

## IN BRIEF

## Razor clam digs planned in early February

LONG BEACH, Wash. — Razor clam diggers can return to ocean beaches for seven days of digging beginning Thursday.

State shellfish managers with the Washington Department of Fish and Wildlife approved a dig on evening low tides after marine toxin tests showed the clams are safe to eat.

## Long Beach fireworks OK'd for 2020

LONG BEACH, Wash. — The City Council and local business owners will split the costs of a Fourth of July fireworks show in Long Beach this summer.

The council approved a plan to pay about \$16,000 for the fireworks show, if business owners agreed to pay \$10,000 toward the cost of the event.

Business owners will also have to share some of the duties of the event, including handing out trash bags to encourage people to throw away debris from their holiday celebrations.

Whether the city would pay for a show this year became a point of contention during budget planning. The city did not fund a fireworks show in 2019 and planned to do the same in 2020 in order to put money toward other city needs. But in December, more than 40 business owners filled the council meeting room and asked the fireworks show resume.

Some cited cherished memories of enjoying the show with relatives. Others argued that the Fourth of July weekend was one of the best days for sales all year.

The Fourth of July show costs about \$30,000 to put on. In previous years, the city would ask Long Beach business owners for donations, but was only receiving about \$6,000 in recent years, City Administrator David Glasson said.

Right now, the city will cover about 68% of event costs and business owners will pay for the rest. Next year, the city hopes to reduce its portion of the event cost to 42%.

— *Chinook Observer*

## BIRTHS

Jan. 25, 2020

HUA, Brooke and Cory, of Nehalem, a boy, Eliot Miro Hua, born at Columbia Memorial Hospital in Astoria. Grandparents are Khoan and Helen Hua, of Haverhill, Massachusetts, Kym Weir, of Ladysmith, Wisconsin,

Dan Clemens, of Fall City, Washington, and Terry Stenzel, of Fish Creek, Wisconsin.

Dec. 28, 2019

KENDALL, Skylar, and PETIT, Garret, of Ocean Park, Washington, a girl, Nova Raelce Petit, born at Columbia Memorial Hospital.

## ON THE RECORD

## Theft

• Gary Gobin, 39, was arrested Tuesday at Walmart in Warrenton for theft in the second degree.

## Criminal trespass

• Christopher Beeman, 37, was arrested Thursday at Fred Meyer in Warrenton for criminal trespass in the first degree and criminal mischief in the third degree.

## Menacing

• Joshua Daniel Bennett, 26, of Astoria, was arrested Wednesday on Washington Street in Astoria for two counts of menacing and criminal mischief in the third degree.

## DUI

• Donna Clingings, 43, of Seaside, was arrested

Thursday on Avenue I and S. Roosevelt Drive in Seaside for driving under the influence of intoxicants, reckless driving, four counts of reckless endangerment, operation without proper exhaust system and driving uninsured.

• William Zane Middleton, 26, of Warrenton, was arrested Wednesday in Warrenton for driving under the influence of intoxicants, hit-and-run and interfering with a peace officer.

## Drug possession

• Lori Suzanne Smith, 58, of Astoria, was arrested Wednesday in the Goodwill parking lot in Warrenton for possession of methamphetamine.

## PUBLIC MEETINGS

## MONDAY

**Clatsop County Local Emergency Planning Committee,** 2 p.m., Suite 430, 800 Exchange St., Astoria.

**Astoria City Council,** 7 p.m., City Hall, 1095 Duane St.

## TUESDAY

**Clatsop County Board of Commissioners,** 12 p.m., work session, Suite 430, 800 Exchange St., Astoria.

**Seaside Library Board,** 4:30 p.m., Seaside Library, 1131 Broadway.

**Sunset Empire Park and Recreation District,** 5:15 p.m., workshop, Bob Chisholm Community Center, 1225 Avenue A, Seaside.

**Astoria Library Board,** 5:30 p.m., Flag Room, 450 10th St.

**Port of Astoria Commission,** 5:30 p.m., Suite 209, 10 Pier 1.

**Miles Crossing Sanitary Sewer District Board,** 6 p.m., 34583 U.S. Highway 101 Business.

**Astoria Planning Commission,** 6:30 p.m., City Hall, 1095 Duane St.

**Seaside Planning Commission,** 7 p.m., City Hall, 989 Broadway.

## Oregon suspends review of river policy

## Spring Chinook allocation also in question

By TERRY OTTO  
*The Columbian*

The chairwoman of the Oregon Fish and Wildlife Commission has suspended the review of the Columbia River Reform Plan indefinitely.

The commission also deferred to Curt Melcher, the director of the state Department of Fish and Wildlife, as to whether to change the spring Chinook allocation between commercial and sport fishermen, or to allow a spring commercial fishery on the Columbia River main stem.

The reform plan was heavily negotiated and meant to ensure concurrency between the states of Washington and Oregon concerning salmon fishing rules on the river.

It also provides a mechanism to move gill and tangle net commercial salmon fishing off the main stem of the river, and into off-channel fisheries.

After five years, the states opened a review of the policy. Each state appointed three members of their fish and wildlife commissions to the Policy Review Committee. The committee would then refer possible changes to the policy for eventual action by the full commissions.

Washington members of the committee voted to roll back parts of the policy in a controversial vote held in Spokane last March. That decision raised hackles, and



The Columbian

**Oregon has suspended work on the contentious review of the Columbia River Reform, prompting relief from salmon sport anglers and angst from the commercial fleet.**

there was considerable push-back from sport anglers, stakeholders that negotiated the original policy, and the Washington Legislature.

Oregon Gov. Kate Brown reacted by replacing some members of that state's Fish and Wildlife Commission.

Oregon members of the Policy Review Committee now include Becky Hatfield-Hyde, Jill E. Zarnowitz and Mary Wahl. The Washington members of the committee are David Graybill, Bob Kehoe and Don McIsaac.

Earlier this month, the Oregon and Washington committee chairs discussed the ongoing effort, and Wahl, the Oregon chair, decided to table the review of the reforms indefinitely.

"The commission is working on a lot of other things," Melcher said. "They have other priorities and it did not seem urgent from an Oregon perspective."

That decision did not seem to sit well with some members of the Washington commission.

In the Washington commission meeting on Jan. 18, after the commission members had been informed about Oregon's decision, Kehoe requested that Washington ask Oregon to reconsider.

"I continue to be disappointed with the decision of the Oregon commission to withdraw from the joint PRC process, and I am still unclear as to how all that came about," Kehoe said during the meeting.

The suspension does come with a caveat. The commissions have agreed to let the two state directors discuss the possibility of changes to the policy for this spring, including the potential allowance of tangle-net fisheries within the main stem of the Columbia during the spring season.

There could also be a shift in the allocation of spring Chinook harvest between the commercial and sport fisheries, which currently stands at 80/20, with the lion's share going to the sport anglers. What has been discussed is a change in that allocation to 70/30.

Sport fishing guide Bob Rees does not like that aspect of the agreement.

"The commission gave guidance that the directors can negotiate between themselves how the allocation will fall out," Rees said. "That is somewhat of a dangerous precedent. It's a bad idea, especially this year, when we are going to have depressed (salmon) returns again."

Jim Wells, of Salmon for All, an Astoria-based organization that advocates for commercial fishing, was unhappy about the suspension.

"Our reaction is that we felt that the PRC committee was the only way for the gillnet fleet to get any kind of fair resolution out of the negotiations going on," Wells said, "so we are very disappointed that it was suspended."

As for the possible reallocation between sport and commercial anglers, Wells said the 20% that the commercial fleet gets is inadequate, and last year that small share caused multiple season closures. Also, there is no wiggle room in the current policy if the run comes in better than expected.

"Even if it's a huge run on the river, we won't get to access any of it," he said, "and that's a crying shame for the consumer."

## Legal challenge to Portland's camping ban fails

By DIRK VANDERHART  
*Oregon Public Broadcasting*

A legal challenge to Portland's ban on public camping saw its latest setback Wednesday, when the Oregon Court of Appeals affirmed a lower court's ruling that the law is constitutional.

In an opinion nearly three years in the making, appeals judges found that a Multnomah County judge acted correctly in 2015 when he declined to dismiss a criminal case against Alexandra Barrett.

Barrett was homeless and facing more than a dozen charges for violating the city's camping ban. She argued the city's ban was unconstitutional because she had nowhere else to go. That's an argument that federal appeals judges have found persuasive recently. But Multnomah County Judge Stephen Bushong ruled Barrett hadn't made her case, and he declined Barrett's motion to dismiss the matter. She was eventually sentenced to 60 days in jail.

In its majority ruling Wednesday, the appeals court found that Barrett's



Oregon Public Broadcasting  
**Portland and other cities have struggled to control public camping.**

cate whether defendant's acts of camping were involuntary acts ... Lacking the record necessary for this as-applied challenge, the trial court did not err in denying the pretrial motion" to dismiss the case.

Lawyers for Portland and Oregon Department of Justice had argued against Barrett's appeal. The woman's attorney, Lindsey Burrows, plans to ask the Oregon Supreme Court to review the ruling.

"The opinion does not resolve the constitutionality of Portland's public camping ordinance," Burrows said in a statement.

The Oregon judges did acknowledge a 2019 opinion by the 9th U.S. Circuit Court of Appeals, which found that a Boise law similar to Portland's could violate the Eighth Amendment if homeless people have no choice but to camp. But Oregon appeals judges noted that they were not bound to follow the 9th Circuit's lead.

The court also did not agree with Barrett's argument that the city's camping ban "wholly prevents homeless persons from residing in or visiting Portland," or

that the city's law ran afoul of state laws dictating what sorts of policies localities can put in place to address camping.

But despite the court's overall decision that Barrett's case had not been mishandled, two judges did voice strong concerns about the constitutionality of the city's law.

In a concurring opinion, Judge Darleen Ortega wrote that "it is not hypothetical that the homeless in Portland are subject to criminal punishment for a circumstance that is, in many cases, beyond their control."

"The city's blanket prohibition of public camping violates the Eighth Amendment when the camping is an unavoidable consequence of being homeless," Ortega wrote. That sentiment was shared by another judge on the court, Steven Powers, but does not have any force of law for the city.

Camping bans such as Portland's have drawn attention around the state, as cities attempt to grapple with a widening housing crisis. Salem passed a similar law last year, but might be on the verge of reconsidering.

## Appeals court rules against rural brewery

By MATEUSZ PERKOWSKI  
*Capital Press*

County governments cannot permit agritourism events in farm zones based solely on how infrequently they occur compared to daily farming activities, according to the Oregon Court of Appeals.

The appeals court has ruled that Yamhill County improperly determined agritourism events at the Wolves & People Farmhouse Brewery near Newberg were incidental and subordinate to the property's commercial hazelnut operation, as required by state land use law.

While the brewery's conditional use permit allows events to be held only 54 days a year, compared to 365 days for farming activities,

the county should have also considered other circumstances in deciding whether agritourism is merely accessory to the main use of hazelnut production, the ruling said.

"Although frequency is one factor in comparing the main and accessory uses, the related concepts of 'incidental' and 'subordinate' reflect a conclusion about predominant use in light of many relevant factors, including the nature, intensity and economic value of the respective uses," according to the ruling.

The Friends of Yamhill County farmland preservation group applauded the ruling, which sets a precedent against "bogus farms" being able to operate for the purpose of agritourism rather than commercial farm production, said Jeff Klein-

man, the group's attorney.

"The concern is the events begin to overwhelm agriculture," he said. "You could have very little agriculture taking place."

Aside from agritourism operations becoming "the tail wagging the dog," popular events can disrupt neighboring farms with noise and traffic, he said. Local governments must look beyond the frequency of events in approving such ventures under the ruling.

"It's important because counties that want to rubber stamp agritourism events won't be able to rely on this calculation," Kleinman said.

Christian DeBenedetti, the brewery's owner, did not participate in the appeal process and could not be reached for comment.

His attorney during earlier land use deliberations,

Dean Alterman, said he expects that Yamhill County will have to reconsider the issue.

"It's clear the case is going back for a second helping," he said.

The county was already ordered to reconsider its approval of the brewery's agritourism events, since Oregon's Land Use Board of Appeals previously determined such activities may not be necessary to support the hazelnut farm, as required under land use law.

Though Friends of Yamhill County prevailed on this point, it challenged LUBA's separate finding that the brewery's agritourism events are incidental and subordinate to farming. The organization argued that basing this decision on the frequency of such activities sets the bar for approval too low.

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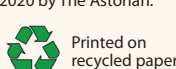
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