

**Minutes**  
**City of Newport Planning Commission**  
**Regular Session**  
**Newport City Hall Council Chambers**  
**Monday, May 13, 2013**

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

**City Staff Present:** Community Development Director Derrick Tokos 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, Branigan, East, Fisher, Patrick, Croteau, Small, and McIntyre were present.

**B. Approval of Minutes.**

1. Approval of the Planning Commission regular session meeting minutes of April 22, 2013.

Croteau noted a correction to remove his name from the list of Commissioners present; as was noted correctly in the roll call. **MOTION** was made by Commissioner Fisher, seconded by Commissioner McIntyre, to approve the Planning Commission minutes as amended. 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:** Deliberation and decision 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).

Commissioner Croteau stated that he had been absent at the initial hearing, but he has read all the documents and listened to the recording with all of the testimony and felt that he was in a good position to vote on the issue without bias. Chair Patrick asked Croteau for any declarations of ex parte contact. Croteau declared that he is familiar with the site but has had no ex parte contact. Patrick read the summary of File 1-TIA-13-A from the agenda. Before beginning deliberation, Patrick asked the Commissioners if they had any questions of staff, as he did. Patrick noted that the geologic hazard area does touch a part of that property, but he wanted to confirm that the geologic report requirement does not apply to clearing brush. Tokos said that it does touch in the vicinity of the entrance and exit; but as he noted in the findings that he prepared for the Commission's consideration of approval, he confirmed that geologic requirements do not apply to brush clearing.

Deliberations began with Commissioner McIntyre. McIntyre said that he reviewed all of the material. He had a concern whether the City had resolved all of the concerns that were expressed by the appellants' attorney and his summation of the TIA; so as time allowed, he went back through it. McIntyre noted that there were a lot of concerns that the traffic counts were not accurate. He believed that at the last meeting City Engineer Gross indicated that the traffic counts that had been taken had been adjusted upward to take into consideration higher traffic flows during the tourist and busy times of the year. He said that he really wants to be sure that we have resolved all of the issues that were the applicants' concerns expressed in the attorney's letter. Tokos noted that the Commissioners had two sets of findings of facts that were submitted following the open record period; one prepared by staff for approval, and one from the appellant for denial per the Commission's direction. To the extent Tokos felt was relevant, the appellant's concerns are addressed in the finding of fact that the City prepared, which is in favor of going ahead with the project and not in favor of granting the appeal. McIntyre said that basically he feels that the points that were brought up were responded to by the City Engineer. He said that he understands the position of the folks that brought the appeal, but in looking at the TIA and the responses to the concerns in the appeal to the TIA, he believes it has been answered to his satisfaction.

Small said that he was in agreement with McIntyre. He said the fact is that Teevin Bros. was required to submit an analysis; which was completed, submitted, and approved. As the process allows, there was an appeal filed challenging the validity and findings of the impact analysis. He noted that the Commission was tasked with ruling on that appeal. He said that the purview was well-defined and pretty limited. The scope was to decide if the impact analysis was done properly and the findings do warrant approval. The Commission heard things brought up about truck drivers being cowboys, and the need to find a different site. He pointed out

that that is not within the purview of what the Commission can decide. What the Commission must consider is whether the analysis was done correctly and if the findings are sufficient to warrant approval. Another concern was whether the traffic counts were a true sampling; but in hearing the response to that from City Engineer Gross that the numbers were adjusted up 28% to account for the busy time, he thought that was significant numbers. Another comment was about the core sampling and the road composition; and hearing what was found in the core samples and the depth of the road bed, it was more than sufficient to accommodate heavy truck traffic. He believes the concern about the line of site was addressed. Small said that, having heard Tim Gross's explanation, he is satisfied that the impact analysis was done correctly and is sufficient to warrant approval.

Croteau said that he essentially agrees with the other two Commissioners. He appreciated that there are many concerns by citizens and residents that live in that area; but it comes back to the fact that the focus is fairly narrow and decided on technical grounds. He believes the TIA adequately addresses those issues and is in favor of going forward with the report as amended and with the conditions specified.

Fisher said that he has heard numerous points brought forward both at the last meeting and since then. Things like, wouldn't it be nice to actually cut the logs into lumber and ship lumber. He agreed it would be. Or, wouldn't it be a positive thing to bring the logs by train into Toledo. He said those are outside the purview of what the Commission has been examining. He said that those are ideas a business plan or the Port might talk about; but it has nothing to do with what the Planning Commission is appointed to do. He said he too was very concerned after reading some of the comments and after the meeting; but the City Engineer convinced him that the road bed is properly constructed for the job. He noted that there is always water from a spring; and when it's icy, he is concerned. The Engineer explained that is not a problem. He said that in the end, he has to either believe the City Engineer was honest and accurate, or he made a mistake. Fisher said it seems that the studies and the Engineer were accurate. He noted that what the Commission decides is based on a narrow focus. He believed the bases were covered, and the Commission should deny the appeal.

East said that he didn't have much to add. The other Commissioners focused on the issues and voiced his opinion as well. He agreed that the Commission should approve the TIA.

Branigan thanked everybody who submitted testimony; and he added that there was quite a bit of it. He said that the comments were far-ranging and brought forth so many arguments for why the appeal should be upheld. Branigan had read through all the testimony. He went through the Kittelson TIA multiple times. He walked the entire route over the weekend looking for where the core samples were done. To satisfy himself, he took a careful look at the surface area of the road. He looked at the surface water factors. He was at the corner of John Moore Rd. and Bay Blvd. looking at the traffic on a Saturday. As the other Commissioners had explained, he agreed that the Commission's purview is to rule on the TIA and not all of the other issues that were brought up. He said that after careful review, he found that the criteria for the TIA was pretty thorough and is in favor of approving it with the recommendations that were originally in there; completing the site distance improvements near the entrance, and that Teevin coordinate with Lincoln County to replace that section of Yaquina Bay Road that was slumping down. Branigan concurred that the Commission should approve what was originally approved and deny the appeal.

Patrick agreed that it is a very narrow set of grounds on which the Commission has to decide; the TIA is all that is under consideration. He said there was a lot of interesting testimony; and very little of it was relevant to the thing under appeal here. He said in looking through all of the material, almost everything in Greenlight's report was covered. He noted that if they are not building in a geologic hazards area, the geologic report requirement doesn't get triggered. You can remove brush in a geologic hazards area. Patrick noted that material he had looked at showed crosshatching over a portion of the log roll-out; but Tokos said that is not true, it's just over the approach road near Bay Boulevard. Patrick continued that he felt that the traffic counts were adjusted for. He noted that the TIA was triggered by the size of the trucks being run over the road, not the traffic. He recalled that there was something brought up about intersection counts not being counted. If they don't have the traffic, then we don't need the traffic analysis. He noted that the Commission had already discussed the road bed. He said there was also a concern raised about a truck route. As he understands it, that is what the City does if it wants to make sure all trucks go on that road. Newport doesn't have designated truck routes. Patrick said that he had to agree that the Commission has to approve the TIA.

**MOTION** was made by Commissioner Small, seconded by Commissioner Branigan, to approve the Traffic Impact Analysis submitted by Kittelson and Associates for Teevin Bros. with the three conditions noted in the final order. Tokos noted that the decision will be signed tonight, and the deadline for appeal to the City Council will be May 28<sup>th</sup> at 5:00 p.m.

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

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

**H. Director's Comments.**

1. Tokos reminded the Commission that the alternative mobility standards work done in South Beach has to be adopted by the County, and the Board of Commissioners finally adopted that process on May 1<sup>st</sup>. There will be a hearing before the County Planning Commission. It is moving along. The trip budget does not go into effect until the County adopts it.

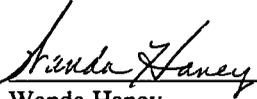
2. Tokos noted that the UGB expansion for the reservoirs was approved by the City Council at their last meeting, and it has now been forwarded to the County for their process. Some changes were made at the City Council level pertaining to the Etherington property. Tokos doesn't anticipate any issues at the County; but it could take time to move through their process.

3. Tokos mentioned the economic opportunity analysis that was adopted last November. He noted that the City Council had the advisory committee reform to work on the business retention and recruitment position. That was done. It provides for some funding from the City. The City is going through budget deliberations right now, and Tokos is unsure if the City Council will find to fully fund that position this year or not. May 30<sup>th</sup> at 6:00 p.m. at the budget meeting is when discussion will be held regarding that. At the next City Council meeting, Bill Hall will be speaking on behalf of the Lincoln Community Land Trust and why from their perspective this is an important agreement to enter into.

Fisher noted that the Commissioners had received information about Nye Beach. Tokos noted that the City Council held a town hall meeting on April 29<sup>th</sup> in Nye Beach, and it was discussed conceptually along with that. The way that code is drafted, that process would be initiated by the City Council. Before the end of the calendar year, the Council needs to hold a meeting taking testimony from the Nye Beach area whether or not it is in the public interest to open it up to take a look at those design standards. Then if they feel it is, they would direct it to the Planning Commission to look at it. The Council has asked Tokos to meet with Nye Beach Merchants in advance to get a short list of issues that can be fleshed out and summarized for the Council at that time.

I. **Adjournment.** Having no further business to discuss, the meeting adjourned at 7:25 p.m.

Respectfully submitted,

  
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Wanda Haney  
Executive Assistant