

MINUTES
City of Newport Planning Commission
Regular Session
Newport City Hall Council Chambers
Monday, August 8, 2016

Commissioners Present: Jim Patrick, Rod Croteau, Lee Hardy, Jim Hanselman, Bob Berman, and Bill Branigan.

Commissioners Absent: Mike Franklin (*excused*).

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

1. **Call to Order & Roll Call.** Chair Patrick called the meeting to order in the City Hall Council Chambers at 7:01 p.m. On roll call, Hardy, Berman, Croteau, Patrick, Hanselman, and Branigan were present. Franklin was absent, but excused.

2. **Approval of Minutes.**

A. Approval of the Planning Commission regular session meeting minutes of July 25, 2016.

Croteau noted a couple of typographical errors, and Berman noted that some clarification was needed under Director Comments item e. **MOTION** was made by Commissioner Croteau, seconded by Commissioner Berman, to approve the Planning Commission meeting minutes as corrected. The motion carried unanimously in a voice vote.

3. **Citizen/Public Comment.** No public comments.

4. **Action Items.**

A. **Final Order for File No. 1-NCU-16.** Approval of the final order and findings of fact approving a nonconforming use permit as requested by First Baptist Church (Pastor Glen W. Small, authorized representative) for an addition to the nonconforming structure at 628 NW Grove Street. The Commission held a public hearing on this matter on July 25, 2016.

MOTION was made by Commissioner Croteau, seconded by Commissioner Hanselman, that File No. 1-NCU-16 final order be approved with the condition indicated. The motion carried unanimously in a voice vote.

B. **Discussion regarding members for the SDC/CET stakeholders list.** Tokos noted that we originally put the RFP out until August 5th. We extended it until August 19th to make sure we had a fair number of RFPs. We received two and will probably have three or four on this. Tokos put together a list for an ad hoc committee; not an on-going committee, to provide technical advice as we go through the SDC methodology and the CET study. He put together what he thought would be a good range of people you would want on that committee along with the individuals. All have indicated a willingness to serve. He's hoping the Planning Commission will nominate a Commissioner. He said that if there are others the Commission thinks should be on this list, to let him know. He would like to take the recommendation to the City Council next month. Croteau wondered if there should be some builders. He said there are no real contractors. He asked Patrick if there should be; and Patrick's answer was, yes. Hanselman asked about having someone from the banking industry that deals with developers and builders. They have to come up with the money. Maybe banks have a better idea because they are loaning the money to them. Branigan said from his banking experience there's nothing specific. The contractor comes in for a construction loan. They say these are the costs involved. Typically, they have factored in all of that. Berman asked if Tokos thought there might be the need for input from the City Finance Department, or do they care? Tokos said they don't care on the SDCs one way or another. They are not involved in a tangible way. Patrick suggested that if we want a builder, Tokos might ask Paul Lamont because he was on the original committee. Patrick said he wants to volunteer for this committee. Tokos said that's why he didn't put a builder on the list because he kind of thought Patrick would want to be on this. He said a developer is also on the building side when you think about it. It was mentioned that maybe there should be a builder independent of Patrick. Tokos asked what about Rich Belloni as a developer. He has a

history with the city. Patrick said Belloni would be a stakeholder and might be a good choice. Tokos said we don't have a lot of builders that deal with this stuff or it's not that often that they deal with it. Patrick said they deal with SDCs. Tokos said their clients deal with them.

Patrick volunteered for this committee if none of the Commissioners objected. He said that he has a natural interest in it. That's why he was hoping someone else would take on the vision committee if one is put together. Branigan said Patrick was the best-qualified. Croteau said the list is a good cross-section. Tokos said he can pull in two or three to select a consultant. This group will take a look at an RFP process, provide feedback on goals and SDC-eligible projects. They will look at the capital needs side of it and look at different SDC methodologies. Some fine-tuning may need to be done to the existing ADU methodology. Restaurants have been an issue for us. We have issues with affordable housing and whether apartments should be getting hit as hard as they are. That's why OSU needs to be pulled in. We need to look at different options for addressing credits. Patrick wondered if we should throw a realtor into the mix. Tokos said we could. He noted that Alan Wells is a commercial broker. Tokos thought that should cover it, except for adding Jim Patrick, Rich Belloni, and whomever from the City Council. Tokos said we also collect school CET. This affordable housing CET would be on top of that. They may want to look at that.

MOTION was made by Commissioner Croteau, seconded by Commissioner Berman, to make a recommendation to the City Council for this committee as listed with the addition of Jim Patrick and Rich Belloni. The motion carried unanimously in a voice vote. Tokos said if not Belloni, he will look for a builder.

5. **Public Hearings.** No public hearings were scheduled.

6. **New Business.**

A. **Information on the Marine Studies Initiative Newport Building Siting Recommendation.** Tokos wanted to pass that information along. This has been a decision that a lot of folks have been waiting for; whether they're locked into constructing on the existing campus or elsewhere in the community. They decided to build on campus. He said the materials are self-explanatory as to why. If they proceed in this manner, they are likely to face a variance to construct higher than the 35-foot building height limitation. The Planning Commission would have to make a decision about that. Or the Commission can change the rules to provide for some structures to exceed the 35-foot height limit in W-1 and W-2 zones for vertical evacuation purposes. There is some rationale for that. The height limitation was put in place before there was an understanding of what the tsunami risk was. He expects that would be their argument in a variance. He anticipates the City Council will bring that up and kick it around. It may get directed back to the Planning Commission as a legislative action. Croteau said part of this sells him on the fact that potentially this building could really be constructed in terms of how to build for withstanding a tsunami and how for vertical evacuation. It might be setting a record for how to do construction in a hazard zone. Tokos said, to be frank, he doesn't think the building codes will get in the way. They can't land on the building codes as providing a pathway per se. He doesn't think the codes will be a problem. They are exceeding it. Croteau said he's looking more globally. Hardy said that if any of the Commissioners want to look at the reports, she can forward an email with the links. It gives a much greater idea of the conversation going on. She said it's still quite controversial.

Berman wondered, with respect to changing the height restriction, in this circumstance prior to them requesting it, are we greasing the wheels ahead of time? He said nobody else is talking about it. It didn't come up with NOAA. He said it seems somewhat inappropriate to consider that. It would be appropriate in a conversation with the variance request. Tokos said to be clear, he doesn't think anybody would approach that with the idea of short-circuiting the discussion. If we are going to change the zoning code, every player would get notice and have an opportunity to provide comments to the City Council. It would be a legislative process as opposed to a variance. For a variance you have to show practical difficulty and hardship. It's highly discretionary stuff. In some respect it makes more sense to do it legislatively where there's some intent and purpose, as opposed to a variance where it's how you feel about the practical difficulty and hardship. Patrick said that's been his complaint. A bunch of different codes were established based on how the Commission felt at that time. Croteau asked where the initiation would come from for a code change. Tokos said either the Planning Commission or the City Council. He has a suspicion it will come up at the City Council during their meeting next Monday. Croteau said that would give the Planning Commission guidance. Berman said he was concerned about the appearance. We are talking about this; and by the way, Hatfield wants to build this way. But, it's probably right in a legislative context rather than a variance. Patrick said it's not much different than what the Commission did to change the zoning for housing in Wilder. Tokos noted that with building

height limitations, it really goes back to what our fire department trained staff could reasonably deal with. Our commercial goes up to 50 feet. Beyond that it gets too large to respond if they have to respond to a structure fire. Tokos said his suspicion is if it's done legislatively, we don't specify a specific height, but be clear that it's for vertical evacuation purposes only; and not any other occupiable space. Berman said so if they want five stories, they have to build six and designate that the final story is not occupiable other than for emergencies. Tokos said it doesn't buy them another floor of offices. He said it's a thought. Maybe we don't end up there. The thought process is that we should provide for some variation based on what we're shooting for. The current thinking is that "X" is tsunami-certain elevation; but that will change as we get better data. We need to let it be more of a science-based exercise. Berman noted that the last time a certain height was mentioned, and signs were put up based on wrong information. It's 30 feet on the highway. He said if we did do the legislative thing in the near future, what would the requirements be? Would they have to bring this project to the Planning Commission? Tokos said it depends on how we set the code up. He was asked about all the rest of the planning they do. Tokos said a traffic impact analysis would trigger because of the number of vehicles attributed to a building of that size. But that doesn't go before the Planning Commission. Patrick said they can get building permits. If they meet the rules, the City has to give them a permit. In response to a comment from Hardy, Tokos said we haven't had anybody assert that there has been gross negligence on the City's building department's part. Jump Off Joe was engineering. He said if an engineering geologist says it's safe and puts their professional stamp behind it, the City is not liable. Hardy said back then, the City staff was told that if the application is filled out correctly and completely, you can't deny a permit because of a known hazard. Tokos said that's the quandary you run into. Tillamook was in the same boat. You are bound by the rules you have.

7. **Unfinished Business.**

A. **Information on Planning Commissioner Training sponsored by the Oregon City Planning Directors Assn.** Tokos noted that this Planning Commissioner training is still available if anyone wants it. We have funds. He told the Commissioners to let our department know if they are interested in attending. Patrick said that he may be interested. Berman said that the agenda sounds interesting. Tokos said he knows all three presenters, and they are good. This is during the League of Oregon Cities conference, but Tokos will not be attending this training because it's for Planning Commissioners. He told the Commissioners if anybody is interested to fill in the registration, and we will take care of it from there. Patrick thought he will.

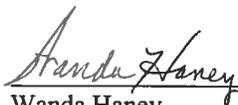
8. **Director Comments.**

A. Tokos noted that the public hearing on Wilder will be September 6th at the City Council level.

B. Tokos said we did receive confirmation from FEMA that they awarded the money for us to buy the homes on 71st Street. The City Council authorized staff to sign the contract documents. Six agreed to sell, but one will try to stay in the home. That was the first yellow-tagged residence. They hired an engineering geologist for structure modification. We will keep the door open should they change their mind. It depends on if what they submit, the Building Official finds sufficient to remove the tag. Tokos said he's a little nervous about being able to get this done before wet weather. He can't line contractors up until we know we actually have the money. It will be hard, but we will do our best.

9. **Adjournment.** Having no further business, the meeting adjourned at 7:35 p.m.

Respectfully submitted,



Wanda Haney
Executive Assistant

