Vancouver City Council Minutes – Sept. 14, 2015

WORKSHOPS (City Council Chambers)

4:00-4:30 p.m.   **CLARK COUNTY COMMISSION ON AGING UPDATE**

Council met with Bryan Snodgrass, Principal Planner, and Bill Ritchie, Commission on Aging Chairman.

**Summary**

*The Chairman of the Clark County Commission on Aging reported to Council on the commission’s recent actions and priorities. (Bryan Snodgrass, 487-7946)*

4:30-5:00 p.m.   **EMERGENCY PREPAREDNESS AND CONTINUITY OF OPERATION PLAN (COOP)**

Council met with Jan Bader, Program and Policy Development Manager, Doug Koellermeier, Deputy Fire Chief, and Jonathan Young, Chief Assistant City Attorney.

**Summary**

*City staff provided Council with an overview of the City’s delegation of authority in times of emergency, various regional preparedness plans and the City’s Continuity of Operation Plan. (Jan Bader, 487-8605; Doug Koellermeier, 487-7218)*

5:00-5:40 p.m.   **PERSONAL USE FIREWORKS DISCUSSION**

Council met with Jan Bader, Program and Policy Development Manager, and Heidi Scarpelli, Fire Marshal.

**Summary**

*Staff provided Council with an overview of options related to further restricting personal use fireworks in city limits. Council directed staff to prepare an ordinance that would institute a ban on fireworks in the city. (Jan Bader, 487-8606; Heidi Scarpelli, 487-7202)*

5:40-6:10 p.m.   **EXECUTIVE SESSION re: REAL ESTATE**
**COUNCIL REGULAR MEETING** (City Council Chambers)

**PLEDGE OF ALLEGIANCE**

**CALL TO ORDER AND ROLL CALL**
The regular meeting of the Vancouver City Council was called to order at 7 p.m. by Mayor Timothy Leavitt in the Council Chambers of City Hall, 415 W. 6th Street, Vancouver, Washington.

Present: Councilmembers Topper, McEnerny-Ogle, Turlay, Hansen, Burkman, Smith, Mayor Leavitt
Absent: None

**APPROVAL OF MINUTES: AUGUST 17, 2015**

Motion by Councilmember Smith, seconded by Councilmember McEnerny-Ogle, and carried unanimously to approve the minutes of August 17, 2015.

**APPROVAL OF MINUTES: AUGUST 24, 2015**

Motion by Councilmember Smith, seconded by Councilmember McEnerny-Ogle, and carried unanimously to approve the minutes of August 24, 2015.

**PROCLAMATION: CONSTITUTION WEEK**

Mayor Leavitt read a proclamation proclaiming the week of Sept. 17 through Sept. 23, 2015, as Constitution Week.

**PROCLAMATION: PEARSON FIELD AIRPORT 90TH ANNIVERSARY**

Mayor Leavitt read and presented a proclamation to Willy Williamson, Pearson Field Manager; Bob Cromwell, National Park Service Archaeologist; and Jay Haldeman, Aviation Advisory Committee Chairman, proclaiming the week of Sept. 14 as the 90th Anniversary of the Pearson Field Dedication.

**CITIZEN COMMUNICATION (ITEMS 1-11)**

Mayor Leavitt opened Citizen Communication and received the following testimony:

- Som Laochomnanvanit, Vancouver, regarding Item 10, expressed concerns about illegal drug activity related to homelessness, and making sure a distinction is made between people who are just sleeping and those engaged in other illegal activities.

- Heidi Owens, Vancouver, expressed support for Item 10, but stated the issue is much larger than overnight sleeping and hoped the Council would continue looking for longer-term and permanent solutions.
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- Katherine Garrett, representing Share, regarding Item 10, stated that the City issuing citations to homeless people for camping in public places is counterproductive to helping these people find permanent housing, and hoped the City might be able to forgive some of those citations.

- Andy Silver, executive director for the Council for the Homeless, reported that a very small percentage of people who called the housing hotline were able to be placed in shelters. He stated he was in favor of Item 10, but agreed it is a much larger issue need better solutions.

- Carolyn Crain, Vancouver, regarding Item 10, also asked Council to forgive the camping citations issued to homeless people and suggested the City look into renovating retired C-TRAN buses to use as shelters and facilities for homeless people.

There being no further testimony, Mayor Leavitt closed Citizen Communication.

**CONSENT AGENDA (ITEMS 1-11)**

Council requested Items 8 and 10 be pulled from the Consent Agenda for separate consideration.

**Motion** by Councilmember McEnerny-Ogle, seconded by Councilmember Topper, and carried unanimously to approve Items 1-7 and 11 of the Consent Agenda.

1. **PURCHASE OF REPLACEMENT VEHICLES FROM COLUMBIA FORD (WA STATE CONTRACT #03713)**  
   (Staff Report 125-15)

**Summary**

Currently, the City purchases vehicles through the Washington State Contract, and the estimated spending at Columbia Ford in 2015-2016 is expected to rise above the $200,000 threshold requiring approval of Council. This contract awarded to Columbia Ford includes the City’s Police Ford Interceptors. In keeping with the City’s effort to streamline the fleet, staff is requesting the ability to take advantage of this contract pricing.

The raising of this threshold will enable Equipment Services to order the required fleet replacement vehicles while taking advantage of the Washington State contract’s competitive pricing. Equipment Services is requesting Council approve the increased spending at Columbia Ford up to a $600,000 threshold against this contract, which covers three (3) years January 1, 2014 through the end of January 1, 2017.

**Motion** authorized the City Manager or his designee purchase replacement vehicles from Columbia Ford of Longview, WA, through Washington State Contract #03713, with a cost not to exceed $600,000 over the life of the contract. *(Barbara Basnett, Equipment Services Superintendent, 487-8205)*

2. **PURCHASE OF REPLACEMENT VEHICLES FROM CORWIN FORD OF PASCO LLC (WA STATE CONTRACT #03813)**  
   (Staff Report 126-15)
Summary
Currently, the City purchases vehicles through the Washington State Contract. The estimated spending in 2015-2016 is expected to rise above the $200,000 threshold requiring Council approval. This contract originally awarded to Legacy Ford, now Corwin Ford of Pasco LLC, includes a variety of small/midsize half-ton, three quarter-ton and one-ton cab & chassis trucks. In keeping with the City's effort to streamline the fleet, staff is requesting the ability to take advantage of this contract pricing.

The raising of this threshold will enable Equipment Services to order the required fleet replacement vehicles while taking advantage of the Washington State contract’s competitive pricing. Equipment Services is requesting Council approve the increased spending at Corwin Ford up to a $500,000 threshold against this contract, which covers three (3) years from January 1, 2014 through January 1, 2017.

Motion authorized the City Manager or his designee purchase replacement vehicles from Corwin Ford of Pasco LLC through Washington State Contract #03813, with a cost not to exceed $500,000 over the life of the contract. *(Barbara Basnett, Equipment Services Superintendent, 487-8205)*

3. **PURCHASE OF REPLACEMENT VEHICLES FROM BUD CLARY CHEVROLET (WA STATE CONTRACT #03513)**
(Staff Report 127-15)

Summary
Currently, the City purchases vehicles through the Washington State Contract, and the estimated spending at Bud Clary Chevrolet in 2015-2016 is expected to rise above the $200,000 threshold requiring approval of Council. This contract awarded to Bud Clary Chevrolet includes our Police Rated Impalas as well as Administrative Impalas. In keeping with the City's effort to streamline the fleet, staff is requesting the ability to take advantage of this contract pricing.

The raising of this threshold will enable Equipment Services to order the required fleet replacement vehicles while taking advantage of the Washington State contract’s competitive pricing. Equipment Services is requesting Council approce the increased spending at Bud Clary Chevrolet up to a $400,000 threshold against this contract which covers three (3) years January 1, 2014 through the end of January 1, 2017.

Motion authorized the City Manager or his designee purchase replacement vehicles from Bud Clary Chevrolet of Longview, WA, through Washington State Contract #03513, with a cost not to exceed $400,000 over the life of the contract. *(Barbara Basnett, Equipment Services Superintendent, 487-8205)*

4. **ELLSWORTH WATER TREATMENT PLANT PRESSURE FILTER MEDIA REPLACEMENT – CONSTRUCTION ACCEPTANCE AND RELEASE OF RETAINAGE**
(Staff Report 128-15)

Summary
Stellar J Corporation of Woodland, Washington, has completed renovating the four treatment filters and reaction tank at the 20-year old Ellsworth WTP. The large filter tanks (12 feet in diameter by 34 feet long) each hold approximately 300 cubic yards of sands, gravel and anthracite used to remove iron and
manganese. This project replaced the filter media and has restored treatment efficiency and filter “run times”. In addition, the interior piping was removed and cleaned, returning the inaccessible piping buried under the media to like-new condition.

The work was completed satisfactorily in accordance with the plans and specifications. Contract costs are summarized below.

<table>
<thead>
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<th>TOTAL CONTRACT COSTS</th>
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<td>Labor, Equipment and Material</td>
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<tr>
<td>Total</td>
<td>$698,128.81</td>
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<tr>
<td>Retainage</td>
<td>$32,201.51</td>
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The original contract amount, including sales tax, was $377,045.38. The final project cost was 85% higher than the original contracted amount.

Upon removal of the 20-year old media, areas of the tanks and components within the tanks that were previously inaccessible became visible for inspection. During inspection of the tanks, it became clear that the interior coating was failing, leading to corrosion of the tank walls. Coating replacement was required in order to ensure the structural integrity of the tanks would not be compromised before the next filter media replacement. The City directed the contractor to sandblast and recoat the interior of the tanks and to install a cathodic protection system to reduce future corrosion. In addition, interior piping was removed and cleaned by the contractor to ensure the filter process would function efficiently.

After the repairs and media replacement, the tanks have been in constant operation since June 11, 2015. They are operating with increased filter “run times” while removing iron and manganese to low levels. The Ellsworth WTP and sources are critical to meet consumer demands especially during the summer months. Ellsworth WTP produced 14% of the total system production in July 2015.

Motion accepted the facilities as constructed by Stellar J Corporation of Woodland, WA, and authorize release of the retainage in the amount of $32,201.51, subject to receipt of all documentation required by law. (Tyler Clary, Water Engineering Program Manager, 487-7169)

5. ADOPTION OF WATER USE EFFICIENCY GOALS
(Staff Report 129-15)

Summary
The Washington State Department of Health developed Water Use Efficiency requirements (Washington Administrative Code (WAC) 246-290), pursuant to passage of the Municipal Water Law in 2003. Per these requirements, municipal water providers are required to develop and implement a Water Use Efficiency program that establishes goals to enhance the efficient use of water, with opportunity for public information and comment. Goals must be presented in a public forum with an opportunity for public input and shall be adopted every six (6) years by the elected governing body of the water system.
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(WAC 246-290-830). Water Use Efficiency goals were last approved by City Council in 2009. The proposed goals are consistent with the previously adopted 2009 goals.

As directed by state requirements, the proposed City of Vancouver Water Use Efficiency Goals were drafted and presented to Council in a workshop on August 10, 2015. The public was then provided the opportunities to comment in a public forum.

Motion adopted Resolution M-3868 establishing Water Use Efficiency goals for the City of Vancouver Water Utility. (Tyler Clary, Water Engineering Program Manager, 487-7169)

6. INTERLOCAL AGREEMENT WITH CLARK COUNTY FOR RECEIPT AND DISBURSEMENT OF SEX OFFENDER MONITORING PROGRAM GRANT
(Staff Report 130-15)

Summary
In July 2015 the Washington Association of Sheriffs and Police Chiefs awarded $264,026.20 in State funding to Clark County and its cities to enhance law enforcement monitoring of registered kidnapping or sex offenders required by state law (RCW 9A.44.130). Law enforcement officers must provide face-to-face verification at a registered sex offender’s place of residence every 3-12 months, based on the level of offense. The Clark County Sheriff’s Office coordinates and maintains the sex offender registry and database entries for the public website for all sex offenders within the county. Vancouver Police is responsible for monitoring registered sex offenders and kidnapping offenders who live within the City of Vancouver. In 2013, Washington State reported 569 registered sex offenders living in the City of Vancouver, requiring Vancouver Police to conduct more than 750 monitoring contacts each year.

Law enforcement monitoring and address verification programs reduce and prevent crime in two ways. First, police monitoring serves as a deterrent for future crimes, as registry violations may result in arrest, prosecution, and sentencing for any new offenses. Second, police monitoring provides updated information for Washington State’s registry database and public website, providing tools to enhance safety through community awareness and notification.

The Clark County Sheriff’s Office has provided an interlocal agreement with the City of Vancouver effective July 1, 2015 to June 30, 2016, disbursing $99,575.20 for police overtime, training, and equipment to support sex offender monitoring and compliance with State law.

Motion authorized the City Manager or his designee to execute an interlocal agreement with Clark County for disbursement of grant funds by Clark County for Vancouver Police overtime, training and equipment. (James McElvain, Vancouver Police Chief, 487-7473)

7. 2015-2017 COMMUTE TRIP REDUCTION PROGRAM AND INTERLOCAL AGREEMENT
(Staff Report 131-15)
Summary

In 2006, the Washington Legislature passed the Commute Trip Reduction (CTR) Efficiency Act, requiring local governments in identified urban areas with traffic congestion to develop programs that reduce the drive-alone trips and vehicle miles traveled per capita. The CTR Efficiency Act amended the 1991, Commute Trip Reduction Law, codified as §70.94.521-.551 RCW. Biannually, the State Legislature allocates grant funds to support local CTR activities. Since 2005, the City of Vancouver, Clark County and the cities of Camas and Washougal, have developed an interlocal agreement establishing a regional work plan and assignment of administration responsibilities for the CTR program.

The City of Vancouver provides program management and oversight of the CTR program for Vancouver, Clark County (those portions lying within the unincorporated Vancouver UGA), Camas and Washougal. Through this program, the City will provide direct services to a total of 60 affected participating worksites and three volunteer worksites.

Financial support of the CTR program has been provided in the past biennium by the State Legislature. As part of the 2015 Legislative session, the CTR program was authorized for funding for the 2015-2017 biennium. These funds are distributed on a formula basis through the Washington State Department of Transportation, Office of Public Transportation and Commute Options. In this case, the City of Vancouver will be the primary contracting agency for the Vancouver, Camas and Washougal urban growth areas.

The proposed CTR interlocal agreement and associated CTR Work Plan specifies that the City of Vancouver will receive all of the state grant funds to administer the regional program. For the biennium (starting July 1, 2015 and ending June 30, 2017), $204,011 in grant funds have been authorized. In receiving this allocation of program funds, the City should have sufficient resources to manage the program.

Staff proposes the City enter into a contract with the Washington State Department of Transportation to receive State CTR program grant funding; and enter into a Commute Trip Reduction interlocal agreement with Clark County and the Cities of Camas and Washougal to guide the City’s administration of the regional program.

Motion authorized the City Manager or his designee to sign the Commute Trip Reduction Implementation Agreement with the Washington Department of Transportation (GCB2154); and sign the 2015-2017 Commute Trip Reduction interlocal agreement with Clark County and the cities of Camas and Washougal. (Jan Bowers, Commute Trip Reduction Administrator, 487-7733)

8. PURCHASE AND SALE AGREEMENT WITH VANCOUVER SCHOOLS FOR REAL PROPERTY LOCATED AT FOURTH PLAIN AND NORRIS ROAD (FIRE STATION 2)
(Staff Report 132-15)

Summary

As the City of Vancouver continues to grow, so do the public safety needs of our citizens. As part of our continued efforts to maintain the best public safety policies and practices, the City of Vancouver completed a Long Range Facility Plan for the City’s Fire Department. Upon completion of this plan, it
was determined that the City would best be served by maintaining separate fire stations in the areas currently served by Stations #1 and #2. Further, both Stations #1 and #2 should be rebuilt and moved to locations that more strategically serve the public with improved response times.

The Facility Plan indicated that the property located at Fourth Plain & Norris Road would be the ideal site to re-locate Fire Station #2. This property is larger and better situated on the street network than the current site of Fire Station #2. This new location will allow Fire Station #2 to serve the most miles traveled in the fewest minutes of response and will better serve the City’s firefighting and emergency medical incident response requirements.

This property consists of approximately 93,857 square feet (2.15 acres).

Councilmember Topper noted that she is an employee of the Vancouver School District, and as such would recuse herself from voting on this item.

Motion by Councilmember McEnery-Ogle, seconded by Councilmember Hansen, and carried unanimously, with Councilmember Topper abstaining, ratified the purchase and sale agreement entered into between the City of Vancouver and Vancouver School District No. 37 to purchase real property at the purchase price of $305,035.25 ($3.25/sf); and authorized the City Manager or his designee to execute documents necessary to close this transaction. (Tim Haldeman, General Services Director, 487-8495)

9. FIRST AMENDMENT TO COORDINATION OF SERVICES AGREEMENT WITH CLARK REGIONAL WASTEWATER DISTRICT
(Staff Report 133-15)

Summary
Like the City, Clark Regional Wastewater District (CRWD) pursues a diligent and structured process to seek payment of past due sewer accounts. For CRWD staff, this process relies on active management of the accounts and may involve specific actions such as liens on real property, collection agency activity and foreclosure. In the case of the City, because almost all of our sewer accounts are also City water customers, we use suspension of water service as our initial action to manage delinquent accounts that have not made other arrangements to ensure payment of past due bills. Because the CRWD only provides sewer service, they currently do not have this ability as an account management option. Both agencies also have the ability and authority to terminate sewer service via plugging the line or other actions. However, we have not yet pursued this approach because of the risk of creating a public health hazard for residents in a property not able to safely dispose of sewage and the close coordination that would be required with the Health Department and the appropriate Building Officials in exercising this option. In addition, physical termination of sewer service can be costly to implement.

In extreme and rather limited cases, CRWD has from time to time encountered a property for which their current standard process is not successful in obtaining payment. Accordingly, CRWD approached the City to see if we would consider suspension of water service to those extreme cases as an account management option that they could then utilize. This approach provides a mechanism to obtain payment
that does not create a public health hazard for residents and is consistent with the typical process utilized by agencies that provide both water and sewer service.

City staff is supportive of working with CRWD to add suspension of water service as an account management option that they could utilize for their more difficult to resolve cases. It is reflective of the working relationship that has been developed between our two agencies and is consistent with the principles of the Coordination of Services Agreement entered into by the agencies in June 2010. Under that agreement, it is presumed that these existing District customers at some point will become City customers under a larger City annexation scenario. Accordingly the City also has some interest in seeing that accounts are not in a severely delinquent status. To this end, CRWD and City staff and legal counsel are proposing an amendment to the Coordination of Services Agreement to allow termination of City provided water service for severely past due CRWD wastewater customers.

Motion approved the First Amendment to Coordination of Services Agreement with Clark Regional Wastewater District. (Bill Whitcomb, Public Works Capital Planning Finance and Asset Manager, 487-7702)

10. AMENDMENT TO VMC 8.22, UNLAWFUL CAMPING ORDINANCE
(Staff Report 134-15)

Jonathan Young, Chief Assistant City Attorney, and Vancouver Police Chief James McElvain provided staff comments.

Mayor Leavitt read the title of the ordinance into the record.

AN ORDINANCE related to unlawful camping, amending section 1 of Ordinance No. M-3323, codified as chapter 8.22 VMC, to specify the times during which it is unlawful to camp or occupy camping facilities in publicly owned places.

Summary
Homelessness presents a number of significant problems for our citizens, the city, and social service agencies. The City is in the process of collaborating with other government agencies and nonprofit organizations to address the problem of homelessness.

In 1997, the City adopted chapter 8.22 VMC, Unlawful Camping, which makes camping or storing camping equipment in public places a misdemeanor. In 2006, the Ninth Circuit of the United States Court of Appeals, in Jones v. City of Los Angeles, held that an ordinance which made camping a crime in all places at all times when shelter space was unavailable violated the Eighth Amendment prohibition against cruel and unusual punishment. The court determined that the ordinance criminalized the condition or status of being homeless. It held that it was unconstitutional to criminalize status as opposed to voluntary conduct.

On August 8, 2015, the Civil Rights Division of the United States Department of Justice filed a Statement of Interest in a case pending in federal court in Boise, Idaho. The Statement takes the position that the
decision in Jones provides the proper legal framework for analyzing claims challenging unlawful camping ordinances. The City's unlawful camping ordinance prohibits camping at all times and in all public places. The proposed amendment would limit the times during which camping in public places is illegal to 6:30 a.m. to 9:30 p.m. Thus, camping would be allowed from 9:30 p.m. to 6:30 a.m. This amendment would address the holding in Jones that it is unconstitutional to criminalize camping at all times in all places when shelters are full.

The amendment would not affect the ability to enforce other public health and safety ordinances such as the park code (closing parks from 10 p.m. to 5 a.m.); disorderly conduct; drinking in public; public disturbance; urinating in public; or obstructing streets or sidewalks.

This approach is intentionally a minimal change to the ordinance necessary to reduce the City's exposure to claim, and is intended to preserve the broadest range of policy options for the Council's future consideration relative to public camping. Further, this approach recognizes that issues of homelessness in Vancouver are complex and can have far reaching implications. In making this recommendation, staff suggests it only reduces the City's potential liability in enforcement of a more limited camping ordinance, but does not address any broader impacts of homelessness. Addressing those will require further deliberation and community partnerships.

City Manager Eric Holmes explained the background resulting in the City needing to address this ordinance. He explained that with this ordinance, the City recognizes the complexity of the overall issue and that this action would not be intended as a solution, but rather a first step and a way to refine the City's ordinance in a way that addresses the Constitutional issues and allows for enforcement related to public safety.

Mr. Young presented the legal history of the cases surrounding this issue and explained the recent Department of Justice Statement of Interest.

Mayor Leavitt confirmed with Chief McElvain that the proposed changes to the ordinance would provide the appropriate clarity to VPD regarding the unlawful camping matter.

Councilmember Topper expressed concerns that if camping in public spaces is legal overnight, people will have to pack up belongings and move around once the daytime hours hit, essentially criminalizing daytime camping. She asked Chief McElvain what VPD would do for enforcement activities during the day and asked whether there would be sweeps of the locations where people slept overnight. Chief McElvain explained that VPD had no intention of conducting sweeps and would take similar steps as have been taken in the past, responding to calls if they are received from concerned citizens or business owners. He stated VPD's first response to such calls is not strict enforcement, but rather education and seeking compliance from the people about whom they are contacted.

Councilmember Topper asked what the timeframe for a long-term solution is. City Manager Holmes said staff is currently pulling together people who are most knowledgeable about addressing homelessness in a growing urban area in order to get a better idea of the breadth of choices and then develop a work plan.
Councilmember Hansen stated daytime camping should not be a high priority for VPD. Chief McElvain stated that VPD resources would be prioritized appropriately, but VPD has to recognize that they do receive calls for assistance related to homelessness, and officers will respond to those; however, priority is always given to calls related to crimes against people and property.

Councilmember Turlay noted that the winter months are coming, so there is some urgency to finding workable solutions.

Councilmember McEnerny-Ogle asked whether sleeping in cars or recreational vehicles would be included under this ordinance change, and if that is the case, how is that reconciled with other sections of City code that prohibit where and when such vehicles can be parked on city streets. Mr. Young confirmed that vehicles are included under the camping ordinance and he would research the issue further regarding parking on the streets.

Councilmember McEnerny-Ogle expressed concerns that people may not know parts of the Columbia shoreline are National Park property. Mr. Holmes stated that the National Park Service prohibits camping on all of its property unless expressly permitted.

Mayor Leavitt asked Chief McElvain how VPD officers can discern if someone is just sleeping on public property or if they are under the influence of drugs or alcohol. Chief McElvain stated it is not illegal to be intoxicated in public, but possession is and can be enforced.

Mayor Leavitt asked how public parks could be excepted from lawful camping overnight. Mr. Young explain the regulations regarding park access are under a separate code, and all other provisions in other VMCS related to conduct on public property would remain in place, but those are not being questioned constitutionally because they refer to a person’s choices and actions and not their state of being.

Mayor Leavitt stated that it is a travesty and intolerable that citizens do not have a place to sleep overnight, and he noted that it is a much broader community issue that the City is and has been actively working on. But he stated the issue of unlawful camping overnight needs to be dealt with immediately due to its constitutional implications.

**Motion** by Councilmember Burkman, seconded by Councilmember Smith, and carried unanimously to approve ordinance on first reading, setting date of second reading and public hearing on Monday, September 14, 2015. *(Jonathan Young, Chief Assistant City Attorney, 487-8500)*

11. **APPROVAL OF CLAIM VOUCHERS FOR SEPTEMBER 14, 2015**

**Motion** approved claim vouchers for September 14, 2015, in the amount of $13,474,443.07
NEW BUSINESS (ITEMS 12-14)

Peggy Sheehan, Community Development Programs Manager, and Philip Gigler, Assistant City Attorney, provided staff comments.

City Manager Eric Holmes explained that the timeline for bringing these ordinances before Council for action had to be moved up considerably due to a provision discovered in an amendment to a state statute that was passed during the Legislature’s second special session this year. He explained that HB/SB 2122 includes language that extends provisions allowing cities to use a portion of Real Estate Excise Tax (REET) funds for operations and maintenance costs, but only if a city has not enacted any requirement on the listing, leasing or sale of real property as of the laws effective date, which is Sept. 26, 2015. He stated the City does use REET money for O & M costs in a number areas, especially for streets.

Ms. Sheehan and Mr. Gigler provided an overview and background information on the three proposed ordinances.

Mr. Gigler explained that, due to the state law regarding REET funding, Council must take action before Sept. 26 and cannot make any changes to the ordinances, if passed, or the City will lose its operations and maintenance REET funding. As such, he requested Council amend the 60-day notice to vacate ordinances to remove the two-year sunset clause.

Motion by Councilmember McEnerny-Ogle, seconded by Councilmember Topper, and carried unanimously to remove the two-year sunset clause from versions 12A and 12B of this ordinance.

Mayor Leavitt opened the public hearing for Items 12-14 and received the following testimony:

- Andy Silver, executive director for the Council for the Homeless, spoke in support of all three affordable housing ordinances.
- Denny Scott, representing St. Andrew Lutheran and the Affordable Housing Task Force, spoke in support of all three affordable housing ordinances, stating that the task force’s communications with landlords indicates most already provide more than the 20-day notice to vacate.
- Carol Lee Braithwait, Vancouver, spoke in opposition to Item 12, stating that as a landlord, she often uses the 20-day notice to vacate as a tool to address undesirable tenant behavior, rather than initiating an eviction, which is costly to her as a landlord and can be detrimental to the renter later on when trying to find new housing.
- Blain Cowley, Vancouver, spoke in opposition to Items 12-14, stating they essentially are rent control and will be costly to landlords.
Wayne Lund, Vancouver, spoke in opposition to Items 12-14, stating they will result in higher costs for renters, will turn away new developers, and will take away the 20-day notice as a tool to address tenant behavior.

Mark Ailanjian, Vancouver, spoke in opposition to Items 12-14, stating they increase property owners’ and landlords’ liability.

Lyn Ayers, Vancouver, President of the Clark County Rental Association, spoke in opposition to Items 12-14, stating there are other solutions to address affordable housing issues in Vancouver that haven’t been explored yet.

Denny Miller, Vancouver, spoke in opposition to Items 12 and 14, stating they will not help increase available affordable housing in Vancouver. He noted that the wholesale use of the 20-day notice to vacate is an infrequent occurrence.

Peter Fels, president of the Share Board of Directors, Vancouver, spoke in favor of Items 12-14, noting one of the primary reasons for the need of these protections is the community does not have the resources at this time to address mass evictions. He stated not all of the issues related to affordable housing and homelessness will be addressed by the ordinances, but providing renters additional time with these protections will help.

Gary Akizuki, Vancouver, spoke in support of Items 12-14, and said they relate essentially to what values our community holds.

Cheyonna Lewis, Vancouver, spoke in support of Items 12-14, stating that families like hers need these protections to have a better chance.

Julius Hicks, Vancouver, spoke in support of Items 12-14, stating he is a renter who works full time but his rent increased so much he does not know how he will be able to afford it. He stated such protections will help provide families like his stability.

Anita Sinclair, Vancouver, spoke in support of Items 12-14, stating that she had received a 20-day notice, had just paid her rent and had no way to come up with the money in time to get into a new apartment, and as a result was homeless for a while.

Keri Stanberry, Vancouver, spoke in support of Items 12-14, stated that she has received a notice to vacate and her rent increased by $450 a month after her child recently moved out. She stated she has had to stop doing much of the volunteer work she had done in the past, and renters need this kind of help.

Dominique Horn, Vancouver, spoke in support of Items 12-14, stating she lives in the neighborhood of Courtyard Village, and her children are friends with many of the children who were impacted. She stated she was homeless for a while and on the Section 8 waiting list for seven years, but even after she received her voucher, she had a difficult time finding an apartment because so many
landlords refused to rent to her solely because of the Section 8 voucher, despite her education and the fact that she has no criminal record. She questioned why the source of one’s income should make a difference.

- Brian Gattuccio, representing St. Vincent de Paul, Vancouver, spoke in support of Items 12-14, stating he hears stories like those of the others testifying every day.

- Marcia Maynard, Vancouver, spoke in opposition to Items 12-14, stating she rents to many low- and fixed-income tenants, but often uses the 20-day notice as a tool rather than the costlier options of the 3- or 10-day notices.

- Carolyn Crain, Vancouver, noted that this is a complicated issue and expressed disappointment with the Legislature for forcing cities into rushed decisions on this issue. She stated eviction processes are very expensive for landlords, and taking away the more accessible tool of the 20-day notice is going to turn landlords away from Vancouver.

- Frank Williamson, Vancouver, spoke in opposition to Item 12, expressing concern for seniors who are landlords or property managers who operate on fixed incomes. He stated he foresees rents going up if these ordinances are enacted.

There being no further testimony, Mayor Leavitt closed the public hearing.

Mayor Leavitt recessed the meeting at 9:23 p.m.

Mayor Leavitt reconvened the meeting at 9:30 p.m.

Councilmember Topper said she felt comfortable moving Items 13 and 14 forward as written.

Councilmember McEnerny-Ogle asked why the source of income ordinance included the word “solely,” and Mr. Gigler explained this is consistent with how this type of law is written throughout the state. There is no legal reason why the term must be included.

**Motion** by Councilmember McEnerny-Ogle, seconded by Councilmember Burkman, and carried unanimously to remove the term “solely” throughout the ordinance for Item 14, Source of Income Protection.

Councilmember Burkman stated the Council is really being forced to take action now due to the state law taking effect Sept. 26. He stated the reasonable thing to do seems to be to enact these ordinances now and work with the Legislature to change the REET law so the Council could amend these ordinances at a later date if necessary and not lose REET funding for operations and maintenance expenses.

Councilmember Topper stated, regarding item 12, that she supported the ordinance that includes the exception for property owners with fewer than five rental units.
Mayor Leavitt noted that the trigger for the City to look at renter protections was the mass use of the 20-day notice to vacate by Courtyard Village, and he questioned whether Council’s intent rather should be to address the number of vacate notices issued by a landlord at once, and not relative to the number of units owned.

Councilmember Topper stated she agreed, but the Courtyard Village issue opened a window on the broader problem, which is not just about mass evictions, but also about helping all who would be severely impacted by receiving a vacate notice. She said she would tend to agree more with addressing just the mass vacates if the rental market was not so tight. Because it is so difficult to find rental vacancies right now, renters vacated on an individual basis are greatly impacted, as is the community.

Mayor Leavitt stated he still has some reservations, but he is happy to move the ordinances forward for second reading.

Councilmember Turlay stated he is concerned about potential unintended consequences, but given the state statute influencing the timing of the issue, he did not see any other way to move forward.

Mr. Gigler stated that Council would have the option of repealing the ordinances after Sept. 26, but they could not make any amendments or enact different ordinances related to this issue until the state removed the provision related to the REET funding.

12. VULNERABLE RENTER PROTECTIONS PROPOSAL: 60-DAY EVICTION NOTICE
(Staff Report 135-15)

Mayor Leavitt read the titles of the ordinances into the record.

12a. AN ORDINANCE relating to an affirmative defense for month-to-month tenants who are not provided a 60-day notice prior to the landlord commencing an eviction action unless a different notice period is specifically authorized by law; providing for severability and an effective date.

12b. AN ORDINANCE relating to an affirmative defense for month-to-month tenants who are not provided a 60-day notice, by landlords owning five (5) or more rental units, prior to the landlord commencing an eviction action unless a different notice period is specifically authorized by law; providing for severability and an effective date.

Summary
Vancouver and the surrounding communities are experiencing an unprecedented demand for rental units. The overall vacancy rate has continued its downward trend, evident in the graph below, into 2015. Current data (Q2 2015) shows a rental vacancy rate of 1.98%. The low supply of units compared to current demand has resulted in rising rents. The monthly cost (Q2 2015) for the average 2-bedroom, 1-bath apartment is $975, up from $716 at the end of 2013 and $924 at the end of 2014.
In Washington, landlords may terminate tenancy with month-to-month tenants by issuing a written notice at least 20 days before the end of their rental period (RCW 59.18.200). These are sometimes called “no cause” notices because they do not need to state the reason for termination.

In addition to the 20-day notice, there are several other notices that landlords can serve tenants depending on the issue. The most common are:

- 3-day notice to pay or vacate
- 3-day notice for waste or nuisance
- 10-day notice to comply with the terms of the rental agreement or vacate

If the tenant fails to comply, pay or vacate during the specified timeline, the landlord can begin the eviction process.

Due to low vacancy rates, the rising cost of rent, and a lack of resources to pay for security deposits and other moving costs, tenants often find it difficult to secure a new rental within 20 days. During this time they must locate and be approved for an available unit, prepare for the move (e.g., rent a truck, pack belongings, find people to help on moving day), physically move their belongings, and clean the vacated unit. Some households may face additional tasks such as changing schools or arranging different transportation to school for a child during this time.

Households that are low-income can be severely impacted, with some ending up homeless (temporarily or for a longer duration). If a tenant is evicted, the damage to their rental history makes locating new housing more difficult.

The City ordinance will provide that tenants may assert an affirmative defense if landlords do not issue a 60-day notice to vacate prior to taking any eviction action toward the tenant. This ordinance will not supersede a landlord taking action under other portions of the landlord tenant law.

During the August 3 City Council workshop, Council directed staff to prepare two versions of this ordinance, one to include a provision that exempts landlords owning fewer than five properties, for Council to consider during the first reading. Ordinance Option B (attached) has been drafted to include that exemption.

**Motion** by Councilmember McEnery-Ogle, seconded by Councilmember Topper, and carried unanimously, approved ordinance 12B as amended, setting date of second reading and public hearing for Monday, September 21, 2015. (Peggy Sheehan, Community Development Programs Manager, 487-7952; Philip Gigler, Assistant City Attorney, 487-8500)

13. **VULNERABLE RENTER PROTECTIONS PROPOSAL: 45-DAY NOTICE OF RENT INCREASE**
(Staff Report 136-15)

Mayor Leavitt read the title of the ordinance into the record.
AN ORDINANCE relating to requiring that all rental agreements in the city of Vancouver include a provision requiring a minimum of forty-five (45) days prior written notice whenever the periodic or monthly housing costs to be charged a tenant is to increase by more than ten (10) percent; providing for severability and an effective date.

Summary
Vancouver and the surrounding communities are experiencing an unprecedented demand for rental units. The overall vacancy rate has continued its downward trend, evident in the graph below, into 2015. Current data (Q2 2015) shows a rental vacancy rate of 1.98%. The low supply of units compared to current demand has resulted in rising rents. The monthly cost (Q2 2015) for the average 2-bedroom, 1-bath apartment is $975. This represents a 36% increase since the end of 2013 ($716) and a 6% increase since the end of 2014 ($924).

Apartment List, a national rental listing website, recently named Vancouver as the top city in the United States for fastest rent growth between July 2014 and July 2015. They report a 9.8% median rent increase for 2-bedroom units during that time period, compared with a 2.7% increase nationwide.

The current requirement for notice of rent increase is 30 days. Households may need to increase their income to afford the new monthly rent cost or, if it is unaffordable, give notice to the landlord that they will be terminating tenancy. Households that are low-income are most likely to be negatively impacted by a substantial rent increase and to need additional time to prepare for the change in monthly expenses.

The City ordinance will provide that any rental agreement or renewal of a rental agreement for a residential rental unit shall include a provision requiring a minimum of forty-five (45) days prior written notice whenever the rent charged to a tenant is to increase by ten (10) percent or more.

Motion by Councilmember Topper, seconded by Councilmember Smith, and carried unanimously, approved ordinance, setting date of second reading and public hearing for Monday, September 21, 2015. (Peggy Sheehan, Community Development Programs Manager, 487-7952; Philip Gigler, Assistant City Attorney, 487-8500)

14. VULNERABLE RENTER PROTECTIONS PROPOSAL: SOURCE OF INCOME PROTECTION
(Staff Report 137-15)

Mayor Leavitt read the title of the ordinance into the record.

Summary
Vancouver and the surrounding communities are experiencing an unprecedented demand for rental units. Current data (Q2 2015) shows a rental vacancy rate of 1.98% (source: Norris Beggs & Simpson Multifamily Report). As the rental market becomes more competitive, landlords can be more particular when choosing tenants. Local service providers report that it is increasingly difficult for participants in rental assistance programs to use their rent vouchers.
The number of property owners participating in the Section 8 rent voucher program has been steadily decreasing. Between 2010 and 2015 there has been a 22% decrease in the number of landlords participating in Section 8, while the number of vouchers has stayed fairly consistent at approximately 2,500.

In addition, service providers report that income screening requirements are often applied in a way that does not acknowledge the rent guarantee that a voucher provides. An example follows.

If the landlord chooses to use income screening criteria, this ordinance requires that the landlord subtract the amount of the voucher from the rent owed before using the rent multiplier.

Example:

1. No voucher – Rent is $1,200 and Landlord requires income of two times the rent. That would be $1,200 X 2 = $2,400

2. Voucher – Rent is $1,200 and Landlord requires income of two times the rent, but the tenant has a $500 voucher. $1,200 - $500 = $700 X 2 = $1,400

The City ordinance will provide that a landlord cannot refuse to rent a dwelling unit to any applicant on the basis of the source of income. Source of income is defined as dollars derived from Social Security benefits, supplemental security income, other retirement programs, and any federal, state, local, or nonprofit-administered benefit or subsidy programs, including housing assistance, public assistance, and general assistance programs. The ordinance also states that if income screening criteria are elected to be used, any source of income in the form of a rent voucher or subsidy must be subtracted from the total of the monthly rent prior to calculating income.

Motion by Councilmember Topper, seconded by Councilmember Burkman, and carried unanimously, approved ordinance as amended, setting date of second reading and public hearing for Monday, September 21, 2015. (Peggy Sheehan, Community Development Programs Manager, 487-7952; Philip Gigler, Assistant City Attorney, 487-8500)

COMMUNICATIONS

A. From the Council
   a. C-TRAN Re-Districting Proposal

Councilmember Burkman reported that the City Council had received a letter from County Councilor David Madore reported that the Board of Councilors recently passed a resolution calling for a public transportation improvement conference to evaluate the possibility of redrawing C-TRAN’s service area boundary. The County requested the City provide an elected representative to attend that conference on Oct. 27.

By Council consensus, Mayor Leavitt appointed Councilmember Burkman as the Council’s representative to attend the conference.
B. From the Mayor
C. From the City Manager
   a. 2015 2nd Quarter Financial Report

ADJOURNMENT

10:15 P.M.

______________________________
Timothy D. Leavitt, Mayor

Attest:

______________________________
R. Lloyd Tyler, City Clerk
By: Carrie Lewellen, Deputy City Clerk

Meetings of the Vancouver City Council are electronically recorded on audio and videotapes. The audio tapes are kept on file in the office of the City Clerk for a period of six years.

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