment process. Staff worked with the City Attorney on formatting the code amendments which resulted in a format that is different than the one presented at the October 13 work session. The details concerning how to process the licenses has been omitted from the code draft and will be presented at the December 3 City Council meeting (second reading of the ordinance) as a separate “Procedural Process” for Council to review. These will be informational for staff as guidance in processing the licenses.

The Transient Room Tax portion of the City Code is also proposed to be amended to update the terminology and allow for third party collection of the room tax. With the third-party collection, an agreement with the City would be required, and liens for unpaid taxes would be applied to the operator, property owner, and third-party tax collector.

Some standards/requirements will be included in the Development Code rather than the City Code. These amendments will need to be processed as a land use amendment through the Planning Commission before City Council review and adoption. A Fee Resolution is also attached for consideration. The fees are proposed similar to some of the land use permit fees such as conditional uses and appeals as the licenses will require staff time for review, public notices, and enforcement. Per the Council's direction, the fees reflect estimated actual costs to process the licenses.

An ordinance amending the City Code to add Home Stay Lodging Licenses, an ordinance amending the Transient Room Tax and a resolution to adopt fees associated with Home Stay Lodging licenses are attached.

If the draft code meets Council's expectations, it would be in order for Council to hold a first reading of the ordinance for the Home Stay Lodging Licenses and the ordinance for the Transient Room Tax. Two separate motions / votes and two separate readings would be needed. If the draft fee resolution is acceptable to the Council, it will be presented at the December 3, 2018 meeting for adoption along with the second reading and adoption of the ordinances.

Consultant Rosemary Johnson, 672 15th Street, Astoria, gave a presentation on the Homestay Lodging Ordinance. She reviewed zoning regulations, permitting and licensing reequipments, fees, advertising standards, penalties for code and permit violations, taxes, and next steps necessary to implement the ordinance.

Councilor Brownson believed the City would not be forming agreements with companies like Airbnb, but would be working with the State to process third-party collections of taxes. Airbnb will often create conditions when forming agreements with cities and he was not interested in their conditions. The State will handle tax collections from third parties for the City for a five percent handling fee.

Ms. Johnson noted that third-party advertising platforms require the property owner pay them transient room taxes. One of the companies is already sending taxes to the City. Staff would like to draft an agreement that would be favorable to the City stating how and when taxes were to be submitted.

City Manager Estes added that currently, hotel advertising platforms like Travelocity collect room taxes and remit it to the cities in bulk. Some homestays could be also be advertised on the hotel platforms as well, which is permitted under State law.

Ms. Johnson explained that an agreement would help the Finance Department. Currently, when the City receives a check for a lump sum, Staff has no idea what units the payment is for. The City would like to require the third-party platforms to identify the identification number of each unit.

Councilor Brownson asked for more details on the prohibition of residential structures in non-residential zones.

Ms. Johnson said one example would be the two residential structures on West Marine Drive across from Dutch Bros Coffee. The structures are in the C-3 General Commercial zone, which allows hotels and motels as an outright use. The owner has turned the structures into vacation rentals, which is defined the same as a hotel or motel. The ordinance prevents residential structures in similar zones from being converted into transient lodging. However, commercial buildings could still have transient lodging, like the Fisher Brothers building. The exact wording for the Development Code has not been finalized, but the intent was to allow short term lodgings like a homestay or a bed and breakfast, but prohibit converting the entire building into a vacation rental or motel.

City Manager Estes noted that the ordinance does not currently include anything related to converting commercial buildings into transient lodging facilities. However, it will be part of a future Development Code amendment. This was discussed during the work session, so Staff wanted clarity about how to move forward.

Councilor Jones said he had suggested this during the work session because someone had mentioned that someone from out of town could buy a condominium and turn it into a short-term rental. The prohibition from using whole homes as vacation rentals does not apply in commercial zones. However, homeowners association rules could prevent that. He also recalled that applying the prohibition to commercial zones could have unintended consequences, so City Council needed to think it through. The apartments in the Workers Tavern building are being rented out as short-term rentals because they cannot be rented as apartments.

City Manager Estes explained that the apartments in the Workers Tavern building were grandfathered in, but parking became an issue when they were changed over. Now, there is interest to expand the residential portion of the building into lower floors for use as short-term rentals.

Councilor Jones said buildings clearly constructed for permanent homes, condominiums, would not be allowed to turn individual units into vacation rentals. However, in 100+ year old buildings that have been used for different things over time, prohibiting vacation rentals could get tricky.

Councilor Brownson said there seemed to be confusion between two different issues, whole house or whole condominium vacations rentals, and then homestay lodgings. Councilor Jones was addressing vacation rentals. He believed homeowners of residential property in a commercial zone should be allowed to have homestay lodgings.

City Manager Estes confirmed that vacation rentals were not included in this ordinance. If City Council adopts the ordinances being presented, the next step would be for Staff to work on amendments to the Development Code and Zoning Ordinance, which would be presented to Council six months from now.

Councilor Brownson was concerned about requiring homeowners to pay for a safety inspection and license before they can apply for a permit.

Ms. Johnson clarified that proof of an occupational tax application would be required. Pre-approval could be issued pending inspection and licensing.

Councilor Price stated her preference was to outright ban everything that was not already approved or in compliance of rules that might be made. However, the proposed rules are pretty tight and reflect what smart cities are doing to keep a lid on short-term rentals and vacation stays.

Mayor LaMear said the documents that Ms. Johnson and Planner Ferber had been working on were a huge amount of work and City Council appreciated it. There have been a lot of meetings and Staff captured everything very well.

Mayor LaMear opened the public hearing at 7:34 pm and called for public testimony on the Home Stay Lodging and Transient Room Tax ordinances.

Steve Brown, 1142 Grand Avenue, Astoria, says the agenda item on homestay lodgings appeared as City Council's attempt to address numerous housing issues that plague the community. Council stated that the suggested changes made were based on what other communities like Astoria have done. He asked if the constraints were successful in the other communities and if there was any empirical data or even subjective data that says these changes have a positive effect on the community, businesses, and residents. He assumed that the City had an inventory of housing options since Staff had been working on this for so long. He wanted to know if factual data established Astoria's baseline housing options. If these restrictions are placed on the community, local residents, and business owners, how would their effectiveness be measured and who would be accountable? While this appears to have been in process for many years, he believed this radical change and additional restrictions have not been thought through well enough. As Staff works through it, they should understand the consequences to current residences and business owners in Astoria. He asked that City Council defer their final vote until after the new Council is in place. He lived in the Fisher Brothers building for five months when he first moved to Astoria and it was a great place to live but not long term. It should be transient housing because it is designed to be transient housing. With the sealions and the trolley going by, it is a wonderful experience for a weekend or two.

Kris Haefker, 687 12th Street, Astoria, stated he was a homestay lodging host. He believed the impression was that a lot of money was being made with homestay lodgings. Hotel occupancy is 62 percent and a successful homestay lodging business might get 30 percent. He believed the average was closer to 20 percent, so there is not a lot of money coming in. The average costs are around \$70 a night and the fees are a sizable chunk of money. One reason to encourage homestay lodgings is to give people with historic homes or any home a little bit of an opportunity to make a stronger income. Next year, the Shively-McClure neighborhood is being reassessed for property taxes and there will be other bond measures. The historic homes are expensive. It would be helpful to lift parking requirements in historic neighborhoods so people can use one or two bedrooms. There are no

parking requirements on long term rentals. Up to 12 family members and four roommates can occupy a house. That is quite an impact on single family residences. A single bedroom apartment rented long term can have a couple of cars, so impacts to the neighborhoods mostly come from long term residences. He could not see short-term rentals having a negative impact on neighborhoods and the City should make it easier for people to have that option because it is already very limited with the amount of rooms that can be rented. The weatherization program offers \$20,000 grants, which is the same as it was 20 years ago but costs have increased.

Walt Postlewait, 36468 Riverpoint Drive, Astoria, said he wished he would have seen the premise behind these ordinances. This discussion is about housing issues in the community and he wished there had been a reference to that. The County's housing survey, which the City of Astoria is part of, revealed that the average household in Clatsop County makes \$69,000, so obtainable housing would be a \$240,000 house. However, in the last 10 years, only four percent of homes have built in that price range. Housing is just as much of a price issue and a supply issue. Eighty nine percent of the homes in Astoria proper are owner occupied, so only 11 percent of the housing stock could be whole house vacation rentals. The concern is that second homes are rented out and do not have full time residents. There was a lot in the proposed ordinances that he appreciated. Staff should know who is renting houses and collecting transient room taxes. People who rent short term and do not collect transient room taxes should be fined because businesses should be run right. But this is about money. The reason homes are not being built at \$240,000 or less and two-bedroom apartments are not being rented at \$1,000 or less is because of expense. His biggest concern was around the unintentional consequences of overlapping with commercial zoning. He spoke with someone who wanted to do a mix of long term and short term a downtown building with residential space on the top floor. This person needs the short term to offset the long term. He believed the ordinances needed more thought about how to deal with housing issues.

Noel Liber, 514 12th Street, Astoria, said he had just come to town and was working on his building while traveling back and forth between Boise, Idaho and Astoria. He would love to have the option to do short-term rentals in the top floor of his building. He was not sure why that would be restricted. It is expensive to build housing and he believed the City should put more effort into that rather than trying to restrict short-term housing. It does not feel quite right and should be worked out a little bit more.

Councilor Brownson said the last two speakers conflated vacation rentals versus homestay lodgings, but those are two different things. An apartment with a kitchen is not a homestay and the City was not even discussing that. This discussion is about a one or two-bedroom in someone's home in a residential area. The concerns about commercial vacation rentals have been misplaced. The list of properties currently advertised on Airbnb is about 75 percent whole house rentals in R-1 zones, which is illegal. The City is not going after people in commercial areas. Whole house vacation rentals in R-1 zones are illegal right now, but the City is not talking about vacation rentals at the moment. These ordinances are about homestays. He appreciated the economics, but this is a business. The fees are to cover Staff time for enforcement and processing. The City is just trying to cover its costs and make Staff better able to enforce and track the homestay lodgings better. Hotel, motel, bed and breakfast owners are required to meet certain standards of safety and this is equity. If someone is going to run a business in their home and will have people staying there, they need to show that they are complying with some very basic safety concerns. Staff has done its homework and the City might not have good data on how homestays work because it is a whole new industry. Only recently have cities tried to address it to get a handle on it. This has been thought out and talked out very thoroughly and the ordinances are a compromise from a Council that partially would rather not have homestays in Astoria. He used homestays and really appreciated them for what they offer and that is why he was supportive. However, he wanted homestays to be done legally. Homeowners have a lot of leeway with parking, but they own the homes. He was not sure the City should compound the problem. Parking is already stressed so it would not make sense to remove parking restrictions.

Loretta Maxwell, 1574 Grand Avenue, Astoria, Grandview Bed and Breakfast, understood this was about knowing what was going on in the homestay arena. Her bed and breakfast gets inspected by the health department once a year. The inspector goes through the refrigerators and rooms and ensures she has fire extinguishers. She believed it was a good idea. She was concerned about Airbnb and did not understand what they were exactly. She attended a Planning Commission hearing on a request for a permit. The Applicant had a house with the proper parking off the street, two rooms to rent with a kitchen in the middle. She was shocked to think that a person in one room could be cutting up chicken in the kitchen and the person in the other room could come along later on and get salmonella. She told her Councilor that there should be some sort of health

inspection. People were getting permits until the tsunami hit. She believed the ordinances were a good idea. She did not believe money was an issue, but that health and safety inspection was the main issue.

Mayor LaMear closed the public hearing at 7:52 pm and called for Council discussion and deliberation.

Councilor Jones stated vacation rentals and transient lodgings in commercial zones were mentioned by two speakers. He believed the rooms in the Fisher Brothers building were being rented out short term, but not as part of an apartment building.

Ms. Johnson explained that when the Fisher Brothers building was renovated it had been vacant for a long time. The original proposal was for the ground floor to be commercial uses with four condominium units on the second floor. The condominium units were constructed with the intention of each having separate ownership, but the project was never completed. The building went into foreclosure and was sold to subsequent owners. The condominium units were just four apartments because the building permits had never been finalized. The new owner decided to rent the units out as short-term rentals. The owner may have had a long term renter in the building for a short time during the transition, but they were originally going to be condominium units.

Councilor Jones assumed the YMCA building was considered a commercial building in a commercial zone.

Ms. Johnson said yes and added that the owner was considering short-term rentals on the upper floor.

Councilor Jones stated that would not be precluded by these ordinances.

Ms. Johnson clarified that would be part of future Development Code amendments, not the ordinances being reviewed now. The YMCA building was never a residential structure, so the building would not be impacted. The same was true for the Fisher Brothers building.

Councilor Nemlowill said she was passionate about this issue. The City had been talking about homestays for years. Before Councilors Jones and Brownson were sworn in, she had told them she wanted to limit short-term rentals in Astoria. It is really disheartening as a business leader to have really good people working really hard and they cannot find a place to live. There is a limited housing supply in Astoria so she preferred not to have any short term rentals at all in any residential zones if those units could be places for workers in Astoria to live. Astoria has enough tourists and needs housing for workers. She is from Astoria and had seen a lot of changes over the last couple of decades. She wanted Astoria to continue to be a place where Astorians can live, work, and play. She did not believe an Astorian should ever have to compete with a tourist for a place to live. She did not want to create any hardships on short-term rental businesses, but she wanted to protect the neighborhoods and provide as much housing stock as possible for Astorians. The City started discussing these ordinances to preserve housing stock for Astorians and a lot of other reasons have come up. The City is a service provider and cannot build housing, but this is one thing the City can do to protect the housing stock for Astoria. This is a compromise. Several Councilors are supportive of short-term rentals and understand the need for people to augment their income. While this was not exactly what she wanted, it is a step in the right direction to reduce the proliferation of short-term rentals in Astoria.

Mayor LaMear believed it was important to realize how long the City has worked on these ordinances. This is definitely a compromise. She supported short-term rentals more than Councilor Nemlowill, but the Council has worked together to come to a compromise. Ms. Johnson and Planner Ferber have done a fine job and it was a lot of work.

City Council Action: Motion made by Councilor Nemlowill, seconded by Councilor Price, to conduct the first reading of the ordinance amending City Codes to add Home Stay Lodging Licenses. Motion carried unanimously. Ayes: Councilors Price, Jones, Nemlowill, Brownson, and Mayor LaMear; Nays: None.

Director Brooks conducted the first reading of the ordinance.

City Council Action: Motion made by Councilor Nemlowill, seconded by Councilor Brownson, to conduct the first reading of the ordinance amending Transient Room Taxes. Motion carried unanimously. Ayes: Councilors Price, Jones, Nemlowill, Brownson, and Mayor LaMear; Nays: None.

Director Brooks conducted the first reading of the ordinance.

City Manager Estes noted that both ordinances would be presented to Council at the next meeting for a second reading and consideration of adoption, as well as the resolution for the permit fees.

Item 6(b): Sales Contract with Area Properties for the Sale of City Owned Lots Over Mill Pond

The City owns twelve lots platted over the south side of the Mill Pond that were gifted by the developer, Art Demuro (Venerable Properties), in 2012. The City has attempted to market the property since that time with no success. The issue of disposition of the properties was raised during this fiscal year's budget hearings.

This item was discussed at the August 6, 2018 City Council meeting and Council directed Staff to market the lots using a real estate agent. Staff contacted Mary Wickstrom of Area Properties. Mary and Laurie Duey were involved in the sale of City properties in 2014 and 2015. Area Properties was the only real estate firm to propose to sell City properties at that time. Due to their familiarity with the property and background, staff recommends renewing the contract with Area Properties. The City Attorney opines that this would be the appropriate course of action.

The sales contracts are attached. It is proposed that the price of each "pier" be priced at \$45,000. The value was established based on Area Properties' evaluation both in 2013 and current values. Although some individual lots over water have been listed for \$30,000, the pier lots are problematic because of the need to build out the entire pier and develop it all at once. Each pier contains, theoretically, six lots or building sites; however, only offers for each pier would be entertained or accepted. The price, if accepted, would enable the City to recover its investment and decommission utilities.

Although the property will be listed generally on the MLS, the real estate agents will make an initial effort to contact all of the Mill Pond property owners to inform them of the proposal. The HOA board will also be contacted directly as a courtesy.

It is recommended that the Council authorize the City Manager to sign the sales contract.

Mayor LaMear said it did not make sense to put these lots up for sale. The lots are out over the Mill Pond and she could not see why anyone would want to buy them, other than people in Mill Pond who wanted to protect their view.

City Council Action: Motion made by Councilor Nemlowill, seconded by Councilor Jones, to authorize the City Manager to sign the sales contract with Area Properties for the sale of City-owned lots over Mill Pond. Motion carried 4 to 1. Ayes: Councilors Price, Jones, Nemlowill, and Brownson; Nays: Mayor LaMear.

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

There was none.

The City Council recessed at 8:03 pm to convene the Astoria Development Commission meeting. The City Council meeting reconvened at 8:05 pm and immediately recessed into Executive Session.

EXECUTIVE SESSION

Item 8(a): ORS192.660(2)(i) – Performance Evaluations of Public Officers and Employees

The City Council will meet in Executive Session to discuss a performance evaluation.

Item 8(b): ORS192.660(2)(h) – Legal Counsel

The City Council will meet in Executive Session to discuss legal proceedings.

The regular session reconvened at 9:50 pm.

Mayor LaMear stated the Council had evaluated the City Manager and was extremely pleased with his performance. The Council rated City Manager Estes as exceeding expectations. In recognition of his hard work, the Council has agreed to give him the standard manager's two percent cost of living adjustment retroactive to September 1st.

City Council Action: Motion made by Councilor Price, seconded by Councilor Nemlowill, to approve a cost of living adjustment for the City Manager of two percent retroactive to September 1, 2018. Motion carried unanimously. Ayes: Councilors Price, Jones, Nemlowill, Brownson, and Mayor LaMear; Nays: None.

ADJOURNMENT


There being no further business, the meeting was adjourned at 9:51 pm.

ATTEST:



Finance Director

APPROVED:



City Manager