

**MINUTES**  
**Joint City of Newport & Lincoln County Planning Commissions**  
**Work Session**  
**City Hall Council Chambers**  
**Monday, February 28, 2011**

**City of Newport Planning Commissioners Present:** Jim Patrick, Mark Fisher, Rod Croteau, Gary East, Glen Small, and John Rehfluss.

**City of Newport Planning Commissioners Absent:** Melanie Sarazin (excused).

**Lincoln County Planning Commission Members Present:** Cris Torp, Andra Bobbitt, Phil Spulnik, Dick Johnson, and Judith Pelletier.

**Lincoln County Planning Commission Members Absent:** Sam Galasso, Mark McMahon, and Steve Morrill.

**City of Newport Citizens Advisory Committee Members Present (in audience):** Dustin Capri and Lisa Mulcahy.

**City of Newport Citizens Advisory Committee Members Absent:** Bill Brannigan (excused).

**City of Newport Staff Present:** Community Development Director (CDD) Derrick Tokos, City Attorney Penelope McCarthy, and Senior Administrative Assistant Wanda Haney.

**Lincoln County Staff Present:** Lincoln County Planning Director Valerie Soilihi.

City of Newport Planning Commission Chair Patrick called the work session to order at 6:00 p.m. and turned the meeting over to CDD Tokos.

**A. New Business.**

1. Progress on Newport Transportation System Plan update & development of alternate mobility standards for South Beach. Tokos noted that John deTar of ODOT and several people from CH<sub>2</sub>M Hill were present to provide an update of where we stand on the Transportation System Plan. Tokos said that the TSP has been ongoing for several years. It started in 2006, and since then we have adopted a TSP for the north side of the community and have extended the government district to South Beach. We have worked through the process of identifying a substantial number of projects for infrastructure improvements in South Beach, including monies invested to the highway system to improve traffic capacity along 101. This is all with the thought of furthering development in South Beach through use of a mobility standard that would allow a higher level of traffic than would otherwise be allowed. Tokos then turned the meeting over to John deTar and the others.

deTar said they wanted to cover the outcome of the work done by Parametrix and CH<sub>2</sub>M Hill. He said that CH<sub>2</sub>M Hill is just beginning; Parametrix did the analysis work. deTar said they wanted to provide background information and where we are headed with this so the members can understand how it will get developed. They will explain what programs we are looking for as we move forward. deTar turned the presentation over to Tim Burkhardt, Project Manager from CH<sub>2</sub>M Hill.

Burkhardt said that he would explain what alternate mobility is, and Ann Sylvester, Transportation Planner and Consultant Engineer, would talk about traffic studies. Burkhardt noted that in their packets the Commissioners had received a copy of the briefing paper. He gave the highlights of why they were here today: 1) Traffic forecasts show severe congestion on 101 in South Beach over the next 20 years; 2) We don't expect to have funds for addressing that fully in the planning period; 3) There is a desire and need for correlation between development and transportation (how demand matches what can do on system); 4) Alternate mobility standards are one way to get there. In explaining what alternate mobility standards are, Burkhardt noted that ODOT measures congestion with volume to capacity standards. An alternate standard relaxes that and allows more congestion. If you know it is coming you can concurrently allow for more traffic than would otherwise be allowed, which allows for more development. It comes with an agreement of how that will happen; the timing of development, where, and amount. He noted that South Beach in particular has the ongoing potential for development, and the city and county want to see that realized. He said that the alternate standard is not allowed in every case. In state rules, they are allowed when severe constraint is in place; and the bridge is a major constraint. In order to get an alternate standard, there is an agreement between ODOT, the city, and the county on how much development will occur over the 20-year period. When that agreement is reached, ODOT notifies the Oregon Transportation Commission of the highway standards. It is a formal action they take. Then the city and county will modify their TSPs to include language to say what that standard is. What this accomplishes is that a predictable environment

for transportation and development is created going forward. It is an attempt to map this out so that it is not a case by case basis as development comes in. At this point, Burkhardt turned the presentation over to Ann Sylvester.

Sylvester noted that the bridge is the big constraint because two lanes of traffic funnel into it. She said we can do improvements to the north and south in the South Beach area over the 20-year period such as highway widening and signals, but there will still be significant congestion. Capacity will be exceeded, particularly in the summer. Sylvester talked about the planning process they went through. They work closely with city staff to assess likely community growth. They figure that about half of the growth will occur in South Beach. They develop traffic forecasts based on these levels. They looked at two land use scenarios. The first scenario is that in full build-out of the area, what could reasonably occur in 20 years. Then the second scenario is scaled back for environmental restrictions, such as wetlands, that could affect development. Assumptions were made for expansion of the HMSC, OCCC, and the aquarium, the addition of NOAA, and more residential and retail development. Summarizing the assumed development, Sylvester gave the breakdown of development in various categories for scenario one and two. Under scenario one, 4300 weekday peak hour trips are added, and 3900 with scenario two. They assume 70% are going north, and 30% are going to the south. She said this requires major improvements. On the overhead, Sylvester presented a map of South Beach showing these improvements. At Pacific Avenue, they changed the configuration allowing right turns in only. At 32<sup>nd</sup>, only right in /right out is allowed, and the signal will be moved farther south to 35<sup>th</sup> to give a greater distance from the bridge. The intersection at Ferry Slip and 101 will be closed. Ash Street will be extended down to 40<sup>th</sup> Street, and 40<sup>th</sup> will be signaled. She noted that creating off-highway connectivity helps highway operation. 50<sup>th</sup> Street will be relocated to the south to line up with the entrance to South Beach State Park, and it will be signalized. At 62<sup>nd</sup>, the intersection will be widened out and stop signs will be added for the side streets. These improvements involve major widening of 101 to two lanes each direction and adding turn lanes. She noted that given all those improvements and the level of traffic we will be seeing, we will still have problems. All signalized intersections would operate above mobility standards even with the improvements. There would be long traffic backup from the bridge with travel speeds of 10 mph in the summer. Off-peak there could be three hour delay. At 40<sup>th</sup> travel would be 15 mph. She noted that the bridge is a very significant constraint. Non-signalized intersections would also see delay. They would be more affected by the constraint of narrowing down going across the bridge. There could be delay in trying to get onto the highway 10-12 hours of the day. The effect of heavy congestion and long delays could diminish the reliability of the transportation system. She said that doesn't mean that development couldn't happen in South Beach. Commissioner Johnson asked what is the form of mobility standards. Sylvester replied that ODOT uses a volume to capacity ratio where they assume the capacity of the intersection in an hour that can get through. That is 100% used at one. The capacity is about 75%-85% for others. At that level, traffic congestion is acceptable. Higher than that is gridlock, which is not acceptable. Commissioner Torp asked about the 11 hour traffic delays. Sylvester explained that means delays during 11 hours. It is over capacity for a long period. With capacity at 100%, there are a couple of hours delay, expanding out in the future to many hours. Torp wondered if there was some flexibility in implementing the mobility standard and whether once the city and county say that is it, if it's locked in. He said it bothers him that they have talked about closing the intersection at Ferry Slip Road where Barrelhead Supply and PUD use that intersection. Commissioner Fisher said that we have a bridge designed to 1935 standards for which there is no alternative at this time. There is no entity working to design the future bridge. He said that he knows it is going to take many years before there is money for it. He would like to see some major entity start doing some work on that. Commissioner East noted that in twenty years, the bridge will be approaching 100 years old. The state should be doing something to think about replacement of the bridge. It will be well beyond the service life, and how much is it going to cost to maintain it. Commissioner Bobbitt wondered where the growth figures are coming from given that the last twenty years population growth in Newport has been relatively flat. Even if the 250 homes and the condos are built, are they just vacation rentals. Sylvester said this is a 20-year forecast. She doesn't completely recall, but she has that information somewhere. What they used was the State of Oregon forecast of county growth. Within Lincoln County, the cities have a share of that forecast. They looked at the countywide population forecast and assumed the share for Newport would be relatively the same. Bobbitt said that we never saw the growth predicted for the last twenty years. Sylvester clarified that it is a combination of background on highway and growth in the community. She said that traffic has grown significantly on the highway.

Burkhardt talked more about what the standard would look like. He noted that alternative mobility standard is relatively new since ODOT has used it. It is in place in Albany, Sandy, and soon in Seaside. They are different but similar in that there is not enough capacity. All alternatives are seeking to create that balance. There are a number of ways to implement that standard. Typically congestion is measured at the intersection. There could be a standard that applies to all 101 in South Beach. The volume to capacity number could be a number somewhere between .75 and .85, and the alternate would be closer to 1, which allows more congestion. There could be one number that applies just to intersections with traffic signals. Torp asked if Burkhardt is saying .75, why we would want to go to 1 to make it more congested. Burkhardt said for growth. It is relatively congested today, and in 20 years will be more so. If that grows out, it trips the transportation system rule for new development, and ODOT has a role in reviewing that development to see if it can be accommodated at ODOT standard. If highway improvement has to be done, someone has to pay for that. On one hand, relaxing the standard allows development to happen. It basically avoids a stalemate when trying to do development where we don't have transportation capacity. It just gives more increment that is allowed. The congestion is not the good thing, it is the flexibility. Torp said that it sounds like you can raise the number for more flexibility in order for development to take place. The bottom line is the congestion is still going to

increase. He said he can't see why playing with the numbers is productive. Burkhardt said we want to improve the system at some point. Basically what ODOT is saying is that they will allow a little more congestion. We don't have the money to fix it. It's acknowledging that the bridge is an issue that needs to be addressed. The reason we are heading down this path is that funding a bridge is not on the table. Johnson wondered if a standard is set at .75, and somebody wants to put in a development that exceeds that, if ODOT can say they can't put it in. Burkhardt said that is what we are trying to avoid by having a standard that allows more congestion, which basically is saying that ODOT will live with the problems. He said that the flip side is that at some point we have to start counting and, if we set standards all the same for the whole area or different, correlate what that means for development. At some point we will use up all development ability. East wondered if the amount of improvement for that construction is based on as a development comes in they do the improvement or a blanket plan that they do within just a certain time frame, and how much is to be paid by developers and how much by the city? Burkhardt said that it's his understanding that the projects shown on the map are proposed to be funded through the Urban Renewal project. At this point, they are not proposing them as an ODOT list of projects. What they are trying to get is an agreement on what the projects are and how they relate to meeting mobility standards. He said he has no answer at this point about funding. Newport Planning Commissioner Rehfuß wondered if development could be turned down if the mobility standards are not changed. Burkhardt said that if we don't make changes, development is reviewed against capacity. If no more capacity is allowed, we will reach those sooner, and more improvements would be required. deTar noted that has already happened at 40<sup>th</sup> Street. There is a trip cap that can be generated. They are trying to work through a better program so that they are not dealing on a development by development basis. They want a more understandable, reliable program that defines what can be done for development to happen. Alternately, additional bridge capacity is still missing, but hopefully in the meantime, this will provide capacity in South Beach as we go so the remaining piece is just the bridge. In that way we can clearly say it's the bridge; everything has been done. That puts us in a better position, and everything is ready for a new bridge. Commissioner Pelletier wondered if this assumes the position of the bridge is the same rather than moving it. deTar said it's a really interesting issue for the state that in the past, the 1997 TSP looked at traffic effects of locating the bridge up the bay where the bridge gets a lot longer. Bridge construction is based on square footage cost; so the longer it gets, the cost increases. He said that while the bridge up the bay might help, traffic has to be brought back to 101 in South Beach; and the problem becomes how to do that. What that study also showed is 101 needs to be four lanes throughout. The context becomes that trips could be reduced with another route, but we still need four lanes on 101 across the bay. A second bridge could be built, but there still needs to be a four-lane bridge on 101.

Lincoln County Planning Director Soilihi asked if the trip cap at 40<sup>th</sup> Street was developed and imposed due to a zone change, and deTar confirmed it was. Soilihi asked if this applies to those developments coming in under current zoning. deTar said it does as to planning adequacy for the proposed use. He said that really all codes require that. As a result, you are back into the same situation. It's not just the TSP rule, it is some of the other development issues that could get brought into it. ODOT's hope is to get a more predictable, reliable product. Burkhardt listed the ways to put this into place. You could have a different standard at each intersection, an interim standard before new projects are constructed, or one that is phased before and after other projects. He said part of the task will be to figure out which of those works the best. He noted that there is a public process involved. He said they are really looking for flexibility that strikes that balance. The more numbers, the harder it is to implement and measure. There needs to be a number aligned and measure at the time of new development and how it is doing against that standard. We need to know what sort of increment they can have before it trips that standard.

deTar gave the project schedule. He said it is about a year's process starting now. There is public involvement beyond the project team meetings, including public open houses. The first open house is planned for April 20<sup>th</sup> for all of those in South Beach who are interested to hear about the problem and what we are looking for. There will be a couple more as the process goes along. They will present the plan, get feedback, prepare the plan and take it to the Oregon Transportation Commission. The project schedule runs into next year.

Fisher wondered just because there is the assumption there is no money, how much money was taken from gas taxes. They haven't gone down. He believes there may be money that could be allocated. deTar said that until January, the state transportation gas tax had not changed since the early 90s. Inflation took away buying power and they saw an increase in cost of materials. Prices are starting to climb back up. The \$0.06 was adopted by the legislature, but the legislature also dedicated funds to certain projects in Oregon. Bonds are issued to pay for projects. What is now in bonds has to be paid back. He said that at this point, their funding is not a particularly rosy one. As a result of the new program, there is a limited amount of money that is not already dedicated. He said there is about \$20 million per year available statewide. Fisher asked if this tax money goes in the general fund or if it stays with transportation. deTar said it stays with transportation. He noted though that the Governor is proposing that state police be funded by the gas tax. He is proposing bringing that service back into the state gas tax program because of the economic condition the state is in.

Burkhardt said a question had been raised if this plan is revisited at a certain level. This plan would be twenty years. Ten years would be a decent time to check in to see if the numbers are right. He said we can't predict the future, so we do want to check in.

Commissioner Patrick wondered what happens if development doesn't occur, but background traffic keeps climbing. He asked if the state is going to step in with money along the line or shut down all development when the standards are hit. deTar said growth along the coast happens. Increased traffic could be based on the potential of development. Because of the highways, there is a certain amount of traffic that just passes through the area. Tourists just pass through. As with many large communities, traffic volume drops off at the edges. It's possible for distances traveled to be based on development occurring elsewhere. He noted that there is a substantial area south of Newport, the Wolf Tree area, that could be developed that could generate trips into this area; as well as traffic from Waldport and Yachats coming north to Highway 20. deTar said ODOT can't say they are hitting capacity at the Yaquina Bay bridge as a result of background traffic. Because there isn't money to address that, they need to think about making the system work as best they can for the city and county. He said they will try to help with funding, but can't promise to build all of 101 as 4-lane way south of the bridge.

CDD Tokos said that he thinks there is some urban renewal money to facilitate growth, and when improvements are made, they will be made as nice as possible. But, he noted that the city doesn't have money to make all of those improvements discussed. The city is looking for the state to be a partner to that. In this process, the state needs to see if funds are reasonably available so maybe these improvements can be made in a more expeditious manner. He said that if the state can't help, then they should expect that maybe some of these improvements won't happen. That is something we will need to talk about. East said that if we want to adjust the trip caps or volume to allow development to come in, the developer could share a reasonable amount of costs for the improvements. He wondered if we want to set caps that are going to be based on improvements being made, or if we can increase the volume to allow some development to be made with the expectations that improvements can be made. deTar said that they have identified five or six approaches. The city and county need to figure out what will work best in this situation. He said ODOT hasn't done an alternate mobility a lot. There are a handful of places where it has been applied, like in Portland or while temporarily waiting for a new intersection to be constructed. They have only recently talked about Seaside, Albany, and Newport. He said that as each one goes forward, they will gain information on how to do it better in the future.

2. Informational Presentation by Aquamarine Power USA, LLC. To introduce Theresa Wisner of Aquamarine Power USA, Soilihi noted that Aquamarine Power has applied to DSL for the temporary installation of devices on the sea floor to collect data in the near shore zone. In this process, Wisner met with Soilihi. Soilihi thought this may lead to future conversations about wave energy and that both jurisdictions need to be involved to discuss if there should be a future in wave energy development off our coast. Wisner said that she is Aquamarine Power's Outreach Coordinator. She has been with the firm for four years. She has background as a commercial fisherman and on a research vessel. Aquamarine Power is based out of Scotland. Wisner noted that Aquamarine Power's wave energy device is called "Oyster" and is specific to their technology. On the overhead, she displayed a picture of Oyster I sitting off the coast of Scotland. Aquamarine Power started in 2003, and they hope to develop commercial Oyster wave farms around the world. Wisner gave the names and background of the company. She explained that the goal of the company was to have a device that displayed survivability, accessibility, and that was cost efficient. On the overhead she showed an animation of Oyster II in operation. She explained that the generator stays on shore. Spent water comes back to the unit in a closed-loop system. In answer to a question from Commissioner Spulnik, Wisner explained the depth for Oyster is in 30-50 feet of water. She said it could be visible offshore; and the higher you are off the ocean, the more it would be visible. Wisner presented a movie of Oyster in operation. She noted that Oyster doesn't care if the area is shut down around it; that would be up to the Coast Guard. East asked what drew them to this particular technology rather than another. Wisner said that it was the survivability and accessibility; they wanted a device near the shore. She said it is a very simple design. If the waves get really big, they flow over the device and the energy doesn't get used by Oyster. The Oyster device is near the shore, and the electrical equipment is all on shore. Wisner said they also wanted cost efficiency, which this is. They can have several Oysters feeding one substation. There is no electromagnetic field. Generation is on shore. She gave the dimensions of the devices. Oyster I is 56 feet long and 33 feet wide. Oyster II is 85 feet long and 39 feet wide. They are at a depth of 35-50 feet. Wisner showed a picture of the generating stage and explained that the actual stage is about 1200 square feet. It is three acres in Scotland, but that is not intended in the US. She noted that it doesn't have to be right on the beach. Wisner noted a renewable energy portfolio that will be going into effect. She said that Central Lincoln has done a good job, but 2% of what is generated will have to be from a renewable energy source. She said, therefore, they are hoping that Central Lincoln could use Oyster. Wisner said they are in the process of finalizing their lease request. They are interested in getting stakeholders' input. They have given the maps to DSL, and were told the area was extremely large and that they need to cut back on the request. They are working with a stakeholder group to reduce the area they are looking at. Then they will put in a lease agreement with DSL again. She said that hopefully by June they will be able to put in the Acoustic Doppler Current Profilers (ADCPs), which are about the size of a kitchen table and are fixed to the sea floor. Aquamarine Power will continue community outreach, conduct environmental studies, and go through the permitting process. They will have to take maps back to DSL, in which the acres will be reduced. They would like to have a demonstration project by 2013. They want a 20-Oyster area. Fisher asked how much power an Oyster would generate, and Wisner said 800 KW. A farm of twenty will do 12,000 homes. Commissioner Croteau asked if twenty units is one onshore facility, and Wisner confirmed it was. Bobbitt asked if the Oyster is successfully working in Scotland. Wisner replied that there is only one in the water, which was a test. She thinks the highest wave there was 40 feet. Bobbitt asked if the Oyster is in a scenic portion of the Scotland coast, and Wisner said the photographs show it is very scenic. In answer to a question from Torp, Wisner explained

that since the Oysters are staggered one location would be about 1700 feet she believed. As far as presenting this to the Coast Guard, Wisner said she has talked to them about their training grounds out there. Torp said that Newport seems like a logical location, but wondered how far away from Newport they would need to be. Wisner said that when they looked for places to put the devices, one criterion was the proximity to where Central Lincoln PUD could access the power; and there are seven spots they could interconnect. In answer to a question raised by Pelletier, Wisner said that the devices could not be within the marine reserves. Spulnik asked if it is DSL that they would get permission from, and not the county or city. Wisner explained that there is a form for county approval. She has been in contact with the county. There is involvement, but not now. Three miles off the coast, the state has jurisdiction. Soilihi said the application includes a city/county affidavit, which we call LUCS. The form gives several options to choose from; that it's not regulated by local comprehensive plan and zoning, that it has been reviewed and is consistent with the comprehensive plan and zoning, that it is not compatible, or that the consistency with local planning cannot be determined at this point. What Aquamarine Power is facing with this application is that they are in discussion with a lot of different agencies. Soilihi noted that Goal 19 for ocean resources is called out in Lincoln County's comprehensive code, but doesn't address things like aesthetics. Goal 17 for shorelands does. It's covered on the land side, but is not specifically called out on the ocean side. This has been worked on at the state level. DLCD is working on special planning for the territorial sea, which is 3 miles off the coast. Clatsop County decided to move forward and develop Goal 19 and their plan. The question comes up about jurisdiction between the state and local governments. Soilihi thinks it's something that needs to be worked on together. There could be impacts for a lot of different stakeholders. Torp noted that they will likely need conditional use permits and zoning for the facilities on the ground. Fisher agreed there would be a lot of government entities affected. He mentioned the Corp of Engineers because dredge spoils are laid out there; and he said there are a number of fishermen. Fisher asked the opinion of Bob Eder, a fisherman that was in the audience. Eder said that this will go on the ground where they fish for crab. He said that he thinks it is a plus that there is no electricity in the water. He said we need to learn about how it affects the sediment transport on beaches. Commissioner Small asked if there has been a study on sediment transport. Wisner said there has been in Scotland, but she doesn't have the results. She doesn't know if that would be applicable here. Part of the studies would involve modeling on sediment transport. East asked if there is any place else a series of these will be placed. Wisner said they are looking at northern Ireland, Washington, and California. The best place is where there is a large expanse of open ocean coming before the devices. Oregon is one of the best. Croteau asked if so far there is only one in the water, and Wisner confirmed that is the case. Patrick wondered if there were any studies on how it affects erosion. Wisner said she thought that is part of the sediment transport, but she wasn't sure and could check that. Wisner said that 30% of power is available to the grid.

Onno Husing, Director of OCZMA, who was attending in the audience, said that he has been involved with this issue. He said it started in 2006 with another wave energy company out of southern California. They looked, but encountered severe conflicts with the crabbing industry. Coastal communities wanted the state to do an ocean plan. Data has been collected, and they are about to do the plan. That will probably kick off in May. Husing said the Planning Commissions are standing at the threshold of the state planning process, and he was urging the Commissions to provide a recommendation to the city council and county commission that indeed local governments engage this in a big way. He said we have a tremendous opportunity to shape how this happens. He noted that this is one of the first evenings Wisner has spent talking to local governments. He said there needs to be a group formed in this county. We need to engage now. We need to determine where to go and what kind of devices can be used. He said there is so much room in the ocean to figure out renewal energy. He asked the Commissions to please forward to the City Council and the County Commission that you want to be involved. This should involve one or two meetings this summer and three to four in the fall to look at this data. Spulnik agreed that we not only need to be engaged in planning for the ocean but also the surrounding mountains. He said we need an energy policy of some kind. Husing was glad that Spulnik said that, because he said that is the next thing. Husing said that we need to expand this discussion. We need each utility to start working with people. He said we have a marvelous opportunity to be engaged in this. It is a win/win. Expand the discussion. People need to understand what is being proposed. All Aquamarine Power is asking at this point is just to put the test buoys out there. The bigger discussion is whether they should be near Newport. He believes that they are looking at a farm in South Beach and off Moolack Beach. The community needs to have an opportunity to wrap their minds around this. He said that Aquamarine Power is looking for outreach. Pelletier asked how the majority of the fishermen think. Eder, speaking from the audience, said they feel threatened. It is compressing their ground along with marine-protected ground. He said that the fishermen in Newport have been very supportive of the marine center through OSU. They have had extensive discussion and are ready to give up a square nautical mile. He said, but who doesn't support alternative renewal energy. Chris Chandler-Ditorrice with Central Lincoln PUD, who was in the audience, noted that using renewal energy sources is a requirement not an option. She said that 95% is already carbon free; but this is a law they have been given. There is 1-2 million that will have to come from new renewable sources by 2025. Fisher said that the timber industry has been regulated almost to death. He sees this taken against fishermen. We have tourist industry here. Now we have this new industry that wants to do something. Fisher said that he would like this new industry to succeed, but he doesn't want to hurt the fishing industry. Chandler-Ditorrice noted that there are people that actually go to see the wind turbines, and these wave devices might create unique interest. People might be interested to see what these things look like and how they work. She said Central Lincoln is not just advocating for wave energy, but it is a possibility. Another audience member said that he is concerned that he wants this to work right and work right from the beginning. He mentioned abandoned wave energy devices in Hawaii. He said that he doesn't hear discussion about the very thing that planning commissions deal with, which is basic standards. You

have the opportunity to be in the forefront of creating workable standards. You can determine what the result of the business must or must not be simply by putting together more placement standards. If this starts to fail, it specifies that they will recover it within a certain amount of time. Will they have to recover all of it or all but the driven portion? Do they have buoys so they don't move. What is the watch circle? What is the time frame if these things move to respond to that item? He said that the Commissions have the opportunity to start with these thoughts and how they are going to do this. He said to think about the farms. If those start failing, and we don't have a performance standard and recovery standards, what is the discussion going to be like with this company. If it's becoming a nuisance, how do you get their attention? He said that there needs to be something in place in the beginning. He said that the city and county can say to DSL that we support this lease, but with these conditions that we feel are important. He said the Commissions should think about the same things you think of when looking at housing developments. Before you allow someone to put in a house, you look at the foundation. He said not to look at the technology until you look at how it will be placed on the ocean floor and how we can require them to respond if that technology becomes a problem.

Charlie Plybon, with the Surfrider Foundation, was in the audience and said that he was speaking on behalf of ocean recreational users. He said recreation needs to be considered in planning and siting these areas. He said it seems premature to move forward with siting these areas before that planning process and design is finished. Issues can be prevented with design standards. The Surfriders have been participating as stakeholders. They helped with the mapping so the areas won't conflict with recreational use. He said that he feels we need to wait on siting these areas until the work is done by the stakeholders. He said that there needs to be a way for local planning entities to engage and have public engagement. It is critical that this group gets involved now so we can demonstrate that we have an interest and gather stakeholders to carry out public involvement. Wisner said that whatever they put in, they have said they will go under the Territorial Sea Plan. She explained that the reason they would like to go ahead and do the study is that it takes a long time (18-24 months). She said that it is worth the expense. She added that they are fully aware of the interests they need to protect. She said they are willing to take that risk.

Husing said more people will be willing to join in. He said that the Surfriders are pleased to be part of a team. He suggested approaching the Chamber. You have the ability to influence what the state does with the state territorial sea. The on-shore development will be falling into the city's and county's hands. You won't be alone in this. A number of people will be pleased to join. He thought that Lincoln County needs to approach Waldport and Yachats as well.

Bobbit asked if the county want to visit these plans and get engaged, do they have to have a work session in the summer. What is needed from them? Soilihi said just an expression of willingness and interest, recognizing the importance of having a public process. She said that the county needs to go back and look at their comprehensive plan and go from there.

Patrick thought we need to set up a working group. He would like to see Lincoln County take a lead on it and would like it to include some of the stakeholders attending tonight. Patrick questioned how much we will be spinning our wheels. The state has jurisdiction from the beach out, so what can we do?

Husing said this group is the authority when the energy comes to shore. Certain areas are exclusively your call. Standards will primarily happen through DSL. You can influence the process. Pelletier asked Husing if OPAC has engineers to look at this. Husing said the DSL is the leaseholder. After their research, Aquamarine will be putting in farms. DSL will have a sense of the operation, and the lease will lay that out. He said that hopefully there will be other similarly-situated groups along the coast working on this. He said that next spring, we could be on track to have this all done.

Fisher said that obviously this will keep coming back. This is the third time he has seen it. Someday a group will have to get together and work this through to completion. He said if this is what we want and we can make it fit, then okay. Patrick said that we will have to build generic standards. He said we have to have something. The point is taken. Husing said the first question is where to put them. Fisher said that if there is a way to do one of these farms and maintain what we have, he is in favor.

Reh fuss wondered what the city council's position is. Tokos said that one step is to make recommendation to the City Council that the city gets engaged too in a manner partnering with other jurisdictions along the coast. Let them know that it is important that the city gets involved in state planning because it is important that these types of standards be put in place. Tokos said the next step is for the Planning Commission to make that kind of recommendation to the council. He noted that the Council hasn't seen this presentation. Soilihi said the county will follow the same thing for their commissioners. Patrick noted that there will have to be a public process.

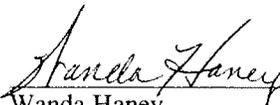
**B. Unfinished Business. (this agenda item pertained to the Newport Planning Commission only)**

1. Further review of public records, meetings, and Oregon Ethics Law. City Attorney McCarthy was covering this with the City Planning Commission. Regarding public meetings, McCarthy noted that the Attorney General is responsible for enforcing public meeting laws. She showed the Attorney General's Public Meeting Law book. She described it as very thorough and is

the "Bible". She noted that the commission and task forces need to follow public meeting and records law. If the committee is just doing research, they don't. But if they are making a recommendation or a decision, they need to comply. She said that a group can have regular meetings, special meetings, and executive meeting. They all have to be noticed at least three days prior and need to be posted in three places and sent out to the press. The agendas have to have some specificity in what is being covered. She said that if the commission goes into executive session, you have to be extremely careful. There is a very limited range of issues that you can go into executive session on. If during the meeting, there is a reason to go into executive session, you can do so without notice; but you have to site the specific reason. You have to vote to go into executive session and vote to come out. All votes during a meeting have to be on the record. The public participates in meetings, but don't necessarily have the right to comment. It is up to the commission. You don't have that obligation unless it's required under land use law. It's up to the chair. It is also up to the chair to manage meetings. Regarding public records, McCarthy advised to be careful with emails. She said the only thing to use email for is to discuss the day and time of a meeting. She advised not to talk about issues, don't deliberate, and don't vote. By doing that, a public meeting is created. You can get a quorum by sending emails back and forth. She suggested that if the commissioners want to discuss an issue, pick up the phone and talk with them; or talk with Tokos and have him deal with it. You can create a public record. McCarthy said when the city gets a records request, you have to give us what you have. You can't destroy public records. Whatever you have on your computer is a public record. Tokos said that if he distributes something to the commissioners for feedback, and they respond, just send it to Tokos; don't copy everybody. He said that is perfectly fine and is an effective tool. But, don't "reply all". McCarthy said that for public records, there are very few exceptions in terms of what you can carve out of public records. She said that whatever you do is public record. Hand written notes, journals, emails, documents, videos, and phone messages are all public records. She warned being careful with what you are creating. You must keep what you generated yourself, not those records generated by other people. McCarthy noted that having less than a quorum together is not a problem; but it gets into public perception, so be careful. She briefly discussed and answered some questions about ex parte contact. Tokos' advice is on quasi judicial actions not to talk to anybody involved. You are serving as a judge. There is more leeway with legislative actions. McCarthy showed the Guide for Public Officials, which was updated in 2010. She noted that the commissioners are public officials and have to comply with the law. The commissioners have the requirement to complete the interest statement. She said for any questions, the commissioners should contact the Ethics Committee. She said the Ethics Committee is very helpful.

C. **Adjournment.** Having no further time, the work session meeting adjourned at 8:45 p.m.

Respectfully submitted,

  
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Wanda Haney  
Senior Administrative Assistant