

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

Councilors Present: LaMear, Herzig, Warr, Mellin, Mayor Van Dusen

Councilors Excused: None

Staff Present: City Manager Pro Tem Estes, Police Chief Curzon, Parks and Recreation Director Cosby, Financial Analyst Snyder, Fire Chief Ames, Planner Johnson, Library Director Tucker, Public Works Director Cook, and City Attorney Henningsgaard. The meeting is recorded and will be transcribed by ABC Transcription Services, Inc.

REPORTS OF COUNCILORS:

Item 3(a): Discussion of City Manager Position

Mayor Van Dusen announced that during the Executive Session held prior to this meeting, City Council offered the City Manager Position to City Manger Pro Tem Brett Estes. Negotiations of the City Manager contract are 90 percent complete. The contract should be complete by the next City Council meeting on September 2, 2014.

City Manager Pro Tem Estes thanked City Council for the offer and said he looked forward to the opportunity to work with City Council and the citizens of Astoria.

Item 3(b): Councilor Warr said he had no reports.

Item 3(c): Councilor Mellin reported that she attended the Job Corps 50-year Celebration, which was wonderful. The Job Corps is a real asset to the Astoria community, providing many interns that work throughout the city.

Item 3(d): Councilor LaMear reported that she and other Councilors attended the groundbreaking at 19th and Irving. Although the street will be closed, the project is necessary and she was delighted the project is underway. The Regatta events were wonderful and she thanked Peter Roscoe for stepping up as Astoria might not have had a Regatta without him. She enjoyed the queen's coronation. It was fun to listen to the girls who were very poised and did a great job portraying the historical personas of previous queens. On Sunday, August 17th, she attended a neighborhood gathering at McClure Park on 8th and Franklin, where the Friends of McClure Park was formed to develop the park. The event was an old-fashioned gathering of neighbors and was a lot of fun.

Item 3(e): Councilor Herzig reported that transients were discussed at the last City Council meeting and noted the cover story in the August issue of League of Oregon Cities' magazine was about homelessness, which is a real issue that needs to be taken seriously. He was always disturbed when a group of people is classified as transient. Some of these people are veterans and people who struggle with mental and physical ailments. Few people would choose to sleep under the blackberry bushes near the riverbank if they had other choices. He believed it was important to remember that the way society treats the most powerless people is the true measure of humanity. Astoria needs to examine this issue and remember that the homeless are real human beings, not just a group called transients who need to be brushed out of the city limits.

Item 3(f): Mayor Van Dusen reported that this Friday at 2:00 pm at Safeway, a celebration will be held for Safeway employee Betty Paxton who turns 100 years old. He also reported that he and the other Councilors attended the ribbon cutting at the Astoria Recreation Center (ARC) and asked Staff for an update.

Director Cosby said the grand opening was held last Thursday, August 14th from 4:00 to 7:00 pm at the ARC's new home in the former Yacht Club on Youngs Bay. City Council, Parks Board members, and community members attended. The Parks Department is settling in to the new location where many programs will be offered.

Mayor Van Dusen reminded the audience to keep the aisles clear and exits available, as Council Chambers was full. City Council agreed to excuse the department heads that did not have business at this meeting because space was limited. City Manager Pro Tem Estes requested that City Engineer Harrington and Planner Johnson remain at the meeting. Councilor Herzig requested the department heads be excused after discussion of the Consent Calendar.

City Attorney Henningsgaard reported that Caroline Evans has been appointed as Conservator to handle the financial affairs of Mary Louise Flavel. Many things have been done to the Flavel properties in an attempt to remove the sheriff's sale, including inspection, re-keying of all of the properties, and working with John Goodenberger to find out what options are available and what work needs to be done. Ms. Evans and Mr. Goodenberger have had several conversations with him and Jack Applegate. The Conservator has ordered appraisals on all of the properties, contacted title companies, requested bids from five landscapers for work at the 15th Street house, requested a bid from Jack Davies to put a tarp on a roof before winter, and contacted a local garbage company to find out the cost of a 30-yard drop-off container. Ms. Evans, John Goodenberger, and Mac Burns of Clatsop County Historical Society have been in the house to conduct a preliminary inventory of papers and other documents in the house that may have historic significance. Future planned work on the 15th Street house includes cleaning up the yard by the end of August, cleaning the interior so that prospective buyers can tour it within the next 30 to 60 days, and signing a listing agreement by October 1, 2014. For the commercial property downtown, located at 904-936 Commercial Street, the Conservator hopes to hire a contractor to repair loose windows and apply for Washington County Circuit Court approval to sell the property. Upon approval of the sale, the Conservator hopes to sell the property as-is. Proceeds would be used to reimburse the City for its expenses and costs incurred during the enforcement process and to repair the commercial property across the street at 905-943 Commercial. He did not know what the Conservator planned to do with the property once it was improved. The conservatorship, which is temporary, has just been extended for another month and will expire on September 13, 2014.

Mayor Van Dusen introduced Tom Freel from KAST, Ray Merritt from KMUN, and Ally McEntire from *The Daily Astorian*.

City Council proceeded to Item 6: Consent Calendar at this time.

CHANGES TO AGENDA:

This item was discussed immediately following Item 5: Presentations.

City Manager Pro Tem Estes confirmed there were no changes to the agenda.

City Council continued to Item 7: Regular Agenda Items.

PRESENTATIONS:

Item 5(a): Forestry Management at the Watershed

This item was discussed immediately following Item 6: Consent Calendar.

City Manager Pro Tem Estes noted that forestry management was raised at the last City Council meeting when Councilors inquired about the levels of harvest outlined in the City's Forest Management Plan during a discussion about the purchase of a new fire truck.

Mike Barnes, 33655 NE Crow Creek Road, Newberg OR, stated he has been the City's forester for the last 12 years, noting the City is certified under the Forest Stewardship Council, the most highly recognized certification system. The certification process revealed that Astoria had little or no detailed information regarding the inventory. The inventory was completed in February 2014 and indicated that Astoria has a little over 100 million board feet of standing timber. Using a conservative approach, he has determined that the maximum harvest level that could be used under an industrial mode would be about 3 million board feet per year. Industrial mode harvesting would leave an area with young reproduction after being clear-cut. He displayed an example, noting that the area being shown was outside of the City's watershed. In order to maintain the Forest Stewardship

Certification, harvest levels need to be conservative because the primary product coming from the watershed is water, not timber. Astoria has kept its harvest levels very conservative over the last 10 years, harvesting only about 800,000 board feet of timber, significantly lower than the 3 million board feet that could be harvested in industrial mode. He will prepare and present to City Council a five-year harvest plan at the first City Council meeting in October 2014. The maximum harvest level was determined because Astoria must consider a carbon proposal. In order to sell its carbon product, Astoria must set a maximum harvest level to determine how much can be monetized. Harvest levels have been set at a conservative level to maintain the water quality and to explore the sale of forest carbon.

Mayor Van Dusen understood that selling property for its carbon would produce income for the City without cutting trees. Mr. Barnes explained that a harvest level of 3 million board feet of timber is possible. However, City Council determined that the conservative harvest level should be 850,000 board feet. A tree is 40 percent carbon and as a tree grows, carbon is added. The difference between the possible harvest level and the conservative harvest level can be sold up front, and then in subsequent years, the growth of trees that have not been cut can be sold. He has already contacted several potential buyers and a Request for Proposal (RFP) will be ready next week.

Councilor LaMear believed the harvest level was three percent per year. Mr. Barnes clarified that growth was three percent per year, which totals 3 million board feet. The City is cutting a significantly lower amount than this. Every year that growth is not cut, volume is added to the inventory, which allows the forest to continue growth.

Councilor Herzig said he was glad to hear there would be an update on the carbon sequestration program. He asked Mr. Barnes to prepare a presentation on the possible effects on climate change for the watershed for the October City Council meeting. He noted that citizens are concerned about the use of herbicides. The private companies that clear-cut use herbicides, which can cross property boundaries. He understood the City's property was uphill from the clear cutting, but reiterated that people are concerned about the use of herbicides adjacent to the watershed. Mr. Barnes said the City is notified by the timber companies when they plan to apply chemicals adjacent to City property. He has not noticed any adverse effects from those applications and noted the water is continuously tested.

City Manager Pro Tem Estes said he would make sure the water test results were available on the City's website. Engineer Harrington added that water reports were sent out with utility bills.

City Council proceeded to Item 4: Changes to the Agenda.

CONSENT CALENDAR:

This item was discussed immediately following Item 3: Reports of Councilors.

The following items were presented on the Consent Calendar:

- 6(a) City Council Minutes of 7/21/14
- 6(b) Boards and Commission Minutes
 - (1) Historic Landmarks Commission Meeting of 7/15/14
 - (2) Library Board Meeting of 7/22/14
- 6(c) Library Department Status Report
- 6(d) Authorize Department of State Lands (DSL) Easement for Wastewater Treatment Plant Outfall (Public Works)

City Council Action: Motion made by Councilor Mellin, seconded by Councilor Warr, to approve the Consent Calendar. Motion carried unanimously. Ayes: Councilors LaMear, Warr, Herzig, Mellin, and Mayor Van Dusen; Nays: None.

City Council returned to Item 5: Presentations.

REGULAR AGENDA ITEMS

Item 7(a): Public Hearing and Ordinances Regarding Development of Code Language to Implement the Civic Greenway (16th to 41st) Area of the Riverfront Vision Plan (1st Reading) (Community Development)

In 2008-2009, the City of Astoria developed the Riverfront Vision Plan (RVP) to address issues dealing with open space, land use, and transportation issues along the Columbia River. Significant public involvement opportunities were designed to gain public input. This process was initiated to plan for these issues in a comprehensive manner and to set a framework for the future of the study area. The City's north Riverfront (Columbia River to West Marine / Marine Drive / Leif Erikson Drive) was divided into four Plan areas of development: Bridge Vista (Port/Smith Point to 2nd Street), Urban Core (2nd to 16th Street), Civic Greenway (16th to 41st Street), and Neighborhood Greenway (41st Street to east end of Alderbrook Lagoon). City Council accepted the Riverfront Vision Plan in December 2009. Since that time, the City Council has set goals regarding implementation of the Riverfront Vision Plan.

The City received a Transportation Growth Management (TGM) grant through the Oregon Department of Transportation for the implementation phase of the Astoria Riverfront Vision Plan. Phase 1 of the project would develop land use Codes and/or new zones for the Civic Greenway Plan Area. Throughout the RVP implementation process, the Planning Commission (APC) focused on the Assumptions and Objectives of the approved Plan and did not attempt to change the Vision Plan as adopted. There was discussion and public comment during the work sessions on the interpretation of these objectives. Implementation of recommendations from the Riverfront Vision Plan in the Civic Greenway Plan Area will take the form of both map amendments and Code amendments.

Proposed map amendments will include: 1) rezone the northern half of the blocks between 30th Street and 32nd Street from C-3 (General Commercial) to the new Compact Residential Zone (CR); 2) extend the Gateway Overlay (GO) Zone to cover the Civic Greenway Plan Area; and 3) apply the new Civic Greenway Overlay (CGO) Zone to the Civic Greenway Plan Area.

Proposed text/Code amendments will include: 1) add a new Compact Residential (CR) Zone to allow for smaller cottage cluster development; 2) add a new Civic Greenway Overlay Zone to address the standards for over-water and land development and river access requirements; 3) add new provisions for Cottage Cluster Development for compact residential development; 4) add new "clear and objective" design standards for residential uses in the Gateway Overlay Zone and Civic Greenway Area; and 5) make "housekeeping" amendments related to the new CR Zone and CGO Zone.

The Planning Commission held a public hearing at the May 27, 2014 and June 24, 2014 APC meetings. At its July 22, 2014 meeting, the Astoria Planning Commission unanimously recommended that the City Council adopt the proposed amendments. A copy of the Staff Report and Findings of Fact as adopted by the Planning Commission is attached. Also attached to this memo are the proposed ordinances, minutes of the meetings, and public comments received.

It is recommended that the Council hold a public hearing and consider adoption of the ordinances. If the Council were in agreement with the recommendation of the Planning Commission, it would be in order for Council to hold a first reading of the two separate Ordinances to amend the Astoria Development Code Pertaining to the Civic Greenway Area issues, and amend the Astoria Land Use and Zoning Map to rezone an area from C-3 (General Commercial to CR (Compact Residential).

Mayor Van Dusen stated many requests have been made to limit testimony to three minutes during this public hearing. City Council carefully reviewed the minutes of the Planning Commission meetings and found that a few individuals spoke for more than 30 minutes. Following a brief discussion with Council and members of the audience, Council consented to limiting testimony to five minutes and City Attorney Henningsgaard agreed to act as the timekeeper.

Mayor Van Dusen opened the public hearing at 7:23 pm and asked if anyone objected to the jurisdiction of the City Council to hear this matter at this time. There were no objections. He asked if any member of the City Council had any conflicts of interest or ex parte contacts to declare. Hearing none, he read the procedures

governing the conduct of public hearings to the audience, noting that the applicable criteria was listed in the Staff report, which could be obtained from Planner Rosemary Johnson. He asked if Pier 39 would remain in compliance with the law if City Council approved the request with no changes.

City Manager Pro Tem Estes said the Pier 39 building would have permitted uses that could continue and none of the current operations would be prohibited. Any fire or natural disaster that destroyed more than 80 percent of the property's value would result in issues with rebuilding to the existing height of the building. However, Staff has prepared revised Code language to address this concern.

Mayor Van Dusen called for a presentation by the Applicant.

City Manager Pro Tem Estes briefly reviewed the history leading to the ordinances for the Civic Greenway Area of the Riverfront Vision Plan, which was created to address open space, land use, and transportation issues along the Columbia River. Over the past year, the Planning Commission held work sessions to develop the Code language to implement the zoning ordinance amendments and has recommended approval of the Code language to Council.

Cathy Corliss, Angelo Planning Group, 921 SW Washington Street, Suite 468, Portland, and Planner Johnson reviewed the written Staff report. The proposed Code amendments and graphics were displayed on the screen and the following points were explained in detail for clarification:

- The exemption for existing buildings from certain repair and renovation requirements allowed existing buildings to do repair work and alterations necessary to maintain the buildings. Expansion of building footprint or height would require compliance with the Code as proposed. However, Staff could add language that allows existing buildings to rebuild to their current configurations if more than 80 percent of the property value is destroyed. This language would include height, footprint, and allowable uses.
- From 35th to 41st Streets, buildings must be located at least 500 feet from the shoreline. Variances from this distance would not affect building heights. The intent of the Code is that no variances from height restrictions would be allowed within 500' of the shoreline. Building heights in this area are restricted to bank height. Staff has recommended that some words in the Code be changed to make language more clear because many questions were raised about this issue.
- Landscaping requirements have been updated based on direction from the Planning Commission and public comments. Landscaping professionals in Clatsop County have reviewed the requirements and the plant lists have been updated to reflect local growing conditions.
- The area where the CR (Compact Residential) Zone is proposed is currently zoned as a C-3 (General Commercial) Zone, which allows multi-family dwellings and commercial uses such as professional offices and retail sales. The current zone also allows a building height of 45 feet. The new zone would remove most of the commercial uses and the multi-family aspect of residential uses. Only single-family and two-family residences would be allowed in the CR Zone.
 - The proposed CR Zone is from 30th to 32nd Streets, which includes the current Public Works shops and the property owned by George Brugh. The south half of the block would remain a C-3 Zone.
 - No changes to existing uses would be required and new development could occur when properties within the zone became available.
- New residential design standards, as opposed to guidelines, are intended to address the requirement to have clear and objective standards for needed housing.

Planner Johnson stated that two pieces of correspondence were received, which were handed out at the dais. The correspondence was from Leticia Tarver, 1780 Dawson Ct, Astoria, and Attorney David Noren. Staff also received a letter from Attorney Tim Ramis, which was included in the Staff report.

Mayor Van Dusen called for testimony in favor of the application.

Elizabeth Menetrey, 3849 Grand Avenue, Astoria, said she was against the application until she heard tonight's review of the Staff report. She confirmed with Staff that in the area from 35th to 41st Streets, the building height of overwater development was restricted to bank height out to 500 feet and no variances would be allowed. She said she was very happy with this restriction, but was not happy that restaurants would be allowed. She did not believe eating and drinking establishments were in the spirit of the Riverfront Vision Plan as she did not see how these establishments were related to maritime uses. She thanked Mayor Van Dusen for appointing her to the Riverfront Steering Committee in 2008. The Steering Committee discussed protecting views and limiting

maritime uses to docks and piers in the area from 16th through 41st Streets. The Committee never discussed restaurants, so she was surprised to see eating and drinking establishments included in the proposed Code language.

Jan Faber, 3015 Harrison Avenue, Astoria, thanked everyone who has worked towards getting the Riverfront Vision Plan this far. He said as he walked from the Maritime Museum to 39th Street, he was amazed at how the River Walk was being used. The River Walk was filled with people from town and tourists. He also saw people sitting on the benches along the river. The views were beautiful, like something out of a movie. City Council has the opportunity to preserve these uses of the River Walk. Years from now, people will still be walking along the River Walk. He believed that economic interests were legitimate, but preserving the River Walk would last much longer than any private economic interest. He supported the bank height limits on the river side of the trail, which is especially important in the area near Big Red, where there are two modest buildings on either side of the gang plank that block the view. Any building above bank height completely changes the river. He did not completely understand the cluster housing. He compared the views of residential areas with setbacks, low densities, and height restrictions with residential areas that had fewer restrictions, noting that the areas with less restrictions blocked more views. He reiterated that City Council has the opportunity to preserve a gem for future generations and make Astoria a continuous tourist mecca.

Connie Spencer, 3930 Abbey Lane, Astoria, understood no on land development would be allowed north of the railroad track 500 feet from the bank in the area between 35th and 41st Streets.

Planner Johnson confirmed that was being proposed.

Mayor Van Dusen called for testimony opposed to the application.

Robert Munson, 3990 Abbey Lane, Astoria, said he bought his home in Astoria about five years ago after living in Portland. He was extremely pleased about being in Astoria and had no complaints about the city. He did not realize Astoria was a wonderful place before he moved. He bought his home as a long-term retirement investment, which he is very serious about because he is on a fixed income. One of the most important emotional features of his home is the view of the river. He feared that the view could be harmed or damaged by structures out on the river. He was opposed to overwater development and did not understand why the view, quality of life, property values, and possibly equity should be sacrificed for the financial gain of a private developer. He agreed with previous comments made about the River Trail. It is wonderful for a city of this size to create a trail that is so open and welcoming to everyone. He did not believe it was in the city's best interest, and certainly not in his best interest, to block the view. He thanked City Council for the opportunity to speak.

Vickie Baker, 3015 Harrison, Astoria, said she was only opposed to two parts of the application. She believed that for the most part, the Planning Commission and others have worked for very hard. She objected to the change from what is occurring on 19th and 35th Streets to what is allowed on 35th to 41st Streets. She would like to see the entire corridor have the same restrictions with no development built out from the banks and no variance from the bank height restriction from 19th through 41st Streets. She was also opposed to restaurants. Water-related businesses should be allowed, but there are plenty of other locations in the city and along the river for restaurants.

Floyd Holcom, 652 Alameda Avenue, Astoria, said he appreciated the opportunity to speak and was happy a forum still existed that allowed everyone to talk about Astoria. He handed out a packet of information at the dais which included a letter outlining why he was opposed to the proposed ordinance. The information given about Pier 39 during presentation of the Staff report did not change the proposed ordinance. Since 1998, he and his business partners have developed properties near the East End Mooring Basin as part of a master plan vision. He and other property owners have developed public processes for more than 16 years. He moved his family back to Astoria to raise his son, Nate Holcom, who had joined the Army earlier that day. Nate will be taking over the building at the end of 31st Street, for which the City gave Mr. Holcom an award. The 31st Street building was the first building he redeveloped when he moved to Astoria. If the proposed ordinance were in place back then, he would not have been able to redevelop the building, rescue the little red building, or put money into the Big Red building even though the storm in 2007 took much of it down. As he sat through many Planning Commission meetings, he realized there were many flaws in the ordinances. No economic study or engineering surveys were completed and the actual elevation of the River Walk changes three to four feet from 16th Street to 40th Street. The Civic Greenway Area originally extended to 39th Street, but it was extended when someone heard he had

purchased property at the end of 40th Street. It was challenging for him to come to this meeting. The problem is the proposed Civic Greenway Area regulations kill every vision that he has set out to accomplish. The proposed Civic Greenway Area is also full of errors and omissions, missing many key critical elements, like economic studies and engineering surveys. He was required to complete many traffic analyses on 39th Street even after he obtained a grant for the City to put 39th Street in. He believed he paid for four or five traffic analyses, but there has been no pedestrian traffic study on the River Walk. The River Walk was beautiful, but he questioned how many people look down, not out, when walking in the wind and rain. How many people go out on a boat and look back at the City of Astoria? He believed Astoria could not afford an ordinance when the City could not afford to clean up the river bank and repair the China wall that is already falling apart. This is not just an ordinance; this is a river plan that was supposed to be developed for everyone, including economic development that would create family jobs on the working waterfront that City Council authorized the Plan to include. The ordinances miss this point. While City Manager Pro Tem Estes stated earlier that Pier 39 would be protected, he did not mention that Mr. Holcom would have to repair the building within a year. He asked how many people could repair 84,000 square feet after a 100 percent disaster at Pier 39 within one year. He reiterated that the ordinance is missing details. He recommended City Council send the ordinances back to the Planning Commission. He noted that last week, he spoke to Safeway, who did not know about the public hearing because they received the information late.

Tim Ramis, 2 Center Point Drive, 6th Floor, Lake Oswego OR, legal counsel for the Port of Astoria, said the Port could be in a position to support the proposed ordinance if an amendment was included that allowed more flexibility to be permitted under a mandatory master plan. In his experience with land use planning in Oregon, one vexing issue in urban waterfront areas is how to balance preservation of the status quo with the desire to provide a strong economy for families and jobs in the community. Most municipalities have found a way to achieve this balance without completely undermining the economic side of the issue. In this context, private economic interests are not being discussed. The Port's holdings are public holdings. It is the Port's responsibility to ensure the lands are used for economic development that would benefit the public. Therefore, his proposal has a strong measure of public benefit, which can only be measured and decided by City Council. Written materials on this issue indicate the City has a policy of balance between the competing interests. The Riverfront Vision Plan calls for a Civic Greenway Area, which includes a mix of economic uses while enhancing the trail. This is supported by the Comprehensive Plan, which states the area is for major Port development, as stated in Comprehensive Plan Sections 195.2, 195.3, 195.6, 195.7, 200.3, 200.4, 201.1 and 203.1. During the Planning Commission's public hearing, several Commissioners expressed the desire to find a method to provide flexibility in the plan, particularly for the Port's properties and related properties. To that end, the Port has worked with Planning Department Staff to create a proposal that would accomplish this. He believed Staff's position is that the proposal could work in a sympathetic relationship with the proposed ordinance. He explained the proposal was to implement a plan district, which adds an additional tool to the City's regulatory tool box. City Council would authorize the ability to apply for a master plan in a defined area. The Port, in conjunction with private interests, would have to develop a master plan that would be put through the public process. Finally, the Planning Commission would review the master plan and City Council would determine if the plan was a vision that the City wanted to support and then adopt or reject the master plan. This would provide the Port the opportunity to come forward with a more specific vision for the area and to present that vision during a public hearing. Applications would only be approved under the criteria adopted in the plan, which would potentially include another public hearing process. The Port has put substantial effort in to their proposal in an attempt to create flexibility that would still involve plenty of public process and leave the decision up to City Council. His role is to find a method that avoids conflict between two agencies that both have responsibilities to carry out. He hoped City Council agreed. The Port supports the mapped area of the proposed master plan, as proposed by Staff, but would not oppose an expansion of the area to include some private lands because of the Port's history of partnering with private owners. Boundaries can sometimes shift depending on the project being proposed.

David Lee Meyers, 120 Commercial Street, Astoria, said the open and informal views from the River Walk, Marine Drive and Leif Erickson Drive were delightful assets of Astoria. The views include the waterfront, across the open river, and the hills of Astoria. Another asset of Astoria is the large number of homes with great views, affordable to people with middle class incomes. He urged City Council to settle on a conclusion that included as few buildings as possible, as low as possible, along the waterfront. He preferred no buildings along the waterfront, but understood this may not always be possible. Wherever a line limits activity, there is money to be made from moving that line, but this is not always the right thing to do. The losses from moving the line can be spread among thousands of people and more difficult to count, but they are critical to the well-being of the

community. He asked City Council to hold that line, say no, keep the aspects of the Plan, avoid buildings, and allow minimal variances.

Steve Fulton, Port Commissioner, 3598 Grand Avenue, Astoria, said he and his sister own a house near 36th and Irving. He grew up on that end of town and attended Astor School for nine years. He is very familiar with the Overlay Zone and the East End Mooring Basin. He is also a commissioner for the Port of Astoria and is aware of the impact of the proposed ordinance on the Port. The Port, the Cities of Astoria and Warrenton, and Clatsop County are working to establish the flood plain for the area. There is a significant dispute over the base flood elevation and the velocity zone. This issue will have a significant impact on the bases of buildings. State building Codes require the first floors of buildings to be one foot above the flood elevation. If Astoria does not know what the flood elevation is, it is difficult for the City to determine how the Code restrictions would impact areas outside of and above the bank. He recommended City Council wait until the flood plain issues have been worked out with the Federal Emergency Management Agency (FEMA). The flood plain must be determined for all areas along the Columbia River below Tongue Point. He believed it was premature for Astoria to go forward with this application at this time.

Cindy Price, 1219 Jerome, Astoria, said the flood plain issue was interesting. The riverfront is a real part of what makes the magic of Astoria. Amendment 14-02 is a pretty good effort and a lot of good work went into retaining that magic. However, the application does have some fatal flaws and does not meet the basic criteria of preserving river vistas and enhancing and creating open spaces. She believed it was essential that no variances be granted for building height, width, or size limitations north of the railroad tracks in the Exception Zone from 35th to 41st Streets. The allowance for any development other than piers or docks within the Civic Greenway Area is already a large compromise of the Riverfront Vision Plan, in which hundreds of Astorians participated and overwhelmingly expressed their desire to have no development in the area. The Exception Zone compromises that compromise. It is important to remember that many other sites exist along the riverfront that are much more appropriate for development, which will become very obvious as the Planning Commission and City Council look at the other three areas of the Riverfront Vision Plan. This amendment needs to include the following sentence: "No variance shall be granted for an exception to these limitations in six separate places governing height, width, and size of overwater development in Section 14.055." Without this language, the proposed ordinance leaves an open door for developers to take up time and resources debating the intent. The Exception Zone, as written, provides ample opportunity and ability for development and threats of a lawsuit that would cite Measure 49 and the "takings" clause of the 14th Amendment to the U.S. Constitution. Measure 49 defines the category of land use regulations eligible for relief to include only those that limit residential uses of property or that restrict farming or forest practices. Measure 49 does not have anything to do with condominiums, cruise ship terminals, or restaurants. The "takings" clause of the 5th Amendment, extended to the states by the 14th Amendment, has as its last clause "nor shall private property be taken for public use without just compensation." The proposed amendment does not take enough private land to be a concern, as City Attorney Henningsgaard noted at a recent Planning Commission meeting. Everything that is taken is over water and owned by the Department of State Lands (DSL). Courts rarely bother with municipalities claiming imminent domain over private property when the claim is made for public use, which this is. Anyone who purchased property along the riverfront in the City of Astoria since about 2008 was taking a pretty well-known risk because the Riverfront Vision Plan process was highly visible for several years. Due diligence would have shown that building Codes were likely to be changed and that development would be limited. It is not the City of Astoria's responsibility to indemnify property owners from potential limitations on future development plans by never changing the zoning Codes. She believed the City must reject the Port's request to codify an East End Mooring Basin Plan District, allowing for further amendment to the Code governing the Civic Greenway Area. If the Port or anyone else wants to engage in a master plan process, it is their business. It is not the business of the City to endorse the master plan process, create an entirely new district for the Port, and open the door to lengthy Staff and Planning Commission time for considering unwise development. Pier 39 is a marvelous development and she supported language in the amendment that would allow the pier to be rebuilt in a reasonable amount of time, should something happen to the building. The City needs to revise the recommended plant list because many plants on the list quickly produce thickets and suckers and grow well above 35 feet. She understood that many people consider the plant list a minor issue, but she believed people would reconsider when plants take over the river bank and require expensive regular maintenance, chemicals, or removal. She thanked those who have worked on this application.

Mike Weston, 10 Pier 1 #308, Astoria, said he represented the Port of Astoria and had a letter to submit that demonstrated possible economic impacts to the Port if the Riverfront Vision Plan moves forward as planned. He handed the letter to City Attorney Henningsgaard. He said the Civic Greenway Area describes about five different

missions, including protect the river vistas, maintain physical and visual connections to the river, create and enhance open spaces, encourage maritime related uses consistent with Astoria's working riverfront, create a modest scale residential and mixed-use development east of Mill Pond, and recommend architectural design standards on all future developments within the area. This indicates the City is trying to promote a mix between preserving the river vistas and economic development while maintaining Astoria's heritage as a working waterfront. Astoria was built on its waterfront. The waterfront makes Astoria what it is, artistic, creative, and diverse. Astoria is interesting to people who visit because there are a million different activities going on. Implementing the Civic Greenway Area as it is currently written, without the ability to develop and enhance the economic missions of the Port and the County, destroys the image of Astoria. He understood the river was beautiful. However, the Port has a mission to promote economic development. The Port properties are zoned Shoreline Industrial, which allows heavy industrial and marine uses. Applying the Civic Greenway Area over the Port's properties directly opposed the Comprehensive Plan. He recommended City Council consider the opportunity for the Port to design the area as a planned development area because this will allow the Port to consider opportunities for the property and find out what kind of economic values they can achieve. There is a \$30 million breakwater at the end of the causeway. If the Port does not put the breakwater to use, it will just go to waste. He has reviewed many of the opportunities in the past, like a fisherman's wharf or a cruise terminal. Opportunities at the Port's central waterfront are filling up and the Port is running out of land. Therefore, the Port will need to look strategically at other opportunities to promote economic development in the region. He asked City Council not to crush the economic vitality of the East End Mooring Basin by applying a Code that is so restrictive the Port cannot do anything with it.

Shel Cantor, 1189 Jerome, Astoria, said he expected City Council would need time to consider much of the information presented at this meeting. With this being summer vacation time, there may be residents who would like to address City Council but are out of town. Therefore, he requested the public hearing be kept open after this meeting. As he has stated before, the Riverfront Vision Plan was a compromise between Astorians who want preserve all existing river vistas and those who want to develop the riverfront more than it already is. The compromise was to preserve the existing broad area vistas east of the Maritime Museum and leave the western end open to new development. A different compromise could have been created, which could have injected several smaller greenway areas among portions of the river where further development would be allowed. Fortunately, it was recognized that just like an existing historic district cannot be protected by allowing new modern style construction among the old buildings, an existing broad area vista could not be maintained by allowing new developments within the area that obstruct the view. Whether or not one likes the compromise in the Riverfront Vision Plan, preservation to the east and development to the west had been agreed upon. Maritime related uses consistent with Astoria's working waterfront, like docks, piers, and marinas, should be encouraged, not cruise terminals and other large structures. The written compromise only allows structures below the river bank. The Planning Commission decided that existing river vistas would be protected, but only in about three quarters of the Civic Greenway Area. The remaining quarter of the area was left open to new development in the Exception Zone. Page 235 of the Agenda packet is Staff's response to a letter to the Planning Commission from Mr. Ramis. The letter was a complaint that the proposed ordinance would restrict the Port's capabilities. Staff responded that a water dependent terminal, such as for rain, coal, and oil, would still be an allowable use. The only impact by the Riverfront Vision Plan would be the inclusion of height and site limitations, which would not prohibit uses and could be subject to variances. He was confident that Staff was not advocating in favor of coal and oil terminals in the Civic Greenway Area, but was just acknowledging the fact that the proposed variances would allow coal and oil terminals and other uses in the Exception Zone. In the February 2014 issue of *Our Coast*, an article titled "The Magic of Astoria is on the River Walk" included the following quotes made by Mayor Van Dusen, "The true reason our River Walk is so beautiful is because of the Columbia River. We have the most beautiful river in the world right in front of us. So, by putting a River Walk next to it, it makes the River Walk special." He cited another comment by Mayor Van Dusen, stating "But you take that same trolley and go right next to the Columbia River. That is what makes the trolley route. That is what makes the River Walk. It is a spectacular river." He was sure the Mayor did not mean "right in front" of new buildings or "next to" new developments behind which are the river. The Exception Zone pleases no one, appeases no one, breaks the promise of the Riverfront Vision Plan, and defiles the broad area vista connection to Astoria's spectacular river. He urged City Council to remove the Exception Zone and then approve the proposed ordinance.

LaRee Johnson, 1193 Harrison Avenue, Astoria, thanked City Council and the Planning Commission for all of their hard work. She believed this was a turning point for the community. She agreed with previous comments in support of allowing no variances to height or width restrictions and no restaurants. She preferred no

development east of 39th Street. Creating a legacy in preservation is nothing new. Oregon's beaches are a legacy that was created a little over 100 years ago, which is accessible and protected for generations, allowing everyone to enjoy that legacy today. This legacy can be enjoyed by residents and visitors on sunny weekends or stormy winter days. The Oregon beaches are unlike any other in the United States as they are all public and cannot be privatized for the wealthy or private business owners. Just about everyone has explored tide pools, built sand castles, played Frisbee, or walked their dogs. She recently enjoyed a bonfire on the beach while viewing the super moon after a glorious sunset. She is proud of Oregon's unique beaches. She noted that Governor Oswald West set the wheels of preservation in motion in 1913. While others were concerned with commerce and trade, Governor West had the foresight and vision to protect the beaches for the future. She said he might not have imagined the incredible economic impact that beach preservation would have. Upon meeting Governor West, President Roosevelt said, "I found a man more intelligently alive and more keenly appreciative of how much this natural beauty should mean to civilized mankind than any other man I have ever met holding a high political position." She thanked Governor West for the legacy. She explained that in the 1960s, private developers along the coast began challenging the law saying that the dry sand portion of the beach belonged to the upland owners and they could do whatever they wanted with the land that reached down to the water line, including erecting barricades to create private beaches for themselves or their customers. Saving the beaches for the public erupted into the hottest issue of the 1967 legislative session and created the greatest public response to any issue in Oregon's legislative history. Over 90,000 people signed petitions to keep the beaches public. The Beach Bill passed with great fanfare and Governor Tom McCall signed the bill, calling it "one of the most far-reaching measures of its kind enacted in any legislative body in the nation." The bill granted the public recreational rights to the dry sands of the Oregon beaches all the way to the vegetation line along the entire length of the state, all 362 miles. She thanked Governor McCall for the legacy. Portland's Riverfront Park was renamed in 1980 to honor Governor McCall for his pledge to support the beautification of the west bank of the Willamette River. The greenways and parks show the health and vibrancy of a community. Whether it is a beach or a river, it is good for business. Clutter the beaches and rivers up with concrete structures, pavement, parking, or trinket shops and the golden egg is broken. Mother Nature does not need dressing up for visitors and residents. Leaders look to the greater good for the greatest number, and that would be the citizens, including those who are unaware of this issue or have not been born yet. An uncluttered and open riverfront is an important asset for tourists, residents, and for generations to come. An editorial by Juanita Price said it was "nice to give some history to the river bank area and thanks to those who started with this vision." The vision of what it could become opens up the possibility for a scenic gathering place, a lovely space to contemplate, relax, and refresh. It is a pleasure for anyone wanting to get some fresh air and have the River Walk to enjoy. The word vision also came up in the 2008 Astoria Riverfront Vision Plan. The community had spoken loud and clear ever since through various public meetings.

Mayor Van Dusen called for a ten minute recess at 8:30 pm and reconvened the City Council meeting at 8:40 pm. He then called for testimony opposed to the application.

Veronica Montoya, 324 38th Street, Astoria, said she was both in support of and opposed to the application. She and her husband moved to Astoria a year ago and invested most of their savings fixing up their home to prepare for retirement. She believes in supporting her community, so only local people were hired. She fell in love with the Columbia River, the people she has met, the River Walk, and the amazing wildlife. She was sad that she now feels sentenced to her home for another year before she can sell it. She had not planned to live on a dying river. She was not aware of the coal barges, the natural gas export that will come soon, and the mammal abuse by the people responsible for the salmon decline. She hears the terrified sea lions caught in traps, crushing each other trying to get free, only to be tagged and branded. The pain and horrific cries they make is heartbreaking to her and anyone that loves animals. The sea lions love their lives as much as we love ours. They like to perform for the visitors who come to see them. Astoria has such an opportunity to do something that is good for all, coexisting with the sea lions, and sharing the river. Eating a fish should not be a death sentence to anyone or anything that lives on the river. She was unsure if she was for or against the Riverfront Vision Plan because she did not know the future of the sea lions. She would oppose the Plan if it allowed the Port to install a cold storage unit next to the area where the sea lions are being killed for eating a fish. Since opening up the walkway and docks, allowing visitors to visit the sea lions, the crowds continue to get larger. She loves to hear the excitement in people when they visit the sea lions. Several people have asked her what was happening to Astoria's sea lions while they were being branded. She was unsure what to tell these people. The sea lions are being branded for identification purposes and it seems very wrong for people to kill off all of the wildlife in this area. She did not believe this type of behavior would attract animal lovers to Astoria. She hoped that the Riverfront Vision Plan could find a way to make money by embracing the sea lions. People are willing to pay for things they enjoy and

sea lions seem to make Astoria's visitors very happy. She has talked to many visitors on the river who have said that the sea lions are the reason they come to Astoria. Visitors are excited to learn that the sea lions are here and have said the sea lions were the best part of their trip to Astoria. She wanted to see the sea lions included in the Riverfront Vision Plan.

Dr. Ted Forcum, 3990 Abbey Lane, Astoria, said he supported restaurants. He works with the Joint Commission on Sports Medicine and the Centers for Disease Control on city planning through Jeff Speck and PhD work through Janet Rankin at Virginia Tech. City planning plays a huge role in community health, reducing overall healthcare costs, and creating pocket services that are walkable for communities. The River Walk is fantastic and he supports pockets of services that are within reasonable walking distances for people to access along the River Walk. He believed these services would enhance the viability of the River Walk area. He noted that on the cap ends of the Portland waterfront, people use services like restaurants and entertainment.

Mayor Van Dusen asked Dr. Forcum which portion of the Planning Commission's recommendation he opposed.

Dr. Forcum explained that he owned a substantial portion of land in the Cannery Loft Condominiums. He believed more education in to what has been developed was necessary. It seems very difficult to build 500 feet out from the waterfront. As a homeowner, he wants to retain his view, but in fairness to waterfront property owners, the regulation could be financially restrictive. He wanted to see pockets of development and pockets without development.

Mayor Van Dusen called for testimony impartial to the application.

Suzie McLerie Blackmar, 5241 Ash Street, Astoria, said she has lived in Astoria for about 42 years. She originally thought Astoria would be opposed to the application, but then she heard many good comments in favor of the Plan and the work of the Planning Commission. She commended the City for their patience and perseverance, especially the Planning Commission for working so hard to hear everyone's point of view. She believed the consensus was that the people should be listened to and respected. The people have a view and a freedom of space to enjoy what Astoria has, so let's keep Astoria as it exists and not build a Miami Beach just because Astoria has a waterfront. She was against paving in the middle of Alderbrook Beach; however, the access is terrific. So, sometimes you do not always know what something will be like until it happens. A paved parking lot cannot be removed and she believed restaurants on the bank were a bad idea. She believed Astoria needed open space. She explained that 20 years ago, she worked for the Marine Mammal Protection Act. At that time, sea lions were being protected but vilified due to the fact that they took salmon away from the fishermen. From the gill net boats, she observed many fish being eaten through the middle, and then left to waste. Now, it is interesting that the sea lions are threatened when originally the act was to protect the mammals. It seemed strange to her that after all of the money the federal government spent on the Marine Mammal Protection Act, it is ironic that the sea lions are now being killed.

Mayor Van Dusen called for the Applicant's rebuttal.

Planner Johnson stated the City is proposing an ordinance that has gone through the Planning Commission where many of the same comments heard during tonight's public hearing were given by the public and private property owners. If the City Council is inclined to proceed with the ordinance as proposed, several decisions would need to be made and direction to Staff on the following points would be necessary:

- Staff believes the ordinance should further clarify that no variances to the bank height restriction includes the concept of no variance to height within 500' of the shoreline.
- City Council would need to decide if existing buildings could be rebuilt or reused with their current height and uses. Staff did not intend for existing buildings to become nonconforming and many of the buildings and their uses currently meet the proposed Code. However, Staff is prepared with Code language for reconstruction of existing buildings in the area, which would potentially allow a structure to be reconstructed on the same footprint, with the same uses, similar square footage, the same height, with a condition that substantial construction and other qualifiers would have to begin within two years of destruction.
- City Council has a letter from Attorney David Noren questioning the Compact Residential zone and the inclusion of the area between 31st and 32nd Street. Staff's proposal as submitted by the Planning Commission is for the entire area from 30th to 32nd Street.
- City Council also has a proposal from the Port for a master plan concept area. City Council needs to decide if this language should be incorporated into the proposed ordinance. Staff is not making a recommendation

either way on this issue. However, if City Council does vote to include the master plan concept, the language as proposed by the Port would be compatible and could be incorporated into the Development Code.

- Boundaries of the master plan area would need to be determined. Staff recommends the boundaries not include the land area east of 39th Street.
- Staff commented they would not respond to other questions and comments unless City Council has questions about them.

Mayor Van Dusen asked Staff to explain how the Planning Commission's recommendation would change if City Council decided to include the Port's Master Plan proposal. Planner Johnson explained that if City Council does not adopt the Master Plan concept at this meeting, the Code would remain as the Planning Commission has recommended. However, the Master Plan concept would give City Council the authority to adopt a Master Plan in the future. City Council would be able to review a Master Plan created by the Port, based on the proposed criteria, to determine whether there is a public need and a public good for the Master Plan. Future public hearings before the Planning Commission and City Council would be conducted before deciding if the Master Plan should be adopted. If the Master Plan were adopted, the Code language for the Master Plan area would be revised. The Port is recommending exemptions from building size, location, square footage, and height. Therefore, the 500-foot distance requirement could possibly be removed. This would be decided by City Council when the Code is adopted in the future. Once the Master Plan and Code revisions are approved, there would be additional public review before the Planning Commission and City Council to implement the Master Plan area. This public process would review a specific project planned by the Port and supported by the Master Plan.

Councilor Herzig asked if City Council had the authority to revisit the Code and possibly rewrite some of it after it is adopted. Planner Johnson replied Council has the authority to change the Code at any time in the future, following a public review process.

Councilor Herzig understood that City Council does not need to adopt the Port's Master Plan proposal in order to have the flexibility to revisit the Code in the future. Planner Johnson confirmed that was correct and explained that the Port has made this request because they would like City Council to acknowledge that they would consider a Master Plan in the future. She confirmed that City Council retains the authority regardless of the Port's proposal.

Mayor Van Dusen asked Planner Johnson to conduct a straw vote on the points for which Staff needed direction. Discussion and votes on these issues were as follows:

- Straw vote 5 to 0 in favor of further clarification that no variances to the bank height would include the area within 500' of the shoreline.
 - Planner Johnson clarified for Councilor Warr that structures located 500 feet from the shoreline could be 28 feet higher than the height of the bank. Structures closer to the shoreline could not receive a variance to build higher than the height of the bank.
- Straw vote 5 to 0 in favor of granting an exception to existing buildings within the area from 35th to 41st Streets north of the River Trail that may have some nonconformity, stating that if the buildings were destroyed, they could be rebuilt to their existing height, even if closer to the shore; essentially, these buildings would be grandfathered in.
- Straw vote 5 to 0 in favor of removing the Compact Residential Zone from the Land Use Map amendment. Comments and discussion were as follows:
 - David Noren had previously submitted a request to reduce the area of the CR Zone.
 - Councilor Warr said he was originally undecided about this, stating he believed the intent was to encourage smaller, inexpensive housing. Inexpensive housing on the river is an oxymoron and there are only two property owners that would be adversely affected.
 - Councilor Herzig opposed reducing the area of the new zone as he wanted the entire CR Zone removed from the proposed ordinance and be subject to a separate public process. The City should not encourage residential development in a tsunami inundation zone.
 - Staff explained that City Council could remove any portion of the proposed amendments. The CR Zone was already a separate issue because it was a map amendment, not a Code amendment. If the CR Zone was removed, Council could either keep the existing C-3 (General Commercial) zoning requirements as is, or enforce the requirements contained in the Civic Greenway Overlay Zone and Staff could bring a revised amendment to Council in the future. However, the Planning Commission has recommended approval. Staff reminded Council that the C-3 Zone allows building heights of 45 feet tall.
 - Councilor Warr said he favored Councilor Herzig's suggestion.

- Councilor Herzig clarified he just wanted to remove the CR Zone from tonight's discussion and consider the zone when Council can focus on it. The rest of the ordinance could be acted upon tonight.
- Councilor LaMear asked if the current zone could be changed to prevent 45-foot tall buildings.
 - Staff explained that approving the Civic Greenway Overlay would effectively reduce the 45-foot high buildings permitted under the current C-3 Zone to a maximum 35 feet with a 10 foot step back but not the 28-foot building height limit of the CR Zone.
- Councilor Herzig noted there would be no conflict in implementing his suggestion; other parts of the Civic Greenway Overlay would also apply to the area, and Council would address the CR Zone later.
- Staff recommended the text remain in the Code because the CR Zone requirements and Cottage Cluster development requirements could apply anywhere in the City. The map amendment would indicate where those requirements would apply. Staff suggested Council refrain from designating where the CR would apply at this time, noting that the Riverfront Vision Plan explicitly directed the Civic Greenway Area to include a smaller scale residential development between Mill Pond and Safeway (29th to 32nd Street).
 - Councilor Herzig said the Plan was created before the latest Department of Geology and Mineral Industries (DOGAMI) tsunami inundation maps. The City needs to consider that zoning the area for high-density residential is putting people in a tsunami inundation zone, which must be discussed.
 - Councilor Mellin responded that including the zone in the Code does not mean the zone must be designated; it just gives the City the possibility of designating the zone.
 - Staff confirmed for Mayor Van Dusen that the CR Zone would limit the available uses. Removing the zone from the map allows Council to create the zone, and then apply the zone to an area with a map amendment in the future.
- Straw vote 3 to 2 in favor of accepting the Port's proposal to include a Master Plan concept in the Code. Ayes: Councilors Mellin, Warr, and Mayor Van Dusen. Nays: Councilors Herzig and LaMear.
 - Staff explained that the Master Plan would show the Port's vision for the east area, including the area from 35th to 41st Streets that contains Port property and private property.
 - The Port would like the potential to have standards in the future that would add allowable uses, change the building height limits, setback view corridors, and the footprint of a building. Staff reviewed the criteria City Council would need to consider when deciding whether a Master Plan should be adopted which were presented in the proposal submitted by the Port. Staff clarified that the Council was not adopting the Master Plan now, but the ability to review a Master Plan in the future.
 - Councilor Warr said the Port, like the City of Astoria, is a government agency and the reason it exists is for economic development on their property. He believed it would be wrong to not consider use of their property that would allow the Port to complete its mission and it is responsible to allow the Port to present a Plan to City Council.
 - Mayor Van Dusen agreed with Councilor Warr and believed it would be a mistake to simply say the City would not consider a Plan that has been proposed by five elected officials, which would then be approved by both the Planning Commission and City Council.
 - Councilor Herzig opposed acceptance of the Port's proposal because the City already has the authority to hear any Plan that the Port may bring to City Council. Acceptance of the Port's proposal would require the City to defend its position, which he believed was a huge mistake. This proposal was made late and Staff has verified that the City would retain the authority to entertain any proposal, even if the application is approved without the Port's proposal. The Port's proposal would go through the same public process without the City having its hands tied by certain restrictions that the Port is trying to impose on the City.
 - Staff explained the City would have to approve or deny the Port's Master Plan based on the criteria.
 - Councilor Herzig noted that the Port set those criteria. The City would have to defend their case based on the Port's criteria. He reiterated that the City has the authority to approve a Master Plan without allowing the Port to set the bar. He believed accepting the Port's recommendation was a dangerous concession of authority.
 - Councilor LaMear agreed with Councilor Herzig. She believed giving the Port carte blanche would set a bad precedent. Therefore, she opposed acceptance of the Port's proposal.
 - Mayor Van Dusen believed he understood the proposal differently than Councilor LaMear.
 - City Manager Pro Tem Estes said the proposal would not give the Port carte blanche, but would allow a proposal to be made and allow the City, through the Planning Commission and City Council, to determine whether or not the proposal complies with the four criteria Staff has identified.
- Straw vote 5 to 0 in favor of the Port's East Basin Master Plan area boundaries as recommended by Staff.

- Staff noted that the Port recommended the Master Plan area should include the area north of Marine Drive from 35th to 39th Streets, the two condominium buildings and vacant lot north of Abbey Lane between 39th and 41st Streets, and all of the water area between 35th and 41st Streets. Staff had concerns with the inclusion of some of the private property and recommended the area exclude the condominiums and vacant lot (land area between 39th and 41st Streets). Public needs and benefits are to be considered, but private property would involve private development. Staff clarified the ownership of lands within and surrounding the Port's recommended Master Plan area, noting that the condominiums and vacant lot are not in close proximity to the East End Mooring Basin. The Master Plan would require the Port to be an applicant or co-applicant on all future requests.

Councilor Herzig understood many people opposed allowing restaurants over the water. He asked Staff to poll the Council on this issue as well. Planner Johnson explained that allowing restaurants was a major discussion at the Planning Commission. Currently, restaurants are allowed if they have a view of the river. The proposed ordinance requires restaurants to be associated with a maritime use such as a marina or seafood processing plant. Stand-alone restaurants would not be allowed.

Straw vote 2 to 3 in opposition of allowing restaurants as proposed. Ayes: Mayor Van Dusen and Councilor Warr. Nays: Councilors Mellin, Herzig, and LaMear. (Result of vote: restaurants would not be allowed.)

Planner Johnson confirmed that City Council's direction to Staff was clear.

City Council Action: Motion made by Councilor Warr, seconded by Councilor Mellin to conduct the first reading of the ordinance implementing the Civic Greenway Area of the Riverfront Vision Plan as amended by City Council. Motion carried unanimously. Ayes: Councilors LaMear, Warr, Herzig, Mellin, and Mayor Van Dusen; Nays: None.

Planner Johnson conducted the first reading of the ordinance on Amendment Request A14-02 implementing the Civic Greenway Area of the Riverfront Vision Plan, as amended by City Council.

Mayor Van Dusen called for a five minute recess and reconvened the meeting at approximately 9:28 pm.

Item 7(b): Public Hearing and Ordinance Regarding Amendment Request (A14-03) by Nomadic Properties LLC on behalf of Cannery Loft Condominium Owners Association to the Land Use and Zoning Map to Rezone an Area from GI Zone (General Industrial) to S-2A (Tourist Oriented Shoreland) (1st Reading) (Community Development)

The area proposed for rezoning is located on the north side of Abbey Lane east of 39th Street. It is two of three platted lots approved for development with three Cannery Loft Condominium buildings and is developed with two condominium buildings. The site was originally zoned S-1 (Marine Industrial Shoreland) but was rezoned to GI (General Industrial) in 1992 as the parcels were not feasible for shoreland activities. The current GI Zone limits the variety of commercial uses allowed and mainly focuses on general industrial uses, but does allow multi-family dwellings above the ground floor under a conditional use permit. The existing buildings are developed with multi-family dwellings above the first floor and with professional office, ministorage, and several vacant general industrial use units on the ground floor. A maximum of 20% of the ground floor may be developed with other than general industrial use. The property to the west of 39th Street (Hampton Inn & Suites) was changed from S-1 Zone (Marine Industrial Shoreland) to S-2A Zone (Tourist Oriented Shoreland) to allow for the development of the new hotel, which would support the East End Mooring Basin activities. The vacant property to the east was also recently rezoned from GI to S-2A Zone. The request to rezone the parcels at 3930 Abbey Lane and 3990 Abbey Lane to S-2A would continue with the tourist oriented shoreland possibilities while also allowing the multi-family dwellings. The requested zone change to S-2A would return the property to a waterfront zoning while allowing more flexibility in the range of commercial and tourist-oriented uses allowed.

At its July 24, 2014 meeting, the Astoria Planning Commission held a public hearing and recommended that the City Council adopt the proposed amendment. A copy of the Staff report and Findings of Fact as adopted by the Planning Commission is attached. Also attached to this memo is the proposed ordinance. It is recommended that the Council hold a public hearing and adopt the ordinance as recommended by the Planning Commission. If the Council were in agreement with the recommendation of the Planning Commission, it would be in order for Council to hold a first reading of the Ordinance.

Mayor Van Dusen called for questions from City Council. Hearing none, he asked if anyone objected to the jurisdiction of the City Council to hear this matter at this time. There were no objections. He asked if any Councilors had a conflict of interest or ex parte contact to declare.

Mayor Van Dusen declared an ex parte contact as he has had extensive conversations with Connie Spencer, a condominium property owner, about the proposed zone change. He opened the public hearing at 9:30 pm and read the procedures governing the conduct of public hearings to the audience, noting that the applicable criteria was listed in the Staff report, which could be obtained from Planner Rosemary Johnson.

Planner Johnson reviewed the written Staff report, noting that Staff recommends approval of the request.

Mayor Van Dusen asked for clarification on the parking issues. He understood that the zone change would allow condominium residents to park in the covered parking structure and the City's parking requirement would be removed. City Attorney Henningsgaard explained that the City would not have the authority to prohibit residential parking if the zone is changed as proposed.

Mayor Van Dusen called for questions from City Council. Hearing none, he called for a presentation by the Applicant.

Dr. Ted Forcum, 3990 Abbey Lane, Astoria, said as a condominium owner at the Cannery Loft Condominiums, the vacancy of the commercial spaces is unappealing and obvious. It is clear that the viability of general industrial uses have not prevailed in the complex over the last nine years, since the complexes were built in 2005. He acquired the ground floor property with a vision of improving community development with businesses that are livable and sustainable in a mixed use development. In doing so, he has been able to show a track record of acquiring low footprint businesses to the complex. However, this has been a very small percentage of the available spaces which are limited by the conditional use of the zoning. Less than 20 percent of the commercial space has been able to convert to non-industrial uses. He has called and emailed every owner to discuss his application for rezoning, excluding one who lives in Germany. He offered meetings to educate the owners and tenants about what the rezoning would mean to the complex. He has met with multiple owners individually and conducted a survey to determine the interests and concerns. The survey received a 69 percent response from the owners, with 92.8 percent in favor of the rezoning. Planner Johnson made a presentation about the rezoning to the Homeowners Association (HOA) Board and the HOA owners. Owners were provided a link to a 22 minute video recapping the same information, most of which was from the rezoning of the vacant lot east of the condominium complex, which was recently rezoned from GI to S-2A. Owners had an overwhelming availability of information about the application. The HOA conducted a ballot vote that received a response from 84 percent of the owners and 92.7 percent voted in favor of the rezone. There has been some concern about parking and the rezoning would improve parking agility for the complex. Traffic studies indicate the type of vehicles in the complex would likely improve. Vacancy is blight on the city and the rezone would allow improved property values, City tax revenue, and improved viability for the east Astoria community.

Mayor Van Dusen asked what would happen with the covered parking area if the zone changed. Dr. Forcum understood from his conversation with Planner Johnson that the parking contracts would remain until they expired. Planner Johnson clarified the HOA would need consult with their attorney about existing contracts that may still be valid. The City would not be involved with this decision.

Dr. Forcum and Mayor Van Dusen confirmed they understood this was an HOA issue.

Stefanie Slyman, Harper Houf Peterson Righellis, 202 SE Spokane Street, Portland, stated that the approval criteria have been met. The rezone would allow for more flexible tourist-oriented uses, which are compatible with the adjacent tourist-oriented shoreland zone to the east and to the west. It will also help with the City's overall commercial lands deficit, identified by the 2011 Economic Opportunities Analysis. The site is fully served by public facilities and infrastructure. A traffic study was performed for the site. The worst case scenario under the existing zoning and the proposed zoning was modeled. The study revealed a change in zoning would not result in any significant impacts to any transportation facilities. She urged City Council to approve the map amendment.

Mayor Van Dusen called for testimony in favor of the application.

Leslie Moorehead, 3990 Abbey Lane #406, Astoria said she owns a home at Cannery Lofts and serves on the Board of Directors. She was in charge of the voting process used by the HOA to approve the application for rezoning. She also managed the vote count. The vote was officially held from May 9, 2014 through May 19, 2014 via mail-in ballot. The HOA received 84.2 percent participation by the owners and 92.7 percent voted in favor of the application. The vote was based on unit of ownership, which is square footage relative to the size of the condominiums that various owners own. In terms of raw vote, 64 units voted in favor of and 4 units voted opposed to the rezoning. This shows that the owners of Cannery Lofts are really paying attention to this issue. There has been a lot of discussion about parking. The parking committee will make a recommendation to the Board at their meeting on August 30, 2014. She looks forward to a solid resolution that will benefit all owners and users of the Cannery Lofts parking. Aside from the parking issues, owners are strongly in favor of the zoning change.

Connie Spencer, 3930 Abbey Lane #307, Astoria, said she was a homeowner at Cannery Lofts Condominiums and supported the zone change. She was concerned about Dr. Forcum's assumption that he can keep the covered parking for the commercial businesses with leases once the zoning changes. She stated that Planner Johnson has never, in her presence, said the parking could be used in that regard. She had plans, warranty deeds, and several other documents that indicate the parking is a common element at Cannery Lofts. The new zoning will say the same thing. If possible, she would like the City Council to state that all parking spaces would be for everyone once the zoning is changed.

Mayor Van Dusen called for testimony opposed to the application. Hearing none, he closed the public hearing at 9:44 pm. He explained to Ms. Spencer that City Council could not get involved with private parking issues. The City simply wants to get out of the parking business. The City has no jurisdiction to say how parking is assigned. If Dr. Forcum believes he has the right to lease out a parking spot, the issue would need to be settled in court. There is no City grandfathering of parking spaces once the zone changes. Those are personal and private issues with the condominium owners. He said he should not speak on behalf of the City Council, but Council would not get involved and tell people who parks where.

Councilor Mellin believed the residents had a right to the parking as they had put a lot of money into their condominiums. She did not realize parking was an issue or that the City was controlling the parking.

Mayor Van Dusen asked if there was a way for the City to designate who parked where. City Attorney Henningsgaard explained that once the zone change is approved, parking is simply a matter of private property rights, not a City ordinance.

City Council Action: Motion made by Councilor LaMear, seconded by Councilor Herzig to conduct the first reading of the ordinance to amend the Land Use and Zoning Map to rezone an area from GI (General Industrial) to S-2A (Tourist Oriented Shoreland). Motion carried unanimously. Ayes: Councilors LaMear, Warr, Herzig, Mellin, and Mayor Van Dusen; Nays: None.

Planner Johnson conducted the first reading of the ordinance Amendment Request A14-03 amending the Astoria Land Use and Zoning Map, as stated in the application.

**Item 7(c): Ordinance Vacating the 23rd and 25th Streets Rights-of-Way (2nd Reading & Adoption)
(Public Works)**

The City received a request from Columbia Memorial Hospital (CMH) for the vacation of 11,458 square feet of 23rd and 25th Streets rights-of-way adjacent to their property located at 2265 Exchange Street to construct a parking lot for the Hospital and improve highway access using a grant from the Oregon Department of Transportation. City staff reviewed the application and supports CMH's request with the following conditions: The vacation shall include an easement/provision for existing City/Franchise utilities and future utilities. Due to the public benefit that will be provided by the vacation, staff is recommending that an assessment does not appear to be applicable. The applicant will be charged actual costs for processing the request. At their August 8, 2014 meeting, the Council conducted the first reading of the ordinance of vacation. It is recommended that the Astoria City Council conduct the second reading, and adopt the ordinance to vacate a portion of the 23rd and 25th Streets Rights-of-Way.

Mayor Van Dusen called for the second reading of the ordinance, which was conducted by Engineer Jeff Harrington.

City Council Action: Motion made by Councilor Warr, seconded by Councilor LaMear to adopt the ordinance to vacate of a portion of the 23rd and 25th Streets Rights-of-Way. Motion carried unanimously. Ayes: Councilors LaMear, Warr, Herzig, Mellin, and Mayor Van Dusen; Nays: None.

Item 7(d): Astoria Landfill Closure/Redevelopment – Consider Resolution Approving IFA Funding Contract (Public Works)

The City has been working on the closure of the old City Landfill located at 1800 Williamsport Road. The landfill closed in 1985 when land filling activities ceased and a transfer station began operation. At the December 16, 2013 City Council meeting, a 4-Party Agreement was approved by Council. Under the agreement, the City's financial contribution to the project was estimated at \$571,542.

Staff explored possibilities of obtaining a combination of grants and low interest loans to fund the City's share of the project. While no grants were available, a low interest loan from the Oregon Infrastructure Finance Authority (IFA) for \$900,000 was found to be the best available funding source. The loan would be paid using funds from the Public Works Improvement Fund (PWIF) (46% share) and the balance (54%) from the revenue associated with the Recology/Western Oregon Waste for operation and waste disposal.

The original cost estimate of City participation was \$571,542; however, as the project has progressed, additional costs have been identified. The additional City costs, due primarily to unforeseen site conditions, is \$261,566. The new estimated City participation is \$795,717. Staff is recommending Council authorize a \$900,000 loan agreement with IFA to cover any additional unexpected expenses, if needed. City Attorney Henningsgaard has reviewed the agreement and has approved as to form. It is recommended that Council adopt the resolution that authorizes IFA Financing in the amount of \$900,000 for the Landfill Closure Project.

City Manager Pro Tem Estes stated that the City is under order by the Oregon Department of Environmental Quality (DEQ) to close the landfill. Even with the increase in construction costs, the amount proposed to be expended is well under what the City would have paid if the City had to perform the closure alone, without participating with Columbia Memorial Hospital, the school district, and Recology.

Councilor Herzig asked if any of the debt service would come back on the taxpayers. He asked for assurance that the debt would be fully paid for by income that the City is secure with. City Manager Pro Tem Estes answered yes, the PWIF and Recology revenue are adequate.

Councilor Herzig noted the City is the only partner in this agreement without a cap on the amount of money that must be spent. He wanted to make sure that money spent on the landfill closure does not end up being paid for by taxpayers.

City Council Action: Motion made by Councilor Warr, seconded by Councilor LaMear to adopt the resolution that authorizes IFA Financing in the amount of \$900,000 for the Landfill Closure Project. Motion carried unanimously. Ayes: Councilors LaMear, Warr, Herzig, Mellin, and Mayor Van Dusen; Nays: None.

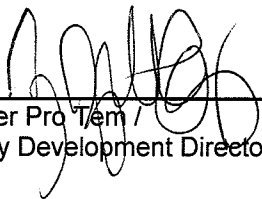
NEW BUSINESS & MISCELLANEOUS, PUBLIC COMMENTS

Ninette Jones, 7637 N Interstate, Portland OR 97217, Portland, said she comes to Astoria because of the Columbia River. She was touched by the comments made at this meeting. People are working very hard to preserve what they find near and dear to their hearts, the intrinsic value that the river brings, and the beautiful wildlife that accompanies the Pacific Northwest. Astoria has many opportunities to expand on its opportunities by embracing the wildlife in the area. There are sea birds, eagles, fish, and sea lions that all go together and have all been on the river for thousands of years, coexisting. She would like to see the Riverfront Vision Plan move forward embracing all of the other residents who live on the river. We do not live in a vacuum, but are surrounded by an intrinsic value of nature that connects us with our biosphere and ecosystems. She handed City Attorney Henningsgaard some compact discs and stated that she loved the sea lions in the East End Mooring Basin. People travel to Astoria from all over the world to see the sea lions and she believed Astoria has a wonderful opportunity to expand on that.

ADJOURNMENT

There being no further business, the meeting was adjourned at 9:54 pm.

APPROVED:



City Manager Pro Tem /
Community Development Director