

Minutes
City of Newport Planning Commission
Regular Session
Newport City Hall Council Chambers
Monday, April 22, 2013

Commissioners Present: Jim Patrick, Jim McIntyre, Glen Small, Mark Fisher, Bill Branigan, and Gary East (*arrived at 6:11 p.m.*).

Commissioners Absent: Rod Croteau (*excused*).

City Staff Present: Community Development Director Derrick Tokos, Public Works Director/City Engineer Tim Gross, and Executive Assistant Wanda Haney.

A. Roll Call. Chair Patrick called the meeting to order in the Council Chambers of Newport City Hall at 6:00 p.m. On roll call, McIntyre, Small, Patrick, Fisher, and Branigan were present; East didn't arrive until 6:11 p.m., and Croteau was absent but excused.

B. Approval of Minutes.

1. Approval of the Planning Commission work session and regular session meeting minutes of March 25, 2013, and the work session minutes of April 8, 2013.

MOTION was made by Commissioner Fisher, seconded by Commissioner McIntyre, to approve the Planning Commission minutes as presented. The motion carried unanimously in a voice vote.

C. Citizen/Public Comment. No comments on non-agenda items.

D. Consent Calendar. Nothing on the consent calendar.

E. Public Hearings.

Quasi-Judicial Actions:

1. **File No. 1-TIA-13-A:** *De novo* hearing on an appeal of the Community Development Director's decision of approval of a Traffic Impact Analysis (TIA) regarding SE Moore Drive (aka John Moore Road) and SE Bay Boulevard submitted by Teevin Bros. Land and Timber Co., LLC for a proposed log yard at 1650 SE Bay Blvd (Tax Assessor's Map 11-11-09-D, Tax Lots 100 & 101).

Chair Patrick opened the public hearing portion of the meeting at 6:02 p.m. by noting that this is a quasi-judicial hearing, and the proceedings are the same as in a court room. He read the summary of File 1-TIA-13-A from the agenda. Patrick asked the Commissioners for declarations of conflicts of interest, bias, ex parte contacts, or site visits. Fisher noted that this facility was used as a log yard when he was on the Port Commission for 8 1/2 years. He stated that he has not been on the Commission for six years. He hasn't talked to Teevin Brothers or the Port about this project. He has had no contacts about the project. He has read the articles in the newspaper and those comments provided by the public; but he has not studied those that the Commission just now received. Fisher said that he would be able to hear this matter without bias. He does have questions of his own. He wouldn't take either side. McIntyre declared a site visit. Branigan stated that he has not been to the international terminal site itself, but he has traveled these roads and is familiar with them. Patrick declared that he has read what was in the newspapers and on the websites. Patrick asked for objections to any of the Commissioners or the Commission as a whole hearing this matter; and none were heard. He read the land use statement and called for the staff report.

Tokos introduced information that was received up to 5:00 p.m. that the Planning Commission will have as part of the record. These included Exhibits H-1 through H-15, and Tokos went through the list and identified each exhibit. He noted that they are all in the record and noted that the entire case file was available at the hearing as well. As a point of reference, Tokos had displayed on the overhead screen the map of the traveled route that is Figure 7 from the TIA. He noted that the staff decision serves as the staff report, but that he would go through the approval standards and how they were addressed in the decision. He noted that the City Engineer was present and could answer questions as well.

At 6:11 p.m. Commissioner East joined the meeting. Patrick asked East for declarations of conflicts of interest, bias, ex parte contacts, or site visits; which East had none. Patrick asked the audience if there were any objections to East hearing this matter; and none were heard.

Tokos continued by noting that the approval standards are found in Chapter 14.45 of the Newport Municipal Code. Under Section 14.45.010, there are a number of different triggers for a TIA in the code. In this case, it was that the proposal may increase the use of any adjacent street by 10 or more vehicles that exceed 26,000 pound gross vehicle weight. Section 14.45.020 includes what should be submitted as part of the TIA. First is a pre-application conference. On November 30th the Kittelson and Associates' representative met with the City Engineer, and a copy is attached with the decision. The standard that the TIA shall be prepared by an Oregon Registered Professional Engineer was met because Diego Arguea is a registered engineer for Kittelson, and the supplemental study by Stuntzner Engineering and Forestry was done by Ralph Dunham, who is also a registered engineer. The third requirement pertains to typical average daily trips and peak hour trips, which can be determined either with the ITE manual, or it also allows whatever is approved by the city engineer. Documents approved by the city engineer are in the staff analysis. Requirement 'D' regarding intersection-level analysis is documented in the staff decision. 'E' is about Transportation Planning Rule compliance, which is when the City makes an amendment to land use regulation. This is not required in this case because there are no amendments needed. This is I-3 zoning where a log yard is a permitted use. This is documented in the decision. 'F' is about the structural conditions. The road was assessed by Kittelson and supplementally by Stuntzner Engineering and found to be adequate for truck traffic. Tokos assumes that the applicant may submit a supplemental TIA to address the useful life issue, which again likely leads to the same result. Requirement 'G' applies when there is heavy truck traffic. Kittelson and Associates and Stuntzner Engineering evaluated the whole route; so this was accomplished and documented. Section 14.45.030 addresses the study area and defines the area that needs to be evaluated in the report. This analysis was provided and documented and is discussed in the staff decision. Section 14.45.040 provides that if the TIA is submitted with another type of review, how it is evaluated will follow that process; if the TIA is by itself, it is handled as a Type II action with the initial decision by the Community Development Director (CDD). This TIA was submitted by itself, and the decision was made by the CDD. Section 14.45.050 provides the criteria. Criterion 'A' requires the TIA study to contain elements listed in 14.45.020. As noted, all information was submitted. 'B' requires that the TIA demonstrate that adequate transportation facilities exist to serve the development or mitigation measures satisfactory to the City Engineer are identified. This is addressed in the TIA and in the staff decision. Core samples are documented in those reports. There was an exception by the City Engineer for a small section of Yaquina Bay Road east of Vista where there is some settling that needs to be addressed. That area is under County jurisdiction, and Teevin Bros. should coordinate with the County to ensure repair of that road section. Criterion 'C' only pertains to changes to the Comprehensive Plan or land use regulation, which there are none. This is an I-3 zone where the log yard use is allowed. 'D' requires that the TIA establish that the City's Level of Service standards have been met and that the development will not cause excessive queuing as determined in the City Engineer's sole discretion. The City has not adopted standards, and the City Engineer determined that that standard has been satisfied. The last criterion deals with standards of proposed public improvements. In this case, there are none proposed. Section 14.45.060 provides that the City may impose conditions of approval if needed to meet operations, structural, and safety standards. The following conditions were noted in the decision: repair of the localized settling on Yaquina Bay Road, and also removing vegetation that restricts site at the entry to the property. Section 14.45.070 deals with fees in lieu of, which provides that if frontage improvements are required, the City allows them to pay a fee to cover those until the improvements are made. In this case, there are no frontage improvements required.

Tokos said that other issues were raised and are discussed in the staff decision even though they are not related to the standards of approval and are not relevant to the TIA. One was the designation of truck routes, and the City is not obligated by statute to designate truck routes. The issue about geologic hazards was discussed in the decision, but also is not relevant to the TIA. There were arguments made that the geologic hazards requirements should apply as in a subdivision. They do not, because the applicant is not dividing property. Vegetation removal and road repairs are exempt. Vehicle traffic does not trigger review of a geologic report. Tokos noted that Teevin's safety record has been brought up but is not relevant to approval of the TIA. The issue raised about the satisfaction of ODOT requirements is addressed in the staff decision as well. The TIA is required by the City, not ODOT. The project does not access directly onto a State facility; so therefore ODOT standards are not applicable in this case.

Fisher asked if the governmental bodies involved in this would be the State for Highway 20, the City for John Moore Road and Bay Boulevard, and the County for Bay Road. Regarding the actual structure requirements for the roadbed, the amount of rock, concrete, and blacktop would clearly be identified by those bodies; and if in fact it was not adequate, any one of those could require some upgrade. Tokos said that ODOT at Highway 20 could require that the applicant apply for a permit if required under their statutes. In this case they have not asked the applicant to do anything. The county received notice and had the opportunity to participate. If they had any concerns, they would have raised those in this process. If the City Engineer felt that the road was inadequate, that would have been raised in this process.

Branigan noted that one comment was to decrease the speed limit on Highway 20 to allow for trucks to slow down. He wondered if that is something the State is signed off on doing; or would we still have to get the State involved. Tokos said that is something the City is working on with the State to make conditions at US 20 and Moore Road safer than they are. He said that in terms of the TIA, there is what is safe and then there is "safer". We can always strive to make it safer. That is one of the things the task force has been working on.

TESTIMONY: The applicant and the appellant were allocated up to 20 minutes each for presentations. The applicant also received 10 minutes for rebuttal. All others testifying were given 3 minutes each.

Applicant: Eric Oien and Paul Langner of Teevin Bros. Land and Timber, PO Box 247, Rainier, Oregon. Oien stated that, having appeared at several of these meetings in the community, they wanted to reiterate that they stand by the traffic impact analysis and support the study. He said that they have nothing further to add at this time and have no additional analysis at this time.

Proponents: Yale Fogarty, 606 SW 13th St, Newport. Fogarty entered Exhibit H-17 into the record. It was a large-size photograph of the area where Teevin is locating. He thought it was a picture from the 1950s. He presented it to show the logs being there historically. Fogarty said that he is a lifelong resident of the Newport area. His family has been making a living on those docks for 60 years, and his extended family has been involved in moving cargo through Newport and Yaquina Bay for over a Century. He doesn't believe the road study should ever have been required. This is not a new operation. One of the first operations on the site was log storage for exports. Over several decades there have been millions of tons of cargo hauled to and from the international terminal; all hauled on trucks along the same route. Fogarty attended Yaquina View School, and at that time many more children walked to school than do today. The playgrounds were not fenced. No children were harmed by trucks using John Moore Road. That is no longer an active middle school. It has been closed since the last export activity at the terminal. Also, there have been widening and sidewalk improvements along Bay Boulevard that were not there during the last shipping operations. Fogarty said that a decades-long history of thousands of heavy trucks hauling millions of tons of cargo to and from the international terminal along the same exact route without safety concerns or roadway damage shows more proof than any study that this is a safe, stable route for moving cargo through the international terminal. Fogarty also pointed out that this property is extremely valuable and rare. There is very little deep draft heavy industrial property in Oregon. If this property is land-locked from its intended use by not allowing trucks to use the historical route, then it most likely will be lost forever. This is not like other industrial grounds that can be re-zoned and moved to another location. The deep water estuary of Yaquina Bay and the location of the international terminal have a wide-sweeping economic impact on the entire region and State. Proof of this is the substantial investments made by the State in this project because they recognize the value statewide. He reiterated that this property and facility cannot be replaced and is extremely rare. In closing, Fogarty said that he believes that the road study completed by Teevin Brothers required by the City provides proof beyond a doubt that this route is not just adequate but is totally suitable for the intended use. He asked that the Commission deny this appeal and approve the Teevin TIA allowing Teevin to put the Port of Newport's international terminal to work creating jobs and substantial economic benefit throughout the region and beyond. Small asked the approximate date of the photo, and Fogarty thought it might be about 1960. Branigan asked when the log operation ceased. Fogarty said that it ceased and started again. He believed that the last log shipped was in 1999. He noted that it ceased because of the failure of the dock. Port General Manager, Don Mann, was in the audience, and the Commission asked him that question. Mann said it was 2001 when the dock went out of service.

Pat Ruddiman, 209 NE 10th Ct, Newport, OR. Ruddiman noted that it was Caffle Bros. here before. He said that today he was in contact with Dwaine Smallwood who was yard manager for Caffle Bros. during the time they were in Newport. Caffle first came here in 1969 and stayed until 1975. In that period of time, Smallwood told him that they received 30-40 trucks a day loading the ships. Since one of their log suppliers had a yard elsewhere, they would do 100 trucks a day up and down John Moore Road. Caffle Bros. came back in 1985, and they were hauling logs for Georgia Pacific at a rate of 50 trucks per day, plus they were also buying logs from small timber owners of 20-30 loads on top of that. Their second customer was ITT Rainier, which had a yard in Toledo. Prior to the ship loading they would deliver 40 trucks per day to be stockpiled for the ship. During loading of the ship, they would send over 100 to 150 trucks a day on top of the 50 to 80 already going to Caffle. All of these trucks went up and down John Moore Road by a fully-operating grade school with buses and cars dropping off kids, kids running and walking to school; all with no fatalities or accidents. In 1989, ODOT widened the road to accommodate the truck traffic. He said that what he is getting at is that it worked then, so why can't it work now. Ruddiman highly recommended approval of the TIA.

Appellant: Mike Peterson, PO Box 1985, Newport, was one of the appellants and offered his testimony on behalf of the appellants. He noted that in the materials he submitted was a 2-part letter that included a short summary and a second letter, which contained quite a few attachments. The letters were in support of the appeal lodged against Tokos' approval of the Kittelson TIA. He noted that Kittelson visited Newport twice in December. They were told that crab season opened on December 1st, when it actually was December 31st. So, their traffic sampling was not representative of the month, or the year. He said Kittelson should revisit and resample. Kittelson uses a road outside Coos Bay for their ATR comparison. That road has four travel lanes and is not comparable to Highway 20. They should use another comparison. Kittelson states that parcel delivery, refuse collection, and septic pumping represent no change from before because they are already done. He doesn't think so, and they should rework this portion of their trip generation calculations. Peterson notes that their 95th percentile queuing is simulated traffic; a computer program. They came to the conclusion that there is adequate queuing; but if you observe that area, the westbound turn lane spills back to block all westbound traffic. That is flawed. The TIA recommends that foliage be removed ignoring a landslide hazard area. If they were property owners on the east side, they would be required to have a geologic permit. They assume thousands of log trucks can run on the road just because a few fish meal trucks use it now. In their structural analysis, no aggregate depth is provided. When they did their cores of these streets, they are saying that the base core material was not examined; so how do we know these streets are even viable. There are springs flowing beneath it and there are creeks in it. There should be a geologic permit because of high water. If we don't know what the base soil material is, how can we assume that this is a good road? The core samples don't include the base material; we have to assume. Core samples should be repeated to include base soil material. That information is critical in determining the effect of vibration on adjacent structures. Thicker asphalt does not stop vibrations. No core was taken from the collapsed section and none from the area with springs. The Port-appointed task force considered safety and recommended turn lanes and signs. They neglected looking at the safety record of Teevin Bros. At 25 mph the

stopping distance for a heavy truck on level dry pavement is 155 feet. That is in the CDL manual. These trucks will be driving down a 12 degree slope and through a flowing spring. Then the stopping distance is nearly 200 feet. Peterson said that besides traffic jams; impacts include noise levels, carbon monoxide levels, dust and insect introduction, truck vibration, and loss of millions of dollars in property values. Peterson recommended that the Planning Commission not adopt the TIA. There are obvious safety hazards. He said the TIA is an attempt to establish a de facto truck route without a citywide hearing. He said that the City is attempting to deny citizens due process by pretending this is an established truck route and also saying that this is not a truck route. This is just double talk. He said that there has been lots of testimony pertaining to the geologic hazards issue. The City says it doesn't apply; but it's not that clear. The City added a new geologic hazards overlay section (14.21.001) to the Municipal Code, which added new regulations to many parts of town; including Teevin. The stated purpose is "...to promote the public health, safety, and general welfare by minimizing public and private losses due to earth movement hazards..." Most people on the east side are not aware of this city code. Geologic permits are required of "all persons who are proposing development, construction, or site clearing" within a geologic hazard area. He said that the geologic permit should be part of this TIA permit. It is generally accepted that heavy trucks can cause landslides. Heavy truck vibration often is a triggering mechanism. He has references to that in his material. He said this is not a designated truck route; and adding a 100 log trucks raises a concern of earth movement hazard. He said that Moore Road and Bay Boulevard were never designated a truck route by the City. He said that City Manager Voetberg told him point blank that it is not a truck route; but Tokos has said the fact that log trucks used Moore Road for many years establishes it as an established truck route. Streets and roads have not been excluded from geologic hazard rules. Road maintenance and repair have been. Heavy truck traffic has not been exempted. He said that the log yard certainly is a development. Teevin Bros. are proposing to add 13 acres of asphalt. There is landslide hazard on the northeast corner of the property. They haven't shown that development will be outside the slide area. He added that the route passes through a landslide area in three different locations. He asked if the City meant to exempt large corporations from these rules. Peterson noted that if a home in one of these slide areas was destroyed by fire, the owner must submit a geologic report before it can be rebuilt. Teevin is rebuilding and paving a log yard, and its trucks drive through three different hazard areas; which represents a far greater hazard than a home being rebuilt on its existing foundation. He said that the regulation should be applied with public safety in mind. Teevin Bros. should not be granted a free ride.

Opponents: Jackie Trahan, 1328 SE Rio Vista Dr, PO Box 393, Newport. Trahan said that she moved here ten years ago to retire. She is in support of the appeal. She said that the entire analysis didn't take into account the safety and well being of Newport's residents and visitors. Reading the City's mission statement, she emphasized that it pledges to provide essential services, promote well being and public safety, and maintain fiscal responsibility and livability. She said that the use of Moore Road and Bay Blvd. as access through a residential area doesn't meet the City's criteria. A loaded log truck needs in excess of 190 feet to stop. Public safety is being ignored. She said that under livability, health issues to the homeowners who will be subjected to elevated levels of carbon monoxide from the exhaust of up to 100 log trucks per day passing through neighborhoods at approximately every six minutes have not been addressed. She said other concerns include loss of property values, loss of residents and tourism, inability to attract new businesses and residents. She noted that Teevin has publicly stated that they will contribute zero. They have also stated that they will not set aside ½ cent to fund an alternate route. The City is sacrificing its streets and public safety for nothing in return. She said this is not maintaining fiscal responsibility. She believes the studies need to be continued to determine the overall economic effects.

George Mpitosos, 747 SE Vista Dr, Newport. Mpitosos said that he is not totally against the project but has serious concerns regarding the quality of the marine environment and invasive species. He said that he reads many scientific publications. He had provided an excerpt from one entitled, "Global Spread of Microorganisms by Ships." The article notes that ships have spread many species around the world. The effects of transfers of microorganisms through discharge of ballast water are virtually unexplored. Mpitosos chose a publication headed by Dr. Gregory M. Ruiz because the DEQ representative, Rian Hooff, with whom Mpitosos spoke, referenced Ruiz as a good source. The conclusion of the article was that "given the magnitude of ongoing transfer and its potential consequences for ecological and disease processes, large-scale movement of microorganisms by ships merits attention from both invasion biologists and epidemiologists." The conclusion in the publication deals with ballast water; the same caveats need to be exercised with all invasive biota and pathogens that are brought to our waters as consequence of foreign shipping. Mpitosos said that as noted in the conclusion, we need to progress very cautiously or we could easily destroy our wonderful environment. He wondered, given the caveat, how or why Dr. Ruiz gave Rian the "thumbs up" about the safety of the proposed project.

Stella White, 923 SE Bay Blvd, Newport. White noted that she had already submitted a letter to the Planning Commission. She said that she and her husband had owned and operated a trucking company. She said that since the trucks stopped running in 1995, there was building of homes and this became a residential area. These homes have changed the springs, and they go under the road. Putting trucks on that road will destroy it. She said one of the biggest issues is the truckers themselves. She said that truckers today are cowboys. When she was trucking, they were taught road courtesy and respect. She said truckers today play road games. They don't take care of their equipment. She believes this is a bad plan. It will create noise, pollution, and safety issues. It will decrease tourism. She supports the appeal and believes it should be upheld.

Christy Peterson, PO Box 1985, Newport. Peterson noted that she had submitted written testimony, and many of the items she was going to speak about had already been addressed. But, she wanted to direct the Commission's attention to part of her presentation. She had included a Google map titled "what does 190 feet looks like". She said that the red lines on the map each represent 190

feet. She said that they took measurements on Moore Road, which goes from a 4% to a 12% grade. If a truck were on a flat road, it would take 155 feet to stop if they were going 25 mph. She noted that when you are talking about the grade on Moore Road, you are talking about increasing the stopping distance. Also, water is on that road year round. Peterson noted that when they took the core samples, they didn't go down and look at the underlying structure. You have to know what the water table is doing and what is under there. She said that none of the core samples did that. She said she took 190 feet just as an average. The other pictures she had included were photos that show what 190 feet looks like looking down Moore Road just south of the entrance to Oregon Coast Bank and where Moore meets Bay Boulevard. She asked the Commission to please reconsider this plan as it hasn't been thought out.

Lloyd "Oly" Olson, 882 SE Crescent Pl, Newport. Olson had submitted written testimony with various attachments. He noted that the TIA has authorized Teevin to use the truck circulation routes identified in Figure 7. It is his contention that by so doing, the City has established a de facto truck route without applying Oregon statutes. Therefore, the City is in direct violation of the Oregon statutes by not meeting State requirements to establish a local truck route. The City's actions deprived the citizens the safeguards of a thorough approval process in properly establishing a truck route under State statutes. It deprived the citizens their due process of providing testimony as to the approval of truck routes, which is the proper and fair way to conduct public business. Once a truck route is established in this proper manner, it will be identified by City ordinance and included in the Comprehensive Plan. It will be legal. Property owners will then be able to make decisions about their property. Olson summed up by saying that depriving citizens of their due process is a very serious matter and has placed the City in a very precarious situation.

Stan Shell, 895 SE Crescent Pl, Newport. Shell had submitted a written letter. He stated that tonight, the Commission has seen a push back on a truck route that would put loaded log trucks through a residential neighborhood. He said this is one of three main objections to the overall concept. The other two relate to invasive species being introduced into the Bay by foreign ships and the industrial activity authorized by the Port to allow debarking on site. Shell said that many citizens have weighed in on both sides of the issue. He said that pro-logging comments in the paper can be summed up that the area needs jobs; log trucks used to use John Moore Road to deliver logs to the Port in the 80s, so why not now; and all of those people who built houses there should have known the history of the area. Those that oppose the plan have searched for an alternative to allow the Port to proceed but have been told that there is no alternative if logs are going to be shipped. Shell said what if there is an alternative that still allows logs to be processed, stored temporarily at the Port, and then shipped. All of this up and down over the TIA, modifications to intersections, and setting up heavy industrial processing would go away. He said wouldn't that be nice if there was an alternative. Shell explained that there is. He said that two miles beyond the Toledo mill is vacant land on the deep side of the river, which was a log dump. The logs were debarked on this site, and then barged down the river. Why not look at this alternative. It eliminates the safety of John Moore road, the City's expense of reworking it, and the noise of debarking. All trucking jobs are returned to the Toledo site, and certain extra jobs are created; some would be needed to barge logs down the river. Shell said this discussion could be tabled. He said that unless somebody wanted to stand up and give rebuttal of this proposal, he feels it should be considered an alternative.

Nancy Smock, 923 SE Bay Blvd, Newport. Smock had submitted written comments. She said that she bought a retirement home in Harbor Village. She said that when walking, it takes a long time to get across Bay Boulevard now. It is an area with lots of elderly folks, children, and grandchildren. Smock noted that the zoning code states that the purpose is to conserve and stabilize the value of property; lessen the congestion on streets; and promote public health, safety, convenience, and general welfare. She said that all of this has been ignored by the TIA. Also, section 14.45.020(F) of the NMC requires that the TIA address conditions of the impacted roads and identify deficiencies. She noted that the TIA states that the data they collected is "not intended to address pavement life or for the use as a condition survey." She wondered how their application can be approved when they write that their analysis does not meet the basic criteria. Smock said that last summer everyone was so concerned about invasive species on the tsunami dock that washed ashore. That was 72 feet long. The log ships will be at least 600 feet long, and many will be from third-world countries. She asked what will be on the bottom of those ships. Smock believes that the citizens of Newport should vote. She asked that the TIA approval be rescinded and that the record remain open for 7 days.

Delores Williams, 448 SW Surf St Apt J, Newport. Williams had submitted a written letter in agreement with the appeal. She stated that it doesn't take a genius to realize that you don't want to run log trucks down through a residentially-populated place. It is wrong for safety and for repairs on the roads, which the residents pay for with tax dollars. There is too much foot traffic, there is the school, and there is a trailer park. She noted that there are a small number of special-needs children still going to that school. She wondered what happens if a truck breaks down and ties up the whole road while waiting for a tow truck. She said it only takes one accident for the lawsuits to begin. She asked the Commission if they want the City to be sued. She said logs may have been hauled here at one time, but this area has been built up enormously since then. Williams said that the noise and pollution from this industrial endeavor is a health hazard and involves the Endangered Species Act. The debarking and logging will affect habitats. She said that she would like to see the Port succeed but with changes. She was told that the logs can be brought to Toledo by truck, debarked there, and placed on a barge and brought down the river. She said that she is willing to let the ships into the Bay with their invasive species hoping that the State will help get rid of them. Williams asked the Commission to please find another way to bring logs down to the Port and get the debarking done some other place than Newport.

Ilene Young, Shermer Court, Newport. Young read the letter submitted by Taji Cooter in support of the appeal. Cooter's concerns are the traffic-related air pollution and health hazards caused by the 50-100 heavy log trucks daily on John Moore Road.

One of the reasons Cooter moved here from Santa Barbara seven years ago was because of asthma. Cooter's home in Santa Barbara was two miles from the highway, and the black soot from the traffic was visible in the home. The visible pollution was secondary to the impact on Cooter's asthma, requiring many visits to the emergency room. Now Cooter is concerned that her home may be within a block of major traffic-related air pollution. Cooter's letter states that air pollution has been linked to asthma and autism. Particularly vulnerable are the elderly (Cooter is 72) and the young; the two populations adequately represented in the neighborhood. This includes high school students who use the softball field closest to John Moore, and younger children use another field on campus. Also, Early Intervention (a program for children with developmental delays, disabilities, autism, etc) is housed in the building on that campus.

Rio Davidson, 123 NW Hurbert St, Newport. Davidson noted that the Newport Comprehensive Plan mentions seven options for McLean Point, but not a log yard. He talked about the condition of an Astoria log yard. He said this is an unwise use of land directly adjacent to residences. He said that Kittelson visited at the most traffic-free time of the year. The TIA compares the road to Coos Bay, where there are four lanes of traffic. He said that we are talking about quality of life. He asked if we want to be run down and have industry everywhere or stand out as the gem of the Oregon Coast. He says the report claims that Highway 20 has four lanes. There is no mention of the springs under Moore Road and no mention of the landslide into Moore Road two years ago. There is no mention of vibration. He said this TIA is an inadequate document. It is unscientific and shouldn't have been approved. Davidson told the Commission that they are just seeing the beginning of this. He said people don't want this logging terminal. It's not because of jobs. We will bring in several jobs, but at a cost to contractors and real estate agents because we will lose residents and businesses. Davidson noted that this is a 20-year contract being talked about. We are talking about making a commitment for Newport to be a new Coos Bay. We are trying to be a mark here as an environmentally and family friendly community. Again he said that the City is just seeing the very beginning of a push back, and they are not going to stop. He said that they will take it to the next level.

Lin Shubert, 557 SE 4th St, PO Box 1132, Newport. Shubert said that she lives not far off the Bay Front. She noted that there has been a lot of opposition in the newspapers. Then there are the opposite people saying they are used to seeing log trucks driving by their homes and haven't noticed any problem. Shubert said that she doesn't live in Siletz; she lives in Newport. She is used to seeing families walking together, bicyclists, joggers, and tourists looking at the sights. She said this type of environment is not conducive to log trucks. She said that many people are afraid to make their opinion known because of their employment or the like. She said that if it were put to a public vote, there would be more of an outcry than you are seeing now. Also an item not addressed is that Moore Road is a primary Tsunami and earthquake evacuation route. She said that she is not afraid of change but is opposed to this project. She said it seems that this was presented backward. There was no pre-planning. The cart was put before the horse. We need a by-pass road, covered debarking, and not to destroy the quality of life. Her letter also requested the record be left open for seven days.

Dee Shannon, Manager of The Landing, 890 SE Bay Blvd, Newport. Shannon said that she is against the TIA and in favor of the appeal. She said that the TIA fails to provide traffic counts. It is missing the impact of the fishing season. Intersection site vision is limited at the driveway, and there is no discussion of mitigation. The TIA lacks useful information. It states that the intersection of Highway 20 and Moore Road will operate near ODOT mobility standards. NMC Section 14.45.030 lists the areas that should be included in the site study. Shannon noted that Bay Blvd. is a minor arterial roadway and talked about site distances provided in the Transportation Plan. She said that it appears that these recommendations have not been adopted into the NMC. She said that there may be up to four locations that require analysis. She said that the TIA failed to provide reliable data.

Additional Proponents, Opponents, and Interested Parties: Ginny Goblisch, 6720 Otter Crest Loop, Otter Rock, OR 97369. Goblisch noted that she was a former Port of Newport Commissioner and is in favor of the TIA application and not in favor of the appeal. She wanted to point out the obvious and speak to the issue. She said that this log operation and trucking is being done in a zone designated for that and in an area where it has been historically. She said that this is nothing new. The zoning has been in place for many years. It should be no surprise to anybody that the Port would want to take advantage of an economic opportunity. The Port was able to secure some of the funding to upgrade the terminal in 2006 when a bond measure was passed to rebuild the terminal and clean up the facility. That what they have been planning to do is to continue operations has never been a secret. Goblisch said that she would like to publicly apologize to Teevin Bros. They want to come here and operate in good faith and should be shown more respect.

Ms. Meriwether. She said she is familiar with the site before there was an LNG plant. She has seen lots of log operations. She has seen log rafts come down the river. They cleaned and trimmed the logs right there in Toledo. She thinks in economic terms, this plan needs to be looked at in depth. She thinks we should not be shipping raw logs anywhere; we should be shipping lumber. She said the basic error is the product being shipped. Meriwether said that there need to be work done on research about invasive species.

John Riedell. He wanted to talk about liability. What Kittelson has done is provide a method to indicate traffic safety in a given area. That is the limit of their liability. But what could happen to the City is that a truck could hit somebody and hurt or kill them; and when that happens, the City will get sued, not Kittelson. The City would get no protection from them. He said that the Planning Commission is held to a high standard to ensure safety for the community. It is up to the Commission to make a decision of what is a safe operation. He said the Commission is hearing a lot from industries but have to rise above that and make a

personal decision about whether this is good for the community. He said they are looking at a very unusual case here involving very heavy log trucks going down the road. You are left with that decision.

Don Mann, General Manager for the Port of Newport. Mann said that at any of these meetings, the Port likes to go on the record in support of the findings and final approval of the TIA as presented in March 2013 in File No. 1-TIA-13. The Port is continuing to work with Teevin Bros. There is no agreement at this point, but they are working to achieve that. There is a lot of information that they are continuing to see. There has been more time spent on this because of the public investment in this facility. There have been some options presented by the task force that will be considered. He said that it is too early to tell what the conclusion might be. The Port will continue working on the project because they feel they owe that to the people who passed the bond measure. Fisher said that the claim was that Mann had said that Teevin Bros. will pay no taxes; he is assuming property taxes. Mann said that he didn't recall saying that. Once the Port releases the property to Teevin Bros., it goes on the tax role and they pay. Fisher asked if Teevin Bros. would be obligated to SDCs. Tokos said to the extent required under the methodology, Teevin is required to pay SDCs. He added that LCSD construction excise tax would apply to their office building, and they would be required to pay that as well.

Bob Wienert. He said that he has worked at his job for over 45 years. He said that he tried to keep quiet tonight, but when "cowboys" came up, he had to say something. His company has drivers who operate fourteen dump trucks, which falls under the same regulations as log trucks. Those trucks are checked on a quarterly basis by the State. The drivers receive physicals annually. The company is required by the federal government to have monthly safety meetings. He said that he heard that Teevin Bros. was not an environmentally friendly company. Wienert has put in three log yards. He did one in Tillamook whose next door neighbor is the high school. He said it is an extremely clean log yard. There are two blocks of a residential neighborhood. There are over 150 trucks coming in per day. Wienert said that he has lived here all his life and has driven truck for many years; and if he was down on the Bay Front and there was a tsunami, he would try to get up the hill also.

Rebuttal: Eric Oien and Paul Langner returned for rebuttal. Oien said that as a company, they are reaching their wits end. He said that people are saying that Teevin Bros. is not a family-friendly company, but they don't know anything about their company. He said he puts an invitation out there at every meeting, but nobody has come to visit. Oien said that Teevin is a company that likes to show off. They are happy about family-wage jobs and proud of their safety record. He asked those in attendance to come meet them. He said that the TIA did exactly what was required; they even did more; and if asked again, they will do more. Langner said he has heard many things tonight. One hundred truck trips are estimated; 50 inbound, and empty out. The site itself does not fall inside the geologic hazard overlay zone. Invasive species were raised. They brought in experts. This is an issue they are concerned about in projects they take out. He noted that Teevin is not doing the trucking; they are not their trucks. He said they are your friends and neighbors; not a bunch of cowboys coming in. Langner said that they took something like five core samples; all of which was coordinated with the City. They took them where the City said, and a member of City staff was with them. He noted that Kittelson's reported traffic counts were increased by 28% to accommodate for crabbing, fishing, and tourists.

City Engineer and Public Works Director Gross asked if it would be useful for him to explain the process that was used for structural analysis, the trip generation used, the level of service analysis, the queuing that was part of that, and what he was required to look at. Tokos said the Commission could ask staff to present that right now or present it in writing. Small said that he had made a note to get an explanation about the core sampling. Gross noted that Road and Driveway did the core samples and he was in attendance. They got a cross cut section of south Moore Drive, halfway up the road where the road was cut and took the photograph. They went through the pavement to the sub-base. The shallowest was 9 inches, and the deepest was 17 inches. When doing a strength analysis, you take into consideration the thickness of the asphalt section in addition to the aggregate base to get structural loading. It was so thick that there was no need to provide structural analysis. The samples proved that the road had the integrity for the load. All the rest would be hand digging and wouldn't have changed the analysis. Gross said that he noticed in discussion in the appeal about the road surface at Moore Drive and Bay Blvd., where they got the thickest core sample. He said that area was probably overlaid many times. That is not structural failure, but aesthetic surface failure where the overlay is peeling back. Gross said there is nothing to indicate anything other than the road is sufficient to handle this traffic. Gross noted that the criteria for the TIA talks about peak hourly trips. We use the ITE manual as guidelines on trip generation unless something else is approved by the City Engineer. The engineer had better information than the ITE manual can provide. Teevin knows how much they will generate, so we used that model. Gross looked at the queuing analysis, which is left up to the City Engineer. He found that an almost negligible impact would be generated by this development. He determined there was no impact to the queuing on any intersection. He said they likely will have to go back and address the TIA for the area immediately adjacent to the site. Gross explained that as a point of comparison, if you take a look at Highway 20 and Moore Road; it is a .8. The developer would have to add 20% more traffic to that intersection before traffic gets to be as much as can fit. It is .01 at the driveway. He said that the volumes are so incredibly low that it won't make any difference at the intersections. Gross said that his responsibility as part of the TIA was to review the engineering estimates of the capacity of the infrastructure to handle the traffic; and his opinion was that the road can handle this traffic. He noted that the opponents may not have had the follow-up memo from Stuntzner Engineering. In answer to a question from McIntyre about the springs, Gross said that he doesn't think the water is coming from under the road. Although he noted that there's not a single road in Newport that doesn't have springs under it. He said that's not necessarily detrimental to the roadway unless there is pipe failure where it leaches the material out. Patrick noted people's concerns about the sub grade and wondered if there was any purpose of testing that. Gross said that he has done many excavations in that area, and it has generally been clear sand base; there is not any indication of leachy soil.

Patrick closed the oral testimony at 8:10 p.m. He noted that the Commission had received written and oral requests to leave the record open for seven days. Fisher was in favor of leaving the record open, but said that he would like a long enough period ahead of time to review the written materials before having to make a decision. He said he would love to see anything in writing though. Small agreed with Fisher. Tokos noted that the statutes require that if the request is made, the Commission will have to leave the record open for 7 days, which will close at 5:00 p.m. on April 29th. All documents must be received in the City office by that date. He suggested an additional seven days (until May 6th) for folks to respond to any new evidence submitted. Within that timeframe, the Commission can ask staff or the applicant to provide facts of finding for approval and the appellant to prepare findings for denial by 5:00 p.m. on May 6th. Tokos said all materials would be forwarded to the Commission. Unless waived by the applicant, they would have seven days for final written argument. On May 13th, the Commission could hold deliberation and make a decision.

MOTION was made by Commissioner Fisher, seconded by Commissioner Small, to hold the record open for seven days for written testimony and follow the timeline suggested by Tokos. The motion carried unanimously in a voice vote. Deliberation on File No. 1-TIA-13-A will be on May 13th at 7:00 p.m. here in the Council Chambers.

F. **New Business.** No new business.

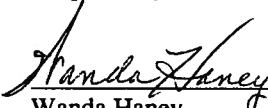
G. **Unfinished Business.** No unfinished business.

H. **Director's Comments.**

1. **Reminder that the Volunteer Dinner is scheduled for 6:00 p.m. on April 23rd at the Oregon Coast Aquarium.** Tokos hoped someone could make it to the dinner. He won't be able to. Small said that he would be at the dinner to represent the Planning Commission.

I. **Adjournment.** Having no further business to discuss, the meeting adjourned at 8:17 p.m.

Respectfully submitted,



Wanda Haney
Executive Assistant