



## ABERDEEN CITY COUNCIL

April 13, 2016

### COUNCIL MEETING AGENDA

3<sup>rd</sup> Floor, City Hall

### **TRANSPORTATION BENEFIT DISTRICT BOARD MEETING (7:00 P.M.)**

- A. Resolution 2016-01 setting the date for public hearing on the annual Transportation Benefit District Project Plan for the year 2016.

### **COMMITTEE OF THE WHOLE**

- B. Guest Speakers
- C. Additions to Agenda
- D. Department Heads
- E. Mayor's Report
- F. Non-Standing Committee Reports

### **COUNCIL MEETING**

#### **I. ROLL CALL**

#### **II. FLAG SALUTE**

#### **III. APPROVAL OF MINUTES**

#### **IV. PUBLIC COMMENT Re: Agenda Items (Please limit your comments to 3 minutes)**

#### **V. FINANCE COMMITTEE**

- A. Committee Chair Report
- B. Approval of expenditures
  - 1. Recommend approval of expenditures and payroll.
- C. Reports & Communications
  - 1. Report from Finance and the Parks Director recommending that the City Council approve the construction of the pole metal building and authorize the Mayor to sign the contract with Bishop Contracting LLC.

#### **VI. PUBLIC WORKS**

- A. Committee Chair Report
- B. Reports & Communication
- C. Resolutions
- D. Ordinances
  - 1. Continuation of second reading and date of public hearing of Bill No. 16.02 relating to the establishment of a Hearing Examiner System for land use decisions, adding a new Chapter 2.30 to the AMC and amending certain sections.

**VII. PUBLIC SAFETY**

- A. Committee Chair Report
- B. Reports & Communications

**VIII. SPECIAL AGENDA ITEMS**

- A. Appointments to the Downtown Parking & Business Improvement District Committee.
- B. Recognition of outgoing Finance Director, Kathryn Skolrood. Reception to follow after meeting.

**IX. CITY COUNCIL COMMENT PERIOD**

**X. PUBLIC COMMENT PERIOD (Please limit your comments to 3 minutes)**

**XI. EXECUTIVE SESSION**

The City of Aberdeen does not discriminate against or exclude anyone from participation in public meetings. Requests for assistance should be made by contacting the Finance Department at 360-537-3236, 48 hours in advance of the meeting. Thank you.

**ABERDEEN TRANSPORTATION BENEFIT DISTRICT  
RESOLUTION NO. 2016-01**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABERDEEN, STATE OF WASHINGTON, ACTING IN ITS EX-OFFICIO AND INDEPENDENT CAPACITY AS THE BOARD OF THE ABERDEEN TRANSPORTATION BENEFIT DISTRICT (TBD), SETTING THE DATE FOR PUBLIC HEARING ON THE ANNUAL PROJECT PLAN FOR THE YEAR 2016**

**WHEREAS**, TBD Resolution 2012-01 provides that the Board shall schedule a public hearing to receive comments on a proposed Annual Project Plan and approve the Annual Project Plan by April 31 of each year; **NOW, THEREFORE**,

**BE IT RESOLVED BY THE BOARD OF THE ABERDEEN TRANSPORTATION BENEFIT DISTRICT:** That a public hearing to receive comment on the proposed 2016 Annual Project Plan shall be held at a special meeting of the Board on Wednesday, April 27, 2016, in the Aberdeen City Council Chambers immediately before the Aberdeen City Council meeting, at the hour of 7:00 p.m. or as soon thereafter as the city council meeting is concluded.

**PASSED** by the Board of the Aberdeen Transportation Benefit District, Aberdeen, Washington, at a special open public meeting thereof held this 13<sup>th</sup> day of April, 2016.

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Erik Larson, Board Chair

ATTESTED:

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Kathryn Skolrood, Treasurer

**CITY OF ABERDEEN  
LEGISLATIVE DEPARTMENT**

**Mr. Mayor:** Hon. Erik Larson

**The Members of  
Your Committee On:** Finance Committee and the Parks Director

**In Reference To:** Signing a contract with Bishop Contracting

***Reports and recommendations as follows:***

That the City Council approve the construction of the Pioneer Shop Addition. The Parks Department has seen significant cost savings in 2016, and has the funds to pay for the new shop addition at Pioneer Park. This shop would replace the old Sam Benn Park shop that was recently demolished due to the collapsing roof and walls. The low bidder for the project was Bishop Contracting LLC in the amount of \$24,961.90. The Parks Department will purchase and provide the necessary supplies to construct the pole metal building at a cost of approximately \$15,000.

***Reports and recommend as follows:***

That the City Council approve the construction of the pole metal building and authorize the Mayor to sign the contract with Bishop Contracting LLC.

  
Stacie Barnum, Parks Director

\_\_\_\_\_  
Denny Lawrence, Chair

\_\_\_\_\_  
Jeff Cook, Vice Chair

Reported: April 13, 2016

\_\_\_\_\_  
Alice Phelps

Adopted:

\_\_\_\_\_  
Kathy Prieto

CONTRACT

THIS AGREEMENT, made and entered into this day of 4-4, 2016, by and between the City of Aberdeen, Washington, a municipal corporation, hereinafter called the Owner, and Bishop Contracting LLC whose address is 8645 146<sup>th</sup> Ln Sw, County of Gray Harbor State of Washington, hereinafter called the Contractor.

WITNESSETH:

That in consideration of the terms and conditions contained herein and attached and made a part of this agreement, the parties hereto covenant and agree as follows:

- I. The Contractor shall do all work and furnish all tools, materials (concrete only), and equipment for Parks Department Project No. 2016-1 Pioneer Park Shop Addition, in accordance with and as described in the attached plans and specifications, and the standard specifications of the Washington State Department of Transportation as amended by the American Public Works Association which are by this reference incorporated herein and made part hereof and, shall perform any changes in the work in accordance with the Contract Documents.

The Contractor shall provide and bear the expense of all equipment, work, and labor of any sort whatsoever that may be required for the transfer of materials and for constructing and completing the work provided for in these Contract Documents except those items mentioned therein to be furnished by the City of Aberdeen. The Contractor shall pay prevailing wages and the Director of the Department of Labor and Industries shall arbitrate all disputes of the prevailing rate of wage.

The Contractor hereby agrees to commence work under this project within 30 calendar days of the date specified in a written "Notice to Proceed" of the Owner and to fully complete the project by May 16, 2016.

If said work is not completed within the time specified, the Contractor agrees to pay the owner the sum as determined per Standard Specifications, Section 1-08.9 for each working day said work remains uncompleted after expiration of the specified time, as liquidated damages.

- II. The City of Aberdeen hereby promises and agrees with the Contractor to employ, and does employ the Contractor to provide the materials and to do and cause to be done the above described work and to complete and finish the same in accordance with the attached plans and specifications and the terms and conditions herein contained and hereby contracts to pay for the same according to the attached specifications and the schedule of unit or itemized prices at the time and in the manner and upon the conditions provided for in this contract.



16 - 02

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE RELATING TO THE ESTABLISHMENT OF A HEARING EXAMINER SYSTEM FOR LAND USE DECISIONS, ADDING A NEW CHAPTER 2.30 TO THE ABERDEEN MUNICIPAL CODE AND AMENDING SECTIONS [INSERT].**

**BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF ABERDEEN:**

**SECTION 1. NEW CODE CHAPTER ADOPTED.** The following Chapter 2.30 "Land Use Hearing Examiner" is hereby added to the Aberdeen Municipal Code:

**Chapter 2.30  
LAND USE HEARING EXAMINER**

Sections

2.30.010 Purpose.

2.30.020 Hearing examiner - Creation.

2.30.030 Appointment – Confirmation – Removal – Contract.

2.30.040 Qualifications.

2.30.050 Term.

2.30.060 Conflict of interest – Ex parte contact.

2.30.070 Hearing examiner – authority and duties.

2.30.080 Applications.

2.30.090 Report by city staff.

2.30.100 Public hearing.

2.30.110 Hearing examiner's decision and recommendation.

2.30.120 Reconsideration.

2.30.130 Appeal of hearing examiner's decision.

2.30.140 Hearing examiner's annual report.

**2.30.010 Purpose.**

The purpose of this chapter is to provide an administrative land use regulatory system which will separate the city's land use regulatory function from its land use planning function; ensure and expand the principles of fairness and due process in public hearings; and provide an efficient and effective land use regulatory system which integrates the public hearing and decision-making processes for land use matters.

**2.30.020 Hearing examiner – Creation.**

The office of the hearing examiner is created by the city council. The hearing examiner shall interpret, review and implement land use regulations, hear appeals from orders, recommendations, permits, decisions or determinations made by a city official as set forth in this chapter, and review and hear other matters as provided for in this code and other ordinances. The term “hearing examiner” shall likewise include the hearing examiner pro tem.

**2.30.030 Appointment – Confirmation – Removal – Contract.**

The hearing examiner shall be appointed by the mayor, subject to confirmation by the city council. An examiner may be removed from office at will and without cause by the mayor; however, such removal shall not affect the ability of the examiner to complete any cases for which he or she has already undertaken the hearing. The examiner may be retained under a professional services contract for a specified term on conditions determined by the mayor. The contract may also provide for examiners pro tem to serve in the absence of the examiner under such terms and conditions deemed appropriate by the mayor.

**2.30.040 Qualifications.**

Hearing examiners and hearing examiners pro tem shall be appointed solely with regard to their qualifications for the duties of their office and will have such training and experience as will qualify them to conduct administrative or quasi-judicial hearings on regulatory enactments and to discharge the other functions conferred upon them. Hearing examiners shall hold no other elective or appointive office or position with the city.

**2.30.050 Term.**

The term of appointment for the hearing examiner shall be for a period not to exceed four years, subject to termination as provided in AMC 2.30.040, and shall be coterminous with the term of the mayor. Hearing examiners pro tem may be appointed for such terms and functions as the mayor deems appropriate.

**2.30.060 Conflict of interest – Ex parte contact.**

A. No hearing examiner shall conduct or participate in any hearing, decision or recommendation in which the hearing examiner has a direct or indirect substantial financial or familial interest, or concerning which the hearing examiner has had substantial prehearing contacts with proponents or opponents. A hearing examiner shall abide by the applicable provisions of state law, including, without limitation, the appearance of fairness doctrine and the Aberdeen Municipal Code.

B. No person, including city officials, elective or appointive, shall attempt to influence a hearing examiner in any matter pending before him/her, except at a public hearing duly called for such purposes, or to interfere with a hearing examiner in the performance of his/her duties in any other way; provided, that this section shall not prohibit the city attorney

from rendering legal services to the hearing examiner upon request, or prohibit other persons or officials from responding in writing to requests for information from the hearing examiner; and further provided, that city officials or employees may, in the performance of their official duties, provide information for the hearing examiner or process a city case before the hearing examiner, when such actions take place or are disclosed in the hearing examiner's hearing or meeting.

**2.30.070 Hearing Examiner – Authority and duties.**

A. The hearing examiner shall hear and decide the following land use quasi-judicial applications:

1. Rezones which are not of general applicability (site-specific rezones).
2. Variances and conditional use permits.
3. Preliminary subdivisions and planned developments.
3. Shoreline substantial development permits subject to quasi-judicial review, shoreline variances, and shoreline conditional use permits.

B. The hearing examiner shall hear and decide appeals alleging an error in administrative decisions or determinations made under the zoning code or any other development regulations under AMC Title 14 (Environmental Regulations), Title 16 (Subdivisions), and Title 17 (Zoning).

C. The hearing examiner shall conduct public hearings and proceedings required by AMC Titles 14, 16, and 17, the city of Aberdeen Shoreline Master Program, and the State Environmental Policy Act (Chapter 43.21C RCW) and conduct such other hearings or meetings as the city council may from time to time deem appropriate; provided that the substantive SEPA decision and decisions on the associated actions shall be made by the officials designated in the Aberdeen Municipal Code.

**2.30.080 Applications.**

Applications for all matters to be heard by the hearing examiner shall be presented to the city staff, to be processed according to the applicable provisions of the AMC and the city of Aberdeen shoreline master program. The city staff shall be responsible for assigning a date for the public hearing for each application as required. The hearing examiner may consider two or more applications relating to a single project concurrently, and the findings of fact, conclusions and decision on each application may be covered in one written decision.

**2.30.090 Report by city staff.**

City staff shall coordinate and assemble the comments and recommendations of other applicable city officials and governmental agencies having an interest in the application, and shall prepare a report summarizing the factors involved, including recommendations and suggested findings and conclusions. At least seven calendar days prior to the scheduled hearing, the report shall be filed with the hearing examiner and copies thereof shall be mailed to the applicant and shall be made available to any interested party at the cost of reproduction.

### **2.30.100 Public hearing.**

A. Before rendering a decision on any application, the hearing examiner shall hold at least one public hearing thereon, as applicable. Notice of the time and place of the public hearing shall be given as provided in the applicable city code governing the application.

B. The hearing examiner shall have the authority granted to administrative bodies and presiding officers under Chapter 2.18 AMC for the conduct of quasi-judicial hearings and may prescribe additional rules and regulations not inconsistent with Chapter 2.18 AMC.

### **2.30.110 Hearing examiner's decision and recommendation.**

A. The hearing examiner's decision or recommendation shall contain the required elements of quasi-judicial final decisions in AMC 2.18.150.

B. At the conclusion of oral testimony at a public hearing, the hearing examiner may establish the date and time at which the public record will close. The public record may be extended beyond the public hearing for the purpose of allowing written testimony to be submitted. The extension shall not exceed 10 working days after the conclusion of oral testimony. All decisions of the hearing examiner shall be rendered within 10 working days after the date the public record closes.

C. The hearing examiner's decision shall be based upon the policies of the comprehensive planning documents of the city, shoreline master program, the standards set forth in the various development regulations of the city or any other applicable program adopted by the city council. When acting upon any of the above applications or appeals, the hearing examiner may grant or deny the application, or may attach reasonable conditions, modifications and restrictions found necessary to make the project compatible with its location and to carry out the goals and policies of the applicable comprehensive plan, shoreline master program, or other applicable plans or programs adopted by the city council.

D. The decision of the hearing examiner on all matters is final and conclusive, unless appealed to Grays Harbor County superior court as provided for in this code or the city of Aberdeen shoreline master program.

E. Upon issuance of the hearing examiner's decision, the city staff shall transmit a copy of the decision by first class mail to the last address provided to the city by the applicant and send a notice of the decision by first class mail to other interested parties requesting the same.

### **2.30.120 Reconsideration.**

The procedures and requirements for a reconsideration of a decision of the hearing examiner shall be as established in AMC 2.18.160.

### **2.30.130 Appeal of hearing examiner's decision.**

A. Appeals of actions of the Hearing Examiner are appealable to Grays Harbor County Superior Court pursuant to Chapter 36.70C RCW, except for shoreline permit actions, which are appealable to the State Shoreline Hearings Board pursuant to Chapter 90.58 RCW.

B. Notice of the appeal and any other pleadings required to be filed with the Court or the Shoreline Hearings Board shall be filed and served as required by the applicable statute.

C. The cost of transcribing and preparing all records ordered certified by the Court or the Shoreline Hearings Board or desired by the appellant for such appeal shall be borne by the appellant. The appellant will be provided copies of hearing tapes by the City and will be responsible for their transcription.

**2.30.140 Hearing examiner's report.**

A. The hearing examiner shall prepare an annual written report for the city council summarizing activities, actions and observations.

B. The hearing examiner shall meet with the city council as requested, for the purpose of reviewing reported observations, including a review of the policies contained in the comprehensive plans, shoreline master program, development regulations and the administration of these policies.

**SECTION 2. CODE SECTION AMENDED.** Ordinance [insert] , codified as AMC§§, is hereby amended to read as follows:

[reserved for code amendments necessary to implement Section 1]

**SECTION 3. SAVINGS CLAUSE.** Ordinance [insert], which is repealed by this ordinance, shall remain in force and effect until the effective date of this ordinance.

**SECTION 4. SEVERABILITY.** Should any section, subsection, paragraph, sentence, clause or phrase of this ordinance or its application to any person or situation be declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of this ordinance or its application to any other person or situation.

**SECTION 5. PUBLICATION BY SUMMARY.** The Finance Director is authorized and directed to publish the attached summary in lieu of this ordinance.

**SECTION 6. EFFECTIVE DATE.** This ordinance shall take effect immediately upon its passage, signing, and publication.

**PASSED and APPROVED** this \_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
Erik Larson, Mayor

ATTESTED:

\_\_\_\_\_  
Kathryn Skolrood, Finance Director



**RECEIVED**

**MAR 25 2016**

**MAYOR'S OFFICE**

To: Erik Larson, Mayor of Aberdeen

Subject: **Appointment to the Downtown Parking and Business Improvement District Committee (D.P.B.I.D.C)**

Date: March 23, 2016

The members of the D.P.B.I.D.C are recommending the following persons to serve as members of the committee. The nominees have stated that they will serve if appointed.

**Shanine Prochaska**  
**Amore Italian Restaurant**  
**116 W Heron Street**

**Ilan Kariv**  
**Grays Harbor Guns**  
**120 S H Street**

Ms. Prochaska would finish the unexpired term that was vacated by Janice Pollen, which would mean her term would expire on December 31, 2016.

Mr. Kariv would finish the unexpired term that was vacated by Diane Levold, which would mean his term will expire on December 31, 2017.

I am requesting that they be appointed to the committee at the next council meeting.

Sincerely

  
Pete Scroggs  
Chairperson  
Downtown Parking and  
Business Improvement District Committee