

MINUTES
City of Newport Planning Commission
Work Session
Newport City Hall Conference Room 'A'
Monday, March 11, 2013

Planning Commissioners Present: Bill Branigan, Gary East, Mark Fisher, Jim Patrick, Rod Croteau, and Jim McIntyre.

Planning Commissioners Absent: Glen Small (*excused*).

Citizens Advisory Committee Members Present: Lee Hardy, Suzanne Dalton, and Bob Berman

City Staff Present: Community Development Director (CDD) Derrick Tokos and Executive Assistant Wanda Haney.

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

A. New Business.

1. Review of agreements with Community Services Consortium (CSC) and Lincoln Community Land Trust (LCLT) or workforce housing for action at regular session. Tokos explained that there are two agreements; one with the LCLT and one with CSC; but primarily with the Trust. He noted that the Commission had talked briefly about this at work session at the end of January. The draft agreements provide a detailed outline. He noted that the recitals explain why we are doing this and establish the provisions of the contract. He noted that housing is a significant element of our Comprehensive Plan. The City has an obligation to facilitate and ensure that there are certain types of housing in the community; and workforce is one that came out of the study. The contract indicates that the revolving fund is a piece, and the land bank is another piece of it. It identifies that the Trust is a certified nonprofit. The agreement notes that it is the desire of the City to limit the contract to 5 years for the purpose of constructing at least 6 owner-occupied units. Then the agreement has a purpose statement and goes through the terms of the agreement. The normal term of the agreement is one year with annual reviews, except for section 9 and 10 that would extend beyond the normal timeframe and is outside the scope of this. Tokos said that he could change the wording on the "Whereas" to read "to a period up to 5 years". Also McIntyre pointed out a misspelling to Tokos that he will correct.

Dalton had a question on page 3 under Item No. 7 (Compensation) (A). She wondered whether 5% increase for each year is standard for City of Newport employees. Tokos said that when you add a step increase and a cost of living increase, you will be getting close to that. She wondered if someone doing a contract service would get a step increase. Fisher wondered how they came up with that wage. Tokos said that he could push the Trust on that. He said they have other sources of funds. Berman asked if they still have to provide services even if they exceed the \$10,000. Tokos said they have a half-time executive director, and that is who would be providing these services. He noted that there is a full range of services listed in the contract. Everything listed under Number 5 is what we are paying for. Fisher said that maybe \$47.50 is little for the experience and skills required for the person doing the job, but he wondered if there isn't a better way of doing the compensation. Tokos said that maybe this needs to be tweaked. He noted that this isn't going to the City Council on the 18th. CSC still has issues they are working out. Tokos said that from his perspective, a "not to exceed amount" from the City and a list of deliverables we get for that would be adequate. He said that he prefers not having to do detailed accounting on this. He prefers saying "here is your \$10,000" and hold them to what they have agreed to deliver to us. Tokos said that he can go back to them and say we don't want to get into this type of detail in terms of hourly rate. Rather, "here is a lump sum to use as you see fit, however this is what you are giving us for that." He said that is quite possibly how this would play out. The Trust may use the money for general administrative stuff and not specifically for a use. They may choose to roll their executive's time into the cost of the house. That is acceptable as long as they get it sold within the 60 to 120% of MFI. Tokos gave an example that they may bid construction out at \$135,000 and roll \$10,000 into that and sell it for \$145,000 within the range and get the director's time out of the sale. Then \$135,000 comes back into the revolving loan, which is what they borrowed from the City to cover construction costs. Dalton thought it would be wise to do the \$10,000 limit and avoid the kind of questions the committee had just asked. Fisher agreed with giving them a list of tasks we are requiring for "X" amount of money. Berman agreed that it would be easier for the City if we don't have to audit those bills. We don't care so much about that as long as they are producing what we want. Tokos will get back to the Trust on that. Branigan asked that if someone

qualifies and buys a house, if they can sublease it out. McIntyre noted that there is a reversion clause, and it states it is owner-occupied. East said that they can't turn it into an income source. Tokos said that we have a reversionary clause that gets to the Statute for when a city can sell its property. It has to be used for affordable housing for 20 years. It says if they don't do that, it comes back to the City. That's noted under numbers 6 and 9. Hardy asked what happens if that person gets a big raise and goes above that income level. She wondered if they then have to sell. The thought was that it is based on the initial qualification. Tokos noted that they can sell under a restriction of 2% per year. The individual or family purchasing from them would have to qualify by being in that income range.

Tokos noted that the land trust model isn't a new thing. There is a large one in the Portland area. He said that part of this is how much into the workings of this the City wants to get and how much to leave to the nonprofit organization that is in this business. The way this is set up, the City doesn't have a particularly active role once the land transfers; but up until it is sold, we have a pretty active role. Once the land is sold, it transfers into the Trust's inventory. We don't have a mechanism at that point unless the reversionary clause kicks in; then we can take the property back. He thought that is enough of a hammer to get their attention. The Trust could move these houses into another group. Say Habitat for Humanity takes over for the Trust; there is nothing preventing that. Once the house is built, it can be transferred to another housing entity without violating the agreement as long as it remains in the income range. After 20 years, they could turn around and do anything with it. Croteau agreed that it is a pretty big hammer for it not to revert back to the City because the property would be more valuable with a structure on it. Tokos noted that, regarding taxes, the properties in inventory right now are not generating any taxes because they are City property. So we will be getting property taxes back over 20 years; therefore, it is not fully a give-away. It will generate some tax revenue, so there is some value above and beyond workforce housing. He said that these lots could maybe be sold for something more valuable, but we have a workforce housing objective. McIntyre asked who receives the money from the lease. Tokos said that the Trust does, but the lease payment is pretty modest. He thinks they just do a token rate of something like \$50-\$100 a month or something of that nature because they don't want the lease to be a burden on the buyer. The Trust has a hammer with the lease. Tokos said the Trust needs to generate something from the lease to build it up. McIntyre noted that the Trust's income has to equal what their costs are. They have to show they are putting it into operational or maintenance costs. Tokos said that the Trust only has three homes right now, and right now the lease payment goes into their operational coffers so they can function. McIntyre asked if CSC is being paid by LCLT to act as managers for the Trust. Tokos said CSC staffs the Trust. He said he would look into if the lease payment can be adjusted upon sale. He said that they may have an adjustment when the unit is sold to bring the payment up current with how the median family income is growing. Tokos said three years into this, a decision may be made that this isn't working out. That is why there is the annual look at it.

Tokos noted that the rest of the content of the agreement gets into the standard contract stuff. Tokos said that the City has about \$180,000 sitting in that revolving loan fund that would be dedicated at this point. \$30,000 could be used for one-time site improvements. Some of these properties would require site improvements. There is enough money for one house at a time. One has to be done and sold before the next one can start. He thought that six within five years is achievable. He said it is possible that one of the builds could be a duplex or something. It could be a small townhouse development even.

McIntyre had a question on the NE 6th Street property and the original purpose was for SE 5th Street extension. Tokos said the thought was that 5th Street would come through about here, but ultimately the City decided that wasn't going to work. NE 6th Street will tie up with Yaquina Heights. The property is not needed for road purposes any more. He noted that the northeast portion of this property is buildable, but it has some slope constraints. He said the easiest to build on are right across the street from City Hall. Some of that was obtained for when the City put in Hatfield Drive and some was intended for overflow parking. The street is built and we wouldn't want people crossing the street because of the danger. Tokos noted that those properties on Klamath Place are severely sloped. Those were picked up because the City helped finance the original subdivision. They were foreclosed on, and we sold most of the lots. He noted that the Iler Street and 7th properties were largely intended to extend Harney Street. There is more property than needed for road extension. Now it is non-compacted fill that we would have to deal with. He said that the Grove Street property is the least developable of the bunch. It contains steep slopes. The road right-of-way is flat. At NE 10th Street there is room for one unit. The western-most side would be buildable; but there are access challenges. The High Street properties are quite developable. They are between the County building and the residential properties to the West. There is residential

zoning right next to it. Tokos said he put this list together to show that realistically the City has properties available for this purpose; but it is not intended to say that every one of these lots needs a house.

Tokos said the agreement with CSC, although stricter, is almost identical. He noted that there is the same issue in this agreement with the compensation. Berman noted that under Compensation Number 7(A), item 'iii' is redundant. Tokos said that he would get rid of all three of those under 'A'. He noted that these agreements are still under review by legal counsel. What he is looking for from the Commission tonight is if conceptually this looks okay. He said what lands in front of the City Council may look slightly different, but not substantially. If it ends up looking substantially different, Tokos would bring it back to the Planning Commission. The consensus was that it is a great idea, and it's being done right. It has the proper controls on it. Tokos said that the RFPs and contractor selection will all be handled by the Trust.

2. Discussion of FEMA Risk Map update. Tokos wanted to make sure that the Commissioners had the email regarding the FEMA maps. He noted that pretty significant changes are coming; particularly along the coastline and with settlement of the Endangered Species Act litigation where FEMA lost and are in the process of settling about how we implement flood plain regulations. That process has been pushed back a little bit. We can look at getting the preliminary maps in June 2014 and it becoming effective in May 2015. We would have to be updating flood plain information. We are passing this along to the public; we don't have the ability to do something about federal regulations. We don't have a lot of flexibility. We have to adopt the changes or the community becomes eligible for not getting flood insurance. Croteau asked if we need to do formal adoption of this, and Tokos confirmed that we do. Tokos said that we do get periodic updates from FEMA. All jurisdictions met with FEMA and DOGAMI once or twice. The maps aren't put out yet; at this point they are just sharing the methodology.

3. Discussion of Council Goals and Priorities. Tokos said that the City Council took a pretty hands-off approach on goals and left it to the departments to convey what the progress has been on current goals and how that relates to subsequent action. He noted that we had talked before the City Council meeting about what things the Commissioners desired to be working on; and those are on the list. Tokos wanted to run through the goals, particularly the 2013-14 goals, to see what might be high priority to the Commission. He noted that the ongoing goals are the same as last year. He read through the fiscal year 2013-14 list of goals. When he came to Safe Haven Hill, he noted that the City has done a fair amount of geotechnical work on that; but FEMA said that if we want money, we need to do additional geotechnical work. They want a more concrete analysis with respect to whether that hill is likely to withstand a worst-case tsunami or whether a portion might subside. The geo-tech will do more drilling for ground water testing at the hill. There will be detailed engineering drawings. FEMA wants the geotechnical eliminated up front. They will cover 75% of the cost. They also want a benefit cost analysis performed per their specs. There is a summary they require, and a separate consultant is working on that. FEMA is paying \$0.75 on the dollar. Assuming things come in as we think they will, then FEMA will release Phase 2 construction funds. Foundation Engineering is doing the geotechnical work. When asked where the other \$0.25 is coming from, Tokos said largely what we already spent for geotechnical work is it because we have already spent that and get credit for it. Staff time can also be counted as in-kind. There is no alternative to Safe Haven Hill. That is why the City did some interim improvements there for basic accessibility to the top. Tokos said with this we would get multi-purpose paths extended, conduit up to the top, maybe do LED lighting, and have a concrete pad and possibly a storage shed. Tokos noted that item 'F' is one that the Commissioners asked for specifically (code updates for accessory units and park models). He noted that the City has actually started on item 'M' (preplanning with ODOT for Yaquina Bay Bridge). At least conversation with ODOT has begun; and they are determining how much funding they can provide next year.

Branigan asked about Teevin Bros. Tokos noted that a decision on the TIA is out. An appeal would show up before the Planning Commission at the second meeting in April. He said that the use is not an issue. If an appeal is filed, they will throw darts at the TIA. If it ends up there, the City Council is likely to deal with it on the record. Because an evidentiary hearing hasn't been held yet, the first appeal to the Planning Commission has to be *de novo*. The second hearing has to be on the record unless the City Council determines that new evidence has been introduced that warrants a new hearing. We probably don't have enough time for all new hearings within the 120 days. Croteau wondered what the Commission will be looking at. Tokos said the Commission would get an alternative traffic analysis. He said it is likely that we get some competing technical information from a second engineer, and the Commission will hear from the City Engineer as well. Tokos said that he received 89 comment letters. A lot didn't have anything to do with the process. Some are in favor and some are opposed. A lot of

comments weren't relevant to the criteria. Tokos said that the Commission could set a hard three minutes per person for oral testimony, and you can express that if it is repeat testimony to just have the first person say it and indicate they agree. Croteau asked if there wasn't a meeting coming up on the 19th at OCCC that is just for information and not taking testimony. Tokos confirmed that and noted that the City Council doesn't want to be in a position where they are taking testimony when it may be before them in an appeal hearing. Tokos said that the Commissioners are welcome to attend at OCCC and listen but be cautious about saying anything on the record. Tokos said there are strong feelings; both in favor and in opposition of the project.

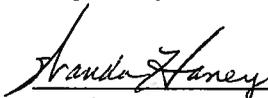
Tokos said that he told the City Council that involving citizens picks up a lot of things that aren't on the list. Tokos asked the Commissioners if they felt that any of the items 'A' through 'M' should have priority or if they were comfortable just letting them move along as they will. Croteau thought we should do something with the bridge as soon as we find out how willing ODOT is to participate. The other one he would like to see the Commission deal with soon is accessory units and park models. Patrick wondered what the timeline was on the Nye Beach Design Review Overlay. Tokos said that sometime in the next year it has to be looked at. He said that his advice is just have a conversation about how it is working and see if any changes need to be made. Berman thought that 'B' could be lower than second. He thought that if the UGB amendment goes through then PWD Gross should be able to proceed whether the reservoirs were annexed or not. Tokos noted that the property has to actually be annexed to get it under City jurisdiction. All the UGB expansion does is allows the City to annex it and put it under public zoning. Until it is pulled into the City, it is still under County T-C zoning. Patrick noted that what would be annexed would be the city-owned properties.

Answering a question about what 'A' under the 1-5 year goals meant, Tokos said that the department is operating very lean. He has held a Senior Planning position vacant for a period of time. There is an opportunity for us to do some more substantial restructuring. Also, the Building Official is working post-retirement on a part-time basis; and he is likely to fully retire. As he makes that decision, the City needs to be strategic on how to move forward with that position. Will we have a full-time building official or fully contract that out.

Patrick noted that we adopted a tree ordinance, and on 3rd Street trees were planted under the power lines. Tokos will talk to Public Works about it.

B. Adjournment. Having no further discussion, the work session meeting adjourned at 6:59 p.m.

Respectfully submitted,



Wanda Haney
Executive Assistant