

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, Police Chief Johnston, Public Works Director Cook, 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 Jones** had no report.

**Item 3(b): Councilor Price** reported that she had received positive comments about the letter City Council sent JC Penny. Comments were received from a man in Texas who had been involved with JC Penny for many years and he believed Astoria had done a great job writing a letter that focused on the company's bottom line instead of emotions. She suggested Staff try to contact JC Penny about the letter. She asked if the City had received any applications for the façade improvement grant that targeted Uniontown.

Director Cronin replied two applications had been submitted and Staff expected to receive five more. Projects for the two applications received total about \$6,000, which will leave \$5,000 in grant funding for the other five.

**Item 3(c): Councilor Brownson** reported that he visited the watershed and attended a presentation by Mike Barnes, which was well attended. The watershed is an extraordinary place and he hoped the public would visit to see how unique and special it is.

City Manager Estes added that Director Cook has been developing a program that would allow citizens to visit the watershed a couple of times a year. The watershed is off limits to the public, particularly due to the events of September 11, 2001, when Astoria was required to upgrade security around the water systems.

**Item 3(d): Councilor Nemlowill** stated former Warrenton Mayor Kujala was a friend to Astoria. She reported that over spring break, she took a trip through Oregon and Northern California. She was glad to be home in the best city in the world.

**Item 3(e): Mayor LaMear** reported Clatsop Economic Development Resources (CEDR) held their business awards ceremony. She tries to attend every year because CEDR recognizes businesses that have contributed to the local economy. When she first came to Astoria, there were many disparate groups working on economic development. Kevin Leahy brought CEDR together, which is now helps small businesses in the area.

## **CHANGES TO THE AGENDA**

No changes.

## **PRESENTATIONS**

### **Item 5(a): Alisa Dunlap of PacifiCorp Regarding the North Coast Blue Sky Challenge**

Alisa Dunlap of PacifiCorp will discuss recent Pacific Power activities and the Blue Sky Challenge.

Alisa Dunlap, Regional Business Manager, Pacific Power, stated her region included parts of Portland and Clatsop and Lincoln Counties. She gave a PowerPoint presentation, which included Pacific Power's annual update and a description of their Blue Sky Challenge. She asked City Council to consider participating in the

challenge, as Astoria was already participating in the Blue Sky Program. If the City participates, Pacific Power would set an enrollment goal and commit to installing solar facilities on a County-owned and publicly accessible buildings if the challenge is met. Astoria would not be required to make any financial commitment, but the City would have to appoint a spokesperson.

Councilor Jones said it was nice to see Pacific Power working towards more green energy.

**City Council Action:** Motion made by Councilor Nemlowill, seconded by Councilor Brownson, that the City of Astoria participate in Pacific Power's Blue Sky Challenge. Motion carried unanimously. Ayes: Councilors Price, Jones, Nemlowill, Brownson, and Mayor LaMear; Nays: None.

**Item 5(b): Way to Wellville National Conference in Astoria, April 17 – 20, 2017**

Paulette McCoy and Sydney Van Dusen with Way to Wellville Clatsop County will discuss the Way to Wellville National Conference taking place April 17 – 20, 2017.

Sydney Van Dusen, Way to Wellville, 135 North Roosevelt, Suite 101, Seaside, said Way to Wellville's challenge has been to find new ways to create health before people get sick and try to correct health disparities in the county. She briefly reviewed some of their children's programs and handed out stress balls.

Paulette McCoy, Providence Seaside Hospital, 725 South Wahanna Rd., Seaside, shared details about Way to Wellville's National Conference that would be held in Astoria this year. She handed out conference agendas and invited City Council to participate on a panel or attend one of the meals. Other municipalities participating in Way to Wellville include West Hartford, CT; Muskegon, MI; Lake County, CA; Spartanburg, SC; and Clatsop County, OR.

Ms. Van Dusen explained that 50 municipalities applied to participate in Way to Wellville. Communities were chosen based on their willingness to make changes, availability of community organizers, and low levels of health outcomes. The program has been so successful that it has been extended from five to ten years. She described ongoing efforts to provide free preschool to children in Clatsop County. Ms. McCoy noted Providence's contribution to several of the Way to Wellville programs.

**CONSENT CALENDAR**

The following items were presented on the Consent Calendar:

- 6(a) City Council Minutes of 3/6/17
- 6(b) Resolution to Close Out 16<sup>th</sup> Street CSO Fund 184 (Finance)
- 6(c) Better World Books Sales Agreement (Library)

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

**REGULAR AGENDA ITEMS**

**Item 7(a): Ordinance and Public Hearing – Article 3: Accessory Dwelling Units (ADUs) (1<sup>st</sup> Reading) (Community Development)**

This Development Code update was initiated by the Community Development Department in January 2016 in response to an Affordable Housing Strategy endorsed by the City Council in November 2015. The City Council held a special work session on July 18, 2016 to discuss the strategy, which is part of implementing a FY 14-15/15-16 Council goal. At the work session, staff presented background information - including accessory dwelling units - as part of a larger Development Code amendment to increase the supply of housing options for all income levels. Subsequent to the work session, staff scheduled a public hearing on September 27 with the Planning Commission to consider amendments to Article 3 – Accessory Dwelling Units. The other code amendments (Article 2 – Zoning Designations) were tabled until staff received further direction from Council. The Planning Commission scheduled a work session for October 19 and continued the hearing until October

25. After considering the findings of fact, and public testimony, the Planning Commission recommended approval to the City Council on October 25. The full record for the plan amendment application (A16- 02: Plan Amendment), including the findings of fact, is contained in the staff report from the prior Council Meeting. A public hearing was held March 20, 2017 to accept public testimony and continued to April 3<sup>rd</sup>. Staff has reviewed the testimony and suggested revisions to the proposed Ordinance that address Council's direction. It is recommended that the City Council accept additional public testimony and consider holding a 1st Reading of the proposed Ordinance.

Mayor LaMear opened the public hearing at 7:32 pm and called for the Applicant's testimony.

Director Cronin reviewed the changes made since the last City Council meeting on March 20<sup>th</sup> as follows:

- Tiny home provisions removed
- Clarified the allowance of one unit per single family lot per main dwelling
- Clarified the effective date of the prohibition of new homestay lodging requests
- ADUs on corner lots must be located on the side or rear of the lot
- Clarified that the on-street parking credit will only be granted when parking is available on both sides of the street
- He also summarized the design review process.

Councilor Nemlowill asked Staff to explain the difference between citywide ADU design requirements and ADU design requirements that are specific to a particular area. Director Cronin explained the table in the memorandum showed the areas of the city that require a design review. Astoria does not have citywide architectural design standards. The design standards in each district are specific to the geography of that area. Citywide design standards would have to be added to the Development Code, which would require a separate legislative process. Neither the Planning Commission nor City Council has discussed citywide design standards.

Councilor Nemlowill asked how design review requirements would affect a person wanting to build an ADU. Director Cronin said design reviews only apply to exterior architecture. The site design provisions included in the amendments regulate where an ADU can be placed on a lot, how tall it can be, and how much square footage it can cover. Currently, there are no architectural design standards for ADUs outside of the districts listed in the memorandum. He explained that Type 1 permits could be processed in 24 hours because they only require Staff to check the zoning, setbacks, height, site design, and parking. Type 2 permits require all of the Type 1 checks plus a public notice and comment period, which takes six to eight weeks. Type 3 permits require a public hearing with the Planning Commission, which takes a minimum of six to eight weeks, but can take longer if the hearing is continued or appealed.

Councilor Nemlowill said she was concerned about a citywide design review of ADUs because too many requirements could prevent people from building ADUs. Astoria's goal is to provide more housing. She asked Director Cronin where he stood on this issue. Director Cronin said from the very beginning of this process, he has been directed to streamline the development review process to encourage the things Astoria wants. ADUs are one way to provide additional housing units in Astoria. Adding requirements and lengthening the process will result in fewer applications. He confirmed the City had only received three applications in the last 10 years. The application process is a good one, but restrictions on floor space, location, and age of the home are prohibitive. The amendments retain the floor space requirement, but also allow for several types of ADUs and omit the age of the home requirement.

Councilor Price understood that ADUs in R-1 zones currently require a conditional use permit, which is a Type 3 permit. In R-2 and R-3 zones, ADUs are currently allowed as an outright use, which requires a Type 1 permit. The Development Code is being amended specifically to encourage new ADUs. She believed ADUs in R-2 zones should require a Type 2 review because many of the homes in R-2 zones are already built close together. ADU construction could be going on 10 feet from a child's bedroom for several months and could create a lot of congestion in the streets. Neighbors are entitled to know what is going on and that another family would be living on their street. Type 1 permits cannot be appealed to the Planning Commission. She believed Council had directed Staff to add that the amendments would be reviewed one year after adoption. Director Cronin said a one-year review had also been recommended by the Planning Commission, so the request was already part of the public record. However, Staff could add it to the ordinance as well.

Councilor Price stated that while only three ADUs have been permitted in ten years, there are three times more in the homestay inventory. She asked what would happen to the ADUs that have not been permitted. Director Cronin said he and City Attorney Henningsgaard have discussed how to deal with the older ADUs being used for transient lodging in zones where the use is permitted. City Attorney Henningsgaard added that grandfathered uses are fact dependent, so no general statements can be made. However, if the use was enacted legally prior to the adoption of the zoning, there are provisions for allowing the use to continue. Additionally, property owners can go through a permitting process to protect the use.

Councilor Price said the homestay descriptions indicate many of them are much more recent. She asked if there was any way to bring the homestays into compliance as ADUs. City Manager Estes said Staff would need to consider whether the ADUs were detached and whether construction was done without building permits.

Councilor Price noted the list of 47 homestays that includes data and descriptions. Only ten of the homestays on the list appear to be ADUs. She asked about the City checking on the ADUs and bringing them into compliance.

Councilor Brownson believed many of the homestay situations that look like ADUs were originally built in-house as a mother-in-law apartment and were not seen as an ADU at the time. And when the opportunity to offer homestays was created, homeowners decided to use that space without any consideration. When it is obvious that someone has created a space without being permitted as an ADU, the space may have been permitted in some other fashion. Director Cronin confirmed that the City has record of all building permits issued over the last 20 years. City Manager Estes explained that if a permitted use has been discontinued, the use could not be grandfathered. If the homeowner wanted to reinstate that use, the current permitting process and laws would apply.

Councilor Price stated the list of 47 homestays included at least three that appeared to be ADUs. She asked how the ADUs could come into compliance with the new ordinance. City Manager Estes said illegal ADUs would be required to go through the permitting process. This would give the owner the opportunity to share the history of the structure and its use so that the City could consider if grandfathering the ADU would be appropriate.

Councilor Price stated she would remain hopeful about compliance and requested that the ordinance included the requirement for a review one year after adoption. She asked if Council would support a Type 2 review in R-2 and R-3 zones.

Councilor Nemlowill said she wanted to streamline the development review process because the City's goal is to provide tools to create more housing in Astoria. However, there are good reasons for the many rules that accompany ADUs. Property owners would be required to live in the main dwelling or the ADU, but there would be no way to confirm this without at least a Type 2 review. Therefore, she supported Councilor Price's requests because the tools the City provides should also be compatible with Astoria's character. She preferred that the ordinance simply state that homestay lodgings in ADUs be prohibited. Instead, the draft only prohibits homestays in ADUs created after May 17, 2017. She wanted as much housing as possible to be available to Astorians, not tourists. She believed a detached homestay unit, regardless of when it was created, would not be a legal homestay because it is not owner-occupied. A homestay in a portion of a home being rented out to a tourist is required to be owner-occupied, but detached units cannot be owner occupied. This may not be defined in the Development Code.

Mayor LaMear asked Staff to comment on how the impacts of the Type 1 and Type 2 permitting processes differed. Director Cronin stated that since he has worked for Astoria, the City has processed 25 applications through the Type 2 permit process. Comments are rarely received from the public, so the extra requirements of a Type 2 permit do not change the results, but the applicants have to wait six to eight weeks for a decision.

Councilor Price asked if Type 2 permits usually involved construction, like the full construction of a basement into a two-bedroom apartment. Staff explained the majority of Type 2 permit applications are for a variance, usually from setbacks. A new house can be built with a Type 1 permit in R-1 zones and areas without design review requirements.

Councilor Brownson stated ADUs change the complexion of the neighborhood by adding housing, residents, and vehicles. A Type 2 review gives the neighbors an opportunity to respond to this new set of circumstances, especially now that the area receiving notices has been extended from 100 feet to 200 feet and includes renters.

City Attorney Henningsgaard explained that changing the zoning classifications would require Staff to notify all property owners in R-2 zones. City Manager Estes added that Staff would need time to publish those notices, so the hearing would need to be continued.

Councilor Brownson noted the zone change could be implemented as part of the one-year review.

Councilor Jones said he was satisfied with the changes made by Staff. However, he also wanted the one-year review included in the ordinance. He confirmed that the effective date of prohibiting homestay lodgings in ADUs had been included because some lodgings would be grandfathered in. City Manager Estes added that some of the ADUs with homestays might still require a review. Code amendments that prohibit previously allowed uses include a milestone date to provide clarity.

Councilor Jones wanted all homestay lodgings in ADUs prohibited, but if that is a moot point, there is no need to change the proposed ordinance.

Councilor Brownson asked if unlicensed homestays in ADUs would be grandfathered in. Staff said this would be difficult to determine because the owner might assert the use was grandfathered. Ultimately, the decision might have to be made by the Land Use Board of Appeals (LUBA).

Councilor Nemlowill believed there were existing ADUs without permits or business licenses to operate a short-term rental or homestay. As the ordinance is written, there would be existing homestays that do not currently house tourists, but could house tourists if they were built before the date specified in the ordinance.

Mayor LaMear called for testimony by persons in favor of the application.

Fred Bohne, 824 35<sup>th</sup> Street, Astoria, stated it would not be suitable for him to stand in public and say that Astoria does not have a housing crisis or a need for workforce housing. However, he could bury the ordinance in regulations, which does not sound quite so bad and would not do as much damage to his image. He approved of the ordinance because he has a second unit that has been occupied on and off for 15 years. All he wants to do is get an occupancy permit so that he can use the unit.

Doug Thompson, Lower Columbia Preservation Society (LCPS), 342 14<sup>th</sup> Street, Astoria, said City Council has already discussed many of his remarks. LCPS is supportive of the ordinance in concept as a partial solution to the shortage of housing in Astoria and thanks Council and Staff for incorporating many of their recommendations into the revised ordinance. By process of elimination, LCPS has three areas of concern. LCPS does not believe the wording in the ordinance is adequate to prohibit homestay lodgings in ADUs. The ordinance does not define the term "created," which could mean permitted, built, final construction, or use. It would be important to clarify the definition as Council decides what would be grandfathered in. The amendments still allows an owner to live in an ADU while advertising their main home as a homestay lodging, which he did not believe was the intent of the ordinance. LCPS exists because of issues with historic preservation, so they do not discuss citywide design reviews. At the very least, the creation of ADUs that enlarge the exterior envelope of an existing residence should be reviewed by the Historic Landmarks Commission (HLC) if the property is within a National Registered Historic District or is adjacent to or across the right-of-way from a historic landmark property. Currently, HLC design review only applies to new construction adjacent to or across the right-of-way from a historic landmark property and does not guarantee design review in historic districts. LCPS agrees with Councilor Price's assertion that ADUs must be approved through a Type 2 review process so that nearby property owners are noticed and given the opportunity to appeal. LCPS wants to solve the housing problem by adding supply as quickly as possible while protecting neighborhoods. The lifespan of ADUs will be 50 years or more, so it seems appropriate to take the extra time up front. The community will have to live with the results of Council's decisions long beyond his lifetime.

Councilor Price asked for clarification on Mr. Thompson's comments about design review.

Mr. Thompson explained that LCPS discovered a loophole in the existing design review process relative to historic properties. Currently, the HLC design review only applies to new construction adjacent to or across the right-of-way from a historic landmark and does not guarantee design review in historic districts. City Manager Estes stated the HLC has discussed this many times over the years. There has been no support for expanding

the purview of the HLC, so the Code was written to reflect what City Council could support when the historic preservation ordinances were drafted.

Mayor LaMear understood that requiring a Type 2 permit would require City Council to change an additional ordinance, as well as the purview of the HLC. City Manager Estes did not believe LCPS was recommending any changes to what triggers an HLC review, but that a design review be required for any ADU proposed within a National Registered District or adjacent to a historic landmark. If a Type 2 review were proposed in R-2 zones, all property owners and residents in R-2 zones would have to be noticed. If Council wanted to add design review requirements, the notice would be sent to an even greater area. Staff needs City Council to say how City Staff should proceed on these matters.

David Neikes, 305 W. Lexington, Astoria, said he has been a contractor and property developer in the area for 40 years. He owns a 7,500 square foot R-2 lot at the foot of the bay at Williamsport. The giant lot has a tiny house on it, which would be 200 square foot at 40 percent. This is a grey area in the proposed Code. The house is 700 square feet, so he would only be able to build a 300 square foot auxiliary building.

Chris Haefker, 687 12<sup>th</sup> Street, Astoria, asked if existing nonconforming ADUs inside a home could still be rented out after the ordinance is adopted. City Manager Estes explained that Astoria's nonconforming use language states that if the use has ceased for a year, the use could not be reinstated.

Mr. Haefker confirmed that if he purchased a house with an ADU that was not being occupied as an ADU, he could not use the ADU. This means many existing ADUs are illegal based on nonconformance because they have fallen out of use, just like apartments. City Manager Estes said there are homes in Astoria that were divided into individual units in the past and when sold, were used by the new owners as single-family residences and lost the grandfathered nonconforming status. The property owners would have to comply with current standards if they wanted to reinstate the nonconforming use.

Mr. Haefker suggested City Council address this issue separately because there is a lot of housing in that format. Several apartments were being discussed a couple of months ago and more have been discussed this week. He believed many buildings could fall into jeopardy. City Manager Estes believed that turning single-family residences back into apartment buildings would have a much greater impact on neighborhoods.

Councilor Price believed it would be appropriate in certain places and hoped City Council would discuss this in the future.

Mayor LaMear called for testimony by persons against the application.

Chris Farrar, 3023 Harrison Avenue, Astoria, said he was concerned about the review process and agreed with Councilor Price's suggestion to require a Type 2 permit. Astoria has old, established neighborhoods with discontinuous street patterns, parking issues, and close dwellings piled on top of each other. It is only fair to let local people express their views when more residences will be wedged into the neighborhood. He lives in an R-2 neighborhood and it is already very tight and crowded. He did not look forward to trying to wedge in more homes. He believed the City should be deciding what to do with all of the unoccupied dwellings. His neighborhood has many abandoned and run down homes that were recently purchased at dirt-cheap prices by contractors that fix them up and resell them. This has improved the neighborhood, but there are still homes in the neighborhood that are falling apart. The City should be focusing on those homes for additional housing, not cramming in more dwellings.

Mayor LaMear called for testimony impartial to the application.

Sean Fitzpatrick, 1046 Grand Ave., Astoria, believed that Astoria had only received three applications for ADUs in ten years because Astoria did not have a need for more housing until a year and a half ago. ADUs are extremely expensive to build and since there was no need, people were not applying for them. Today, the housing shortage is not as severe as it was a year and a half ago because many abandoned homes have been renovated. He believed it was important for City Council to recognize the demand over the last ten years.

Mayor LaMear called for the Applicant's rebuttal.

Director Cronin stated that last week, Staff reviewed Mr. Nikes' project and the proposed ordinance would only allow him to build a very small ADU. If the existing home were demolished, Mr. Nikes could build a duplex or a single-family home with an ADU. If the existing home remained on the property, a new single family home could be built with the existing home being converted to an ADU. He understood that LCPS was unclear about homestay lodgings in the main home. The proposed ordinance would only prohibit homestays in the ADU, so homeowners could still rent out a room in their main dwelling. If an ADU were proposed as part of an existing historic resource, and the exterior of the historic resource would change, the property owner would have to get the exterior alteration approved by the HLC.

City Manager Estes wanted to know if Council was interested in implementing the Type 2 review just in R-2 zones or in all zones. The existing Code allows some homestay lodgings with nothing more than a business license and the requirement to pay transient lodging taxes. Council should consider whether the proposed language should allow those homestays to continue.

Councilor Nemlowill was concerned about a property owner living in their ADU to rent out their main home as a homestay lodging. Homestay lodgings require owner occupancy, so if the ADU is detached the main home could not be rented out. City Manager Estes agreed and clarified that if the owner of the lot resides on the lot, even in a detached ADU, the primary residence could be rented to a full-time renter, but not as a homestay lodging.

Councilor Nemlowill believed this needed to be clarified in the ordinance. Mayor LaMear and Councilor Price agreed. Councilor Price added that Article 1 Section 2 (B) (5) of the proposed ordinance states, "The property owner shall occupy either the principal unit or the ADU as their permanent primary residence, and at no time receive rent for the owner-occupied unit." This does not mention renting out the primary residence. City Manager Estes said Staff could add clarifying language.

Councilor Nemlowill believed the homestay language in the Development Code does not account for detached units. Therefore, it is especially important to specify this in the proposed ordinance. Specification should be included in sections referring to owner occupancy and homestays.

City Manager Estes asked Council for direction on historic review, specifically whether Staff should add language to the ordinance as discussed by the LCPS.

Councilor Brownson asked for clarification on LCPS's comments regarding review by the HLC. City Manager Estes explained that ADUs proposed on non-historic properties that are adjacent to historic properties would not be reviewed. LCPS takes issue with this.

Councilor Price said yes, add the design review language.

Mayor LaMear asked how design review requirements would increase the HLC's workload. Director Cronin stated that it was difficult to determine how many units would have to be reviewed. However, Astoria will not produce more housing if no changes are made. Staff did not believe the workload would increase substantially.

Councilor Jones asked for more clarification. He understood that an exterior modification to a non-historic home next door to a historic home would require a Type 2 review. City Manager Estes clarified that such a project would require a design review and confirmed this requirement only applied to ADUs. Councilor Jones did not believe it was consistent to require a design review for ADUs and not other types of exterior alterations. He added that he was not in favor of a Type 2 review in neighborhoods that currently allow a new house to be constructed without a review.

Sean Fitzpatrick stated that a person has the right to build an addition on to their home, but ...[inaudible speaking off mic, over talking].

Councilor Price agreed with Mr. Thompson's reasons for requiring a Type 2 review. Astoria has limited land for building new homes and there are many single-family lots that could accommodate ADUs. ADUs will have a very long lifespan, so she believed sending notices, particularly in R-2 zones, would be worth the time and effort. She proposed that a Type 2 review be required for all ADUs in all residential zones. She asked if Council wanted to address the wording about the creation date of ADUs, which she believed was ambiguous.

City Manager Estes said once Staff gets direction from Council, he would work with the City Attorney to draft the appropriate language. If the City Attorney finds that Council's directive cannot be achieved under State land use statutes, Staff would have to come back to Council for further guidance.

Councilor Price explained that she was unfamiliar with the land use statutes, but was focused on the units listed on Airbnb that appear to be ADUs. She would like to see those units come into compliance with the regulations that are adopted.

City Manager Estes understood that Councilors Jones and Price had opposing views on historic reviews and Type 2 permit requirements. He asked for feedback from the rest of Council on these two issues so that he could make a recommendation on next steps.

Councilor Nemlowill said the proposed ordinance currently requires a Type 1 or Type 3 permit and she wanted to know which zones this applied to. Director Cronin said a Type 1 permit is required in R-2 and R-3 zones, and the Type 3 permit is required in R-1 zones.

Councilor Price stated she supported the Type 3 permit in R-1 zones, but preferred a Type 2 permit in R-2 and R-3 zones.

Councilor Brownson agreed that the requirements should be consistent with existing laws instead of making ADUs an exception. He also supported the Type 2 permit because ADUs will change neighborhoods. If a Type 2 permit were required, there would be no need to change the historic review requirements. City Manager Estes reminded that the Type 2 permit would not require a design review by the HLC. Councilor Brownson stated that it had become very easy to be bogged down by many small details. He was concerned that too many rules and regulations would make it difficult for people to build ADUs. He believed that even if the ADU language was liberal, there would not be very much development. ADUs are expensive and the return on investment is challenging, so he did not believe this ordinance would make a huge impact. People are very concerned about keeping Astoria's neighborhoods the way they are and the City already addresses this concern in many other ways. He wanted to have a long discussion with the supporters of historic review to find out how they believed design review requirements would create any differences from what was already happening. He was not concerned about design reviews because the City already has protections in place.

Mayor LaMear said she agreed with Councilor Jones that the proposed ordinance was inconsistent with existing laws. It does not make sense to require one set of criteria for ADUs and a different set of criteria on main dwellings. She supported the ordinance as proposed by Staff.

Councilor Nemlowill stated she could vote either way on the Type 2 permit proposal, but wanted the ordinance to move forward as quickly as possible and review it in a year. After considering public comments on the Type 2 permit, she believed Councilors Price and Jones made good points. Council needs to stop getting bogged down in the minutia and move forward with creating housing for Astorians.

City Manager Estes asked if Staff could propose revisions to the ordinance after the first reading had been conducted. Staff's revisions would be the addition of requiring a review one year after adoption and clarification to the language regarding homestay lodgings.

City Attorney Henningsgaard explained that a one-year review did not have to be part of the ordinance, as City Council could direct Staff to conduct the review by simply making a motion. However, if Council wanted to add this to the ordinance, it could be revised after the first reading because the change would not constitute a material change. Revising the language that refers to homestay lodgings depends on how the existing Code is currently being interpreted. Determining interpretation of the Code could be done by reviewing legislative history or by creating a policy. Changing the language to be more specific can sometimes result in additional problems. However, since the amendment is meant to clarify the intent of the ordinance, the homestay lodging language could be amended after the first reading. The amendments would need to be read in full at the next meeting.

Councilor Price reiterated that she wanted to require a Type 2 review because the City has only received three applications in ten years, ADUs are difficult and expensive to build, homeowners are not postponing ADU projects until this ordinance is passed, nothing in the ordinance will make it easier or harder to build ADUs, it is City Council's duty to make good policy decisions that last for a long time, and the extra six to eight weeks that a



Type 2 permit requires would not make a difference. She wanted neighbors to have the opportunity to know about proposed ADUs.

City Manager Estes explained that Staff still needed direction from Council on the Type 2 permit, which if supported by a majority of Council members would require the public hearing to be continued to a date uncertain and new notices to be published. If Council voted in favor of conducting the first reading at this meeting, Staff could amend the ordinance to include the one-year review and clarify the homestay lodging language.

Councilor Price confirmed for Mayor LaMear that she proposed a Type 2 permit in R-2 and R-3 zones.

**City Council Action:** Motion made by Councilor Price, seconded by Councilor Brownson, to amend the proposed ordinance on Article 3: Accessory Dwelling Units of the Astoria Development Code to require a Type 2 permit for ADUs in R-2 and R-3 zones. Motion failed 2 to 3. Ayes: Councilors Price and Brownson; Nays: Councilors Jones, Nemlowill, and Mayor LaMear.

**City Council Action:** Motion made by Councilor Nemlowill, seconded by Councilor Jones, to conduct the first reading of the ordinance amending Article 3: Accessory Dwelling Units of the Astoria Development Code, direct Staff to add clarifying language regarding the owner occupancy requirements for ADUs, and that City Council will review the ordinance one year after adoption. Motion passed 4 to 1. Ayes: Councilors Nemlowill, Jones, Brownson, and Mayor LaMear. Nays: Councilor Price.

Director Brooks conducted the first reading of the ordinance.

**Item 7(b): Ordinance – Article 9: Procedures (2<sup>nd</sup> Reading) (Community Development)**

The Development Code (Code) update was initiated by the Community Development Department in January 2016 in parallel with the affordable housing related amendments contained in A16-02: Accessory Dwelling Units. Article 9 of the Development Code contains the administrative procedures for processing land use applications. The City Council adopted a FY 15-16 goal to streamline the development review process. The procedures update is in direct response to this goal. Article 9 was last updated in 2014 (Ordinance 14-03). A public hearing was held on April 26, 2016 with the Planning Commission to consider amendments to Article 9. After considering the findings of fact, and public testimony, the Planning Commission recommended approval to the City Council. A public hearing was held on March 20, 2017 to accept public testimony, closed the public hearing, and the City Council held a 1st Reading of the Ordinance. It is recommended the City Council hold a 2nd Reading of the Ordinance.

Director Brooks conducted the second reading of the ordinance.

**City Council Action:** Motion made by Councilor Brownson, seconded by Councilor Nemlowill, to adopt the Findings and Conclusions contained in the Staff report, approve Amendment Request A16-01 to the Astoria Development Code, and adopt the Ordinance amending Article 9: Procedures of the Astoria Development Code. Motion carried 4 to 1. Ayes: Councilors Jones, Nemlowill, Brownson, and Mayor LaMear; Nays: Councilor Price.

Councilor Price noted that she voted no on this ordinance for all of the same reasons she voted no on the last ordinance.

Mayor LaMear read the rules of appeal into the record.

**Item 7(c): Ordinance – City Code Update: Land Use Violation (1<sup>st</sup> Reading) (Community Development)**

In 2016, the Community Development Department administered an exterior alteration permit for a historic triplex at 328 Alameda. The applicant made the improvements to the house prior to the consent of the Historic Landmarks Commission. To better address these types of issues in the future the City Attorney has proposed adding new enforcement tools to Section 1.010 Penalties of the City Code to rectify violations to land use, zoning, and building in Astoria that have occurred prior to and after land use approval. It is recommended the City Council hold a first reading of the Ordinance.

Mayor LaMear opened the public hearing at 8:57 pm and called for public testimony.

Rachel Jensen, 1445 Lexington Ave., Astoria, said she was happy to see this ordinance come before City Council because Astoria has a problem with enforcement. The City lacks the tools to enforce issues that come up. She found it interesting that City Manager Estes mentioned the triplex on Alameda in the memorandum because there are at least two apartments in that triplex that are listed on Airbnb. She asked if this ordinance could be used to enforce the land use laws that apply to Airbnb.

City Attorney Henningsgaard believed that State statutes would allow this ordinance to be applied to land use violations.

Mayor LaMear called for Council discussion.

Councilor Jones asked what penalties could be assessed against an individual who disregarded the City's permit laws.

Staff explained that without this amendment, the City is limited to imposing a fine of \$1,000 and a year in jail. This amendment would provide the City with additional tools, including revocation of a permit.

Councilor Price said she believed Ms. Jensen made an interesting point and that this ordinance could be applied to the use of a structure. City Attorney Henningsgaard agreed.

Mayor LaMear closed the public hearing at 9:01 pm and called for a motion.

**City Council Action:** Motion made by Councilor Jones, seconded by Councilor Price to conduct the first reading of the ordinance amending City Codes on Land Use Violations. Motion carried unanimously. Ayes: Councilors Price, Jones, Nemlowill, Brownson, and Mayor LaMear; Nays: None.

Director Pearson conducted the first reading of the ordinance.

**Item 7(d): First Amendment to Emission Repurchase Agreement for Carbon Credit (Finance)**

Council approved an agreement with The Climate Trust (TCT) to purchase carbon credits from the City of Astoria Watershed at a fixed price over two years. The base components of the agreement have been fulfilled. TCT is interested in purchasing additional Emission Reduction Tons (ERTs) from the City which the City currently has available. TCT and City staff, with the assistance of City Forester (Mike Barnes) and carbon credit consultant (David Ford) have negotiated an acceptable amendment to the TCT agreement dated June 4, 2015, to purchase 17,154 additional ERTs at the price of \$ 3.15 per ERT. An amendment with the additional purchase amount and price has been reviewed by City Attorney Blair Henningsgaard and was approved by TCT Board of Directors on March 20, 2017.

The additional costs associated with this transaction are transfer fees for the delivery of the offsets into the Buyer Registry Account at fifteen cents per offset, or \$ 2,373.10 + \$ 35 wire transfer fee. The net revenue from the transaction is \$ 51,627, which will be placed in the Capital Improvement Fund.

It is recommended that Council approve Amendment # 1 to The Climate Trust agreement dated June 4, 2015.

Councilor Price confirmed the revenue would be deposited into the Capital Improvement Fund.

**City Council Action:** Motion made by Councilor Price, seconded by Councilor Brownson to approve Amendment # 1 to The Climate Trust agreement dated June 4, 2015. Motion carried unanimously. Ayes: Councilors Price, Jones, Nemlowill, Brownson, and Mayor LaMear; Nays: None.

**Item 7(e): Resolution to Schedule a Public Hearing Regarding Vacation of a Portion of the Alley Abutting 3115 Harrison and the Adjacent Undeveloped Lot (Public Works)**

The City has received a request from Larry Haskell, for the vacation of a 20 X 100 foot portion of the alley that abuts his property at 3115 Harrison (Tax Lot 8099CA10000) and his undeveloped lot (Tax Lot 8099CA10100)

on the south side of the alley, Lots 6 & 7, Block 63, Port of Upper Astoria. Mr. Haskell would like to obtain the square footage necessary to potentially construct a duplex on the property.

Upon review of the site, it was determined that there are no public utilities on or adjacent to the proposed vacation area and that the City would have no future need for this portion of the alleyway. This vacation will help support the City's effort for good right-of-way management.

Per City Code 2.290 Authority to Make an Assessment, staff has calculated the real market land value of properties adjacent to the property as \$6.87 per square foot. Staff is proposing that an assessment of \$1,374.90 (10%) of the real land value (as has been the practice of the City in the past) to be considered for the vacation of this alleyway.

It is recommended that the Astoria City Council consider the resolution of intent to hold a public hearing concerning the vacation of a portion of the alleyway adjacent to 3115 Harrison and the undeveloped lot south of the alleyway.

Councilor Jones asked if the alley was City-owned property. City Manager Estes said no and explained that a right-of-way is land that is privately owned, but controlled and maintained by the City. If the right-of-way were vacated, the control and maintenance responsibilities would be returned back to the owner. City Attorney Henningsgaard added that a right-of-way is an easement that the public enjoys. Once the easement is vacated, the property owner owns the property unencumbered.

Councilor Jones confirmed he understood the difference between vacating a right-of-way and the City selling a property. The Applicant already owns this land, but does not have full use of it because the City has maintained it and he would like full use of the property. This is why the Applicant is only paying one-tenth of the value instead of the full value.

Councilor Price wanted to know what permits the Applicant would need to develop a duplex on the lot. City Manager Estes said the property is in an R-2 zone, which allows duplexes as an outright use as long as the lot meets the minimum square footage. So, the Applicant would need a building permit.

Councilor Price confirmed the Applicant would not need a permit to remove vegetation and trees, and no design review would be required because the lot is not in a historic district.

Councilor Brownson confirmed that the City's fee for this process was established by determining the real market value of the property and charging the Applicant ten percent of that value. He asked how this vacation would affect the assessed value of the property. City Manager Estes explained that the owner would have to start paying taxes on the vacated portion of the property.

Councilor Brownson asked what the tax rate would be based on. City Manager Estes stated he would have to defer to the County appraisal office.

Councilor Nemlowill believed City Council should consider vacating the right-of-way and hold a public hearing. Councilors Brownson and Jones agreed.

**City Council Action:** Motion made by Councilor Nemlowill, seconded by Councilor Jones, to adopt the resolution of intent to schedule a public hearing on the vacation of a portion of the alley abutting 3115 Harrison and the adjacent undeveloped lot. Motion carried unanimously. Ayes: Councilors Price, Jones, Nemlowill, Brownson, and Mayor LaMear; Nays: None.

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

David Isaacs, 801 Alameda Ave., Astoria, stated he was concerned about financing for Meals on Wheels and prenatal care, both national emergencies. He understood there was not much Astoria could do about them, but these situation could result in local issues and the City might want to make themselves heard on these matters. The Meals on Wheels issue puts vulnerable, aged, low-income, elderly, and disabled individuals at risk. He suggested City Council declare this a national emergency and request funds to replace the money that the program would be missing. Funds are being cut for Planned Parenthood on the basis that three percent of the

organization's resources goes towards abortions. That three percent was already cut back years ago through other measures. Currently, 97 percent of their work is prenatal care and other preventative care services for mothers. This is also a national emergency because this country has one of the highest infant mortality rates in the world, which is shameful. On the subject of ADUs, Astoria has a lot of narrow streets and properties without garages. Parking units are used up in areas where there are no garages. He suggested the City create pilot zones where the ADU ordinance would be implemented. He recommended the pilot zones be in areas with garages, sidewalks, and enough parking to handle one or two additional vehicles. There are a number of places where this would not be possible. Pilot zones would maintain a progressive implementation process.

Mayor LaMear called for a recess at 9:14 pm to convene the Executive Session.

## **EXECUTIVE SESSION**

### **Item 9(a): ORS192.660 (2) (d) – Labor Negotiations Consultation**

The City Council will meet in executive session to discuss labor negotiations.

The regular session reconvened at 10:30 pm.

City Manager Estes said the City has conducted labor negotiations with the International Association of Firefighters Local 696. The union voted to accept the contract, which has been presented to City Council for consideration.

**City Council Action:** Motion made by Councilor Price, seconded by Councilor Nemlowill, to approve the labor contract between the International Association of Firefighters Local 696 and the City of Astoria. Motion carried unanimously. Ayes: Councilors Price, Jones, Nemlowill, Brownson, and Mayor LaMear; Nays: None.

City Manager Estes stated the City has completed negotiations with the Astoria Public Safety Association, the Police Department's bargaining unit. The association and the City have come to an agreement on a new collective bargaining agreement, which was presented to City Council for consideration.

**City Council Action:** Motion made by Councilor Brownson, seconded by Councilor Jones, to approve ratifications to the Collective Bargaining Agreement between the Astoria Public Safety Association and the City of Astoria. 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 10:32 pm.

**ATTEST:**

**APPROVED:**

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Finance Director

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City Manager