

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

Councilors Present: Mayor Jones. Councilors West, Brownson, Rocka, and Herman attended via Zoom.

Councilors Excused: None

Staff Present: City Manager Estes, Police Chief Spalding, Deputy Chief Halverson, Parks and Recreation Director Dart-McLean, Finance Director Brooks and Community Development Director Leatherman. City Attorney Henningsgaard and Public Works Director Harrington attended via Zoom. The meeting was live streamed and recorded, and will be transcribed by ABC Transcription Services, Inc.

PRESENTATIONS

Item 3(a): Presentation by Chief Spalding Regarding Recent Protests and Policing in Astoria

Mayor Jones said the Councilors had received many questions from the community related to George Floyd's death and the recent protests in Astoria and around the country. The questions were primarily about policies, training, and use of force.

City Manager Estes added that Police Chief Spalding had personally responded to many questions from citizens as well. He trusted and supported Chief Spalding and Deputy Chief Halverson and believed Police Department Staff was professional and responsive.

Chief Spalding, Deputy Chief Halverson, and City Attorney Henningsgaard gave a follow up presentation to the last one given to the Council, which included new information on the questions they had received from community members, Councilors, and Mayor Jones. The first presentation was available on the City's website and the Police Department's website. This presentation provided information on the Police Department's protest response plan, citation and arrest policies, State and local laws regulating the carrying and displaying of firearms, ordinance options that can require physical separation between protesters and counter-protesters, carotid control hold and use of force policies, racial profiling laws and the Statistical Transparency of Policing (STOP) program, the Defund the Police initiative, officer-worn and vehicle equipment, officer training, and the investigation of social media posts. Chief Spalding said he appreciated the Council and community support for the Police Department.

During the presentation, Staff answered questions from Councilors as follows:

- Mayor Jones asked about the status of the physical altercation that occurred the previous week. He also wanted to know what decisions had been made, how investigations were done, and how cases were sent to the District Attorney.
 - The event involved many individuals. The Police Department received video from several sources and one officer observed most of the conduct. There appeared to be conduct by both the protesters and counter-protesters that could be considered as instigating the event. The incident has not yet been fully investigated. A victim had told the officer taking the report that she did not want anyone to be punished, but simply wanted the incident documented. The officer took the information and advised the victim that he would work on this case when he returned from vacation. In the meantime, the victim has indicated she feels differently about the incident now. When the officer returns from vacation, he will complete his report, compile all of the video evidence, and present the case to the District Attorney's Office, which will decide if anyone should be charged.
- Mayor Jones said community members have asked why the Police cannot check to see if a firearm is loaded or ask to see a concealed carry permit. He asked for more details on what type of permit is required to carry a gun and when the police have the right to ask for proof of the permit.
 - A City ordinance prohibits carrying a loaded gun. Officers can engage in casual conversation with someone who is not doing anything wrong. If the Officer observes a weapon, he can ask if the firearm is loaded. If the person is participating in a protest, the context of the encounter is different because the

Officer is concerned about the safety of having a weapon in that situation. In 2013, the City's ordinance was challenged as a 2nd Amendment infringement and Officers no longer have the ability to ask if a firearm is loaded or inspect the weapon.

- Councilor Brownson asked if yelling, threatening, and intimidation were considered free speech.
 - The Oregon Supreme Court ruled that there is not a "fighting words" exception to the Oregon constitution's free speech amendments. However, there is a point at which confrontations can become menacing or harassment. If the behavior becomes criminal, an arrest can be made.
- Councilor West asked where the data collected for the STOP program would be sent and what would be done with it.
 - Oregon State Patrol manages the program in conjunction with the Criminal Justice Commission and the Department of Public Safety Standards and Training. Larger cities began collecting data in July 2019 and smaller cities will begin July 2020. He believed the data would be publicly available.
- Councilor Brownson asked for details about the minimum hiring requirements for police officers.
 - A high school diploma and a two-year college degree are required. Exceptions are made for experience.
- Councilor Herman said there were reports of officers nationwide who had a history of using excessive force and continue to be employed. She asked what Astoria's policy was.
 - Astoria does a very thorough background investigation on every applicant. The application is 26 pages long and requires references from previous employers, neighbors, and family, and asked about criminal and financial history. An interview with a psychiatrist or psychologist is also required as part of the application process.
 - Oregon has a certification and de-certification process. Once an officer graduates from the Police Academy, they are certified as a police officer. If an officer is accused of misconduct, the State does an investigation to decide whether de-certification is necessary. Once de-certified, the former officer can no longer serve as a police officer anywhere in Oregon. Officers can be de-certified for committing any crime, using excessive force, and being dishonest.
- Mayor Jones asked if Astoria had a policy on the use of tear gas, rubber bullets, and other similar types of weapons.
 - Astoria does not have any of those type of tools. However, if the Police Department called for mutual aid, those tools could be provided by the County. Mutual aid would only be requested in a serious situation.
- Councilor Brownson stated he received an email regarding the State's laws on harassment and physical contact intended to provoke a violent response. He asked how the police determine when someone is trying to provoke a violent response.
 - To ensure that the District Attorney's Office would prosecute the offense, words plus actions must rise to the level of a criminal offense. Additionally, the harassment statute referenced in the email has been deemed unconstitutional through case law. Therefore, it is very difficult for the Police Department to enforce many types of harassment related crimes.

Mayor Jones called for public comments. There were none. He thanked Staff for their transparency and requested the presentation be published on social media and the City's website.

REPORTS OF COUNCILORS

Item 4(a): Councilor Herman thanked Chief Spalding and Deputy Chief Halverson for their thoroughness and transparency. She was very grateful to live in Astoria, which is a progressive and inclusive community. However, even Astoria is not exempt from racism and bigotry. She was also grateful for the peaceful protestors who participated in the recent demonstrations for Black Lives Matter in Astoria, Warrenton, Seaside, and across the river. She commended the high school students who organized the protests and displayed courage and maturity in the face of armed white supremacists who yelled and taunted them. Many adults should learn from these young people.

Item 4(b): Councilor Brownson reported that he had attended League of Oregon Cities committee meetings and was waiting on their final reports. He reported that the Library was able to get a book for his wife from Seaside in one day. He appreciated Director Pearson's efforts to ensure that system worked.

Item 4(c): Councilor West thanked Councilor Herman for her comments and Chief Spalding and Deputy Chief Halverson for their presentation. She reported that she continued to stay on top of COVID-19

developments. She attended a meeting with Jeff Merkley and Ron Wyden about the impact on non-profits in Oregon. A town hall with Suzanne Bonamici was coming up. She would continue to attend the National League of Cities and League of Oregon Cities meetings. She and Mayor Jones attended some of the protests to show solidarity with the Black Lives Matter movement. She believed many people saw the need for social justice and equality. An investment in social services has come out of this movement. She commended the Police Department on their professionalism. She had asked Chief Spalding many questions over the last few weeks and they were always answered with grace and integrity. Transparency and keeping the lines of communication open is rare and she was grateful to live in Astoria right now.

Item 4(d): **Councilor Rocka** reported that he attended a webinar hosted by the National League of Cities and organized by black leaders to have a conversation with city leaders from all over the country. On Saturday, Three Cups of Coffee in Uniontown closed. The coffee shop had become a gathering spot for things like chess tournaments, political gatherings, and letting Councilors have their Meet the Public events. The owner has decided it was time to have more regular hours and spend more time with her daughter.

Item 4(e): **Mayor Jones** reported that he had spoken to several hotel managers and heard they had been able to get close to 60 percent occupancy. On June 26, the hotels will be allowed to have 100 percent occupancy. Some of the hotels are holding back on rehiring staff because the allowance of 100 percent occupancy might be delayed and a breakout in town is possible. Some employees have decided to move on to other industries or are not yet comfortable coming back to work. The Sunday Market continues to grow a little bit every weekend. He attends every weekend and is always impressed that everyone is following the rules. He spoke to people in the commercial fishing industry, which is experiencing a significant downturn driven by the drop in the export market and restaurant market. He reported that an article had been published in the newspaper about the possibility of a river cruise in Astoria on June 20th. When COVID-19 was just becoming serious three months ago, deep sea cruises were scheduled to arrive in Astoria. The City met with the County Public Health, County Manager, and the Port of Astoria. Together, they determined that in the absence of any guidance from the State, a cruise ship would be considered a public gathering and that the restrictions on public gatherings would apply to cruise ships. The State has now published updated guidance on public gatherings and events. The deep sea cruise ships carry thousands of passengers, but the river cruise ships carry no more than 250 people. Over the past few weeks, the City, County, Port, and State has been discussing whether to allow cruise ships to come to Astoria. The public health assessment is the primary driver of that decision right now. The County has been working with local hospitals to determine their level of comfort with the protocols the river cruise lines have implemented. Precautions on the river cruise boats are substantial, but currently, the status of the vessel potentially coming to Astoria on June 20th is that they have not yet been approved to come into Astoria. There is a berth available, but the decision is pending a final review by the County Public Health of the cruise ship's arrangements with medical providers and any guidance by the State.

City Manager Estes understood that the cruise ship has had ongoing conversations with the County Health Department about medical protocols. A berth is available at the 17th Street Dock for this vessel. If the State and Health Department do not raise any significant issues, the vessel will be allowed to berth at that location.

Mayor Jones added that this ship would be carrying passengers who boarded in Portland, and not a ship that had been out at sea. Portland has not yet implemented Phase 1, so it would be interesting to see what their public health department has to say about embarkation.

Councilor Brownson asked if the State's travel restrictions had any impact on the City's decision.

City Manager Estes said the State did not put any travel restrictions on local jurisdictions. Guidance provided by the State says there should not be any travel, so some jurisdictions did prohibit visitors. However, it has been legal to stay in hotels in Portland throughout COVID-19.

Councilor Herman asked for details on the number of people currently allowed to gather in one place.

Mayor Jones stated the maximum was 50 people indoors, 100 people outdoors, and events are limited to 250 people. The river cruise lines have proposed that they would be allowing passengers to disembark over staggered periods of time in small groups. Additionally, these small groups would be on different decks of the vessel, dining at different times, and in rooms with individual air systems.

City Manager Estes noted that because the City does not have experts in this area, Staff has spoken with State and County health department staff about how operations work.

Mayor Jones said the City, the cruise lines, and the County were on long conference calls. County Public Health asked detailed questions about people would be managed on the ships.

Councilor West believed that allowing more than 50 people on a cruise ship would violate what was allowed in Phase 2.

City Manager Estes understood that the State had considered the on board restaurant and lodging facilities and how they complied with the State's guidelines.

Councilor Rocka said he read that people would be able to maintain social distancing while on board. The passengers are primarily older people who are more vulnerable, so they would be more careful. More and more, he was seeing people without masks as more businesses open. He did not believe the river cruise ship visitors would make that any worse.

CHANGES TO AGENDA

No changes.

CONSENT CALENDAR

The following items were presented on the Consent Calendar:

- 6(a) City Council Minutes of March 16, 2020
- 6(b) City Council Work Session Minutes of April 16, 2020
- 6(c) City Council Minutes of May 18, 2020
- 6(d) Liquor License Application from Breur, LLC doing business as Port of Astoria Seafood Market, located at 300 Industry Street, Suite 354, for a Limited On-Premises and also Off-Premises Sales License

Councilor Herman noted the following correction to Item 6(c): City Council Minutes of May 18, 2020:

- Page 11, Paragraph 15 – "Councilor Herman asked if the *Aquatic Center* closure was helping *good financially for the City.*"

City Council Action: Motion made by Councilor Brownson, seconded by Councilor West, to approve the Consent Calendar, with Item 6(c) corrected. Motion carried unanimously. Ayes: Councilors Brownson, Herman, Rocka, West, and Mayor Jones; Nays: None.

REGULAR AGENDA ITEMS

Item 7(a): Public Hearing and Resolution for Supplemental Budget for Maritime Memorial Fund #148

ORS 294.473 provides guidance for a municipality to hold a public hearing on a supplemental budget to adjust for changes which could not reasonably be foreseen when preparing the original budget. The City of Astoria contracted with work on the expansion of Maritime Memorial in Fiscal Year ending June 30, 2019. A new set of concrete and granite walls were required for additional of memorial plaques of loved ones who worked on or in relation to the water. It was anticipated all work would be completed during the fiscal year ending June 30, 2019 but due to unforeseen delivery issues of granite, work was not completed until the current fiscal year. Staff is presenting a resolution for a supplemental budget to recognize \$50,000 of additional beginning fund balance and to appropriate \$50,000 for the remaining costs related to completion of the expansion.

It is recommended that City Council conduct a public hearing and approve the supplemental budget as presented in the attached resolution.

City Manager Estes stated the work was completed last summer. However, the contractor was not able to receive the granite panels by the end of June and no money was included in the current budget to pay the contractor. No General Funds are used for the Maritime Memorial. The expansion and construction of the memorial was paid for by citizens who purchased names to be placed on the memorial.

Councilor Brownson added that this did not reflect any additional costs and was just financial housekeeping.

Mayor Jones opened the public hearing at 8:34 pm and called for public comments. Seeing none, he closed the public hearing at 8:34 pm.

City Council Action: Motion made by Councilor Brownson, seconded by Councilor Herman, to approve the resolution approving the supplemental budget for the Maritime Memorial Fund #148. Motion carried unanimously. Ayes: Councilors Brownson, Herman, Rocka, West, and Mayor Jones; Nays: None.

Item 7(b): Resolution to Update the Parks Drop-In Passes and Ocean View Cemetery Fee Schedules F1 and F3

This update to the City's fee resolution pertains to the fees charged at the Aquatic Center and Ocean View Cemetery. To assist the Astoria Parks, Recreation, and Community Foundation's (APRCF) commitment to providing scholarships for local individuals and families to access health and wellness opportunities, it has been proposed to establish a scholarship day-pass for use at the Aquatic Center and abandon the current model of tracking scholarship recipients at the AAC and billing APRCF for use on a quarterly basis. The new scholarship day-pass will allow APRCF to purchase vouchers for drop in use and distribute them to local organizations that serve low-income populations based on income and qualification criteria, such as Clatsop Community Action, Helping Hands, CASA, Hope House, Head Start, DHS, and Lower Columbia Hispanic Council. The vouchers will be valid for one AAC day pass and will be redeemed by the recipient for \$1.00. This system simplifies the processing of scholarships for the APRD, reduces administrative costs for both parties, and maximizes the population that can be served by APRD and APRCF.

In March of 2020, the Parks and Recreation Department received the final Ocean View Cemetery Master Plan that had been produced by consultant E. Lees and Associates. The Master Plan recommends limiting future fee increases at the cemetery to 5 percent from 2020 to 2029 and then reducing them to 3 percent annually from 2030 onward. After analysis of prices for lot purchases and burial services compared to other providers in the area, it was concluded that fees have reached parity with regional competitors and the cemetery is now operating at standard market rates. The Master Plan recommends 5 percent increases moving forward to account for inflation of labor and material costs and to provide greater support for the Cemetery Irreducible Fund. The Irreducible Fund receives a percentage of all revenue generated by the cemetery and the accrued funds are kept in a securely invested fund to be used after the cemetery is no longer selling graves to support the obligation of perpetual care of the grounds.

It is recommended that City Council approve attached fee resolution which updates Parks Fee Schedule F1 and Ocean View Cemetery Fee Schedule F3.

Mayor Jones opened the public hearing at 8:40 pm and called for public comments.

Councilor West said she balked at the 10 percent increase in cemetery fees; however, those fees had not been raised in ten years.

City Manager Estes clarified that the Council has approved a 10 percent increase each year since 2015 and a five percent increase is being proposed now.

Councilor West asked when the City would be aligned with market rates for cemetery services.

City Manager Estes stated the Cemetery Master Plan has recommended five percent increases from 2020 through 2029 and three percent increases from 2030 onward.

Mayor Jones noted that the Council could change the percentage at any time.

Councilor Herman said the Parks Foundation's idea for the use of day passes by scholarship recipients made a lot of sense.

Mayor Jones closed the public hearing at 8:43 pm.

City Council Action: Motion made by Councilor Rocka, seconded by Councilor Brownson, to approve the resolutions updating the Parks Fee Schedule F1 and Ocean View Cemetery Fee Schedule F3. Motion carried unanimously. Ayes: Councilors Brownson, Herman, Rocka, West, and Mayor Jones; Nays: None.

Item 7(c): Resolution to Transfer Appropriations within Capital Improvement Fund #102 Budget for Fiscal Year 2019-20

ORS 294.463(1) provides guidance for the transfer of appropriations within a fund, when authorized by resolution of the governing body.

At the time the Capital Improvement Fund Budget was prepared the City did not anticipate the change in lease cost due to procurement of hybrid Police Department vehicles. It was determined that hybrid vehicles would have overall cost savings in the long run due to reduced fuel consumption. A transfer in the amount of \$700 is required between Materials and Services to Debt Service in order to account for the additional lease cost. It is recommended that City Council approve transfer of \$700 from the Capital Improvement Fund Materials and Services to Debt Service.

City Council Action: Motion made by Councilor Rocka, seconded by Councilor Herman to adopt the resolutions approving the transfer of \$700 from the Capital Improvement Fund Materials and Services to Debt Service. Motion carried unanimously. Ayes: Councilors Brownson, Herman, Rocka, West, and Mayor Jones; Nays: None.

Item 7(d): Extension to the Deadline for the use of Employee Personal Leave

The City provides benefits to eligible employees with personal leave each fiscal year. Personal leave is available to utilize with prior approval as needed and is paid when requested during the fiscal year. Unused hours at the end of the fiscal year do not carry over and are not compensated upon separation from City service. The number of hours an employee is provided depends on benefit eligibility and applicable collective bargaining agreement which takes into account length of work shift. The intent of personal leave is to accommodate an employee's need to conduct personal business or attend appointments that conflict with their regular workday.

In Fiscal Year 2019-2020, employee's ability to utilize personal leave was impacted due to business closures and in some circumstances staffing requirements which could not accommodate additional time away from work. In consideration of extraordinary circumstances related to the COVID-19 pandemic we would like to allow employees additional time to utilize this leave.

It is recommended that the Mayor and Council approve an extension of time for employees to utilize outstanding Fiscal Year 2019-2020 personal leave. Staff proposes that balances remaining at June 30, 2020 may be utilized through December 31, 2020.

City Council Action: Motion made by Councilor Brownson, seconded by Councilor Herman to approve an extension of time for employees to utilize outstanding Fiscal Year 2019-2020 personal leave. Motion carried unanimously. Ayes: Councilors Brownson, Herman, Rocka, West, and Mayor Jones; Nays: None.

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

Councilor West thanked the Lower Columbia Q Center for helping with Pride over the weekend. She had participated in some of the events. It was a challenge to hold the celebrations virtually but they did a great job keeping everyone safe while honoring the cause.

Ida Rand, no address stated, said COVID-19 was not just a health crisis, it was also an economic crisis. Astoria has a large vulnerable population and it is possible to trace where an outbreak comes from. She wanted to know if cruise ships would have any financial obligation to help the community if an outbreak comes from a cruise ship.

Mayor Jones stated that liability has not come up in any discussion he has about contact tracing.

Ms. Rand said she was just concerned with the financial impacts to the community of COVID-19 because Astoria could not handle an influx of sick people, which costs a lot. For cruise ships, profit is their motive. The City can require passengers to wear masks when they disembark. She asked if there was something that could guarantee that the social distancing policy is implemented.

Mayor Jones said his discussions with County Public Health had been very extensive and have involved looking in great detail at the protocols in place for the cruise lines, their screening of potential passengers, precautions aboard the vessel, and guidance to them when they arrive at each port. County Public Health has also received in depth feedback from the local hospitals regarding their ability to work with any of these activities.

Councilor West added that as a director of a dance studio scheduled to open this week, she has had a lot of discussions around liability and the possibility of requiring people to sign waivers. There are more questions than answers, but it is interesting to think about. She assumed cruise ships were also having this discussion to protect themselves from any financial impact they may have on a town they visit.

Councilor Brownson noted that the cruise ships were small and not unlike 250 people coming down from Portland by car individually. If Astoria plans on being open for business and allow tourists, the community will have to count on visitors doing the right thing because the protective measures are so hard to police.

Nancy Montgomery 1564 5th Street, Astoria, thanked Chief Spalding for being available and open for discussion. She had three questions and said she was willing to take the answers off the record. She asked what the City had learned in their research of other cities about separating protestors and trying to prevent escalation rather waiting to de-escalate. Also, if police were called to a bar at 10:00 pm to address someone shouting at another, she wanted to know how that would be handled, if there was a way to prevent it, and what the shouter would be asked to do in that scenario. Lastly, she asked how the City would recommend that protestors prepare or respond to the scenario that Robert described to minimize escalation.

Chief Spalding responded that there were a lot of challenges with separating protestors. He, the City Attorney, and the District Attorney's office did some research on the feasibility of that. It is constitutionally acceptable to regulate where protestors can gather, but this must be done based on public safety. Astoria does not have that ordinance. Many cities require protestors to file a permit, but Astoria does not require a permit. Many protests simply pop up and the police do not always know where it will be or where counter-protesters will show up. Many of the protests in the past have been very peaceful and the City has worked closely with the organizers. However, counter-protesters do not exhibit the same level of cooperation. Portland tried to pass an ordinance about two years and met with a lot of resistance, including from the American Civil Liberties Union (ACLU). Their ordinance was not passed. A city in New York implemented an ordinance that required a 30-foot distance between protestors and counter-protesters. At the first major event with a significant turnout, the ordinance was completely ignored and the city was not able to enforce it. In Astoria, the offense would only be an infraction and the only thing the police would be able to do is issue citations. That would tie up many of the City's resources and create many logistical concerns. Breaking up two parties in a bar fight is a completely different situation, which would probably include an assault or disorderly conduct related crime. The police are charged with public safety and do have some ability to control parties in that scenario. If an arrest is made, one or both parties would be taken away to help resolve the situation. He noted that the police have observed instigating antagonistic behavior by both the protestors and counter-protesters. He advised that everyone follow the laws and stay on their own side. If instigating behaviors occur, call the police so the behavior can be addressed.

Ms. Montgomery clarified that her question about the bar scenario was not about physical harassment, just shouting. She supposed that the police could not ask someone to move along because of freedom of speech. She feared that antagonistic counter-protesters would cause someone to snap or feel they needed to defend a teenager, which could be seen as antagonistic as well.

Chief Spalding stated that an incident at a bar was not an apples to apples comparison to a protest. A private business has the ability to have an individual removed or arrested for trespassing.

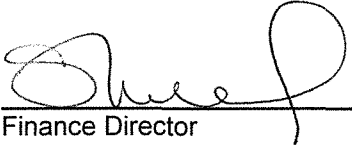
Ms. Montgomery said she knew the person leading the protests was encouraging participants to refrain from engaging.

Roy Breur, 24 Skyline Place, Astoria, said he was having volume problems and missed Item 6(d). City Manager Estes confirmed that his liquor license had been approved.

ADJOURNMENT

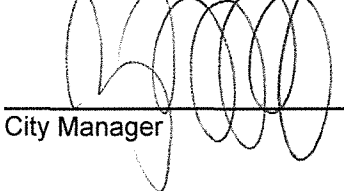
There being no further business, the meeting was adjourned at 9:04 pm to convene the Astoria Development Commission meeting.

ATTEST:



Finance Director

APPROVED:



City Manager