

MINUTES
City of Newport Planning Commission
Work Session
Newport City Hall Conference Room A
June 23, 2014

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

Planning Commissioners Absent: Gary East (*excused*).

Citizens Advisory Committee Members Present: Dustin Capri.

Citizens Advisory Committee Members Absent: Suzanne Dalton (*excused*).

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

Prior to Chair Patrick's arrival, Vice Chair Croteau called the Planning Commission work session to order at 6:02 p.m. and turned the meeting over to CDD Tokos.

A. Unfinished Business.

1. Review Comprehensive Plan amendment to include Beachfront Protective Eligibility Inventory (File No. 3-CP-14). Tokos noted that included in the packet were some provisions on beachfront protective structures. He said that effectively using what the City has already is a way of doing these amendments as efficiently as possible. The City's Comprehensive Plan has a chapter for Natural Features, which covers a lot of things we are required to cover under land use planning. The inventory is on page 38 where it already covers the relevant part of Goal 18, which is the highlighted language. It explains what development means verbatim out of the rule. The language about an exception where approved is also verbatim. When asked, Tokos said if Newport has any exceptions, they were some time ago. He said that he didn't see a need to make changes to the background of the Comprehensive Plan because it seems to cover what needs to be covered. The change in the Comprehensive Plan is actually Policy 6, which implements that; and that language is on page 49. He is adding language that beachfront protective structures may be permitted on properties identified as eligible on the inventory by DLCD, it includes areas where a goal exception has been approved, and it provides the definition of development. We already had the discretionary standards language in Policy 6 that were never implemented in the code.

Franklin asked if the Commission will be able to see the maps if they change; and Tokos said absolutely. He said assuming the Commission moves this forward from work session to public hearing, we would have all that information available. Patrick asked when was the last time Newport had an exception to Goal 18. Tokos said he could take a look at that and identify that during the public process. This language would cover that, and it would be duly noted. He said that if Newport had any, it would have been some time ago. We haven't had a lot of goal exceptions. They are rare for cities; it's usually more rural. Goal exceptions have to go all the way up through the State. Tokos can take a look in the records and let the Commission know in the formal process if Newport has any exceptions and where they may be.

Berman noted that there were four criteria here, but in the other reference later on there are six of them. Tokos said these four are verbatim of the goal. They are that visual impacts are minimized; necessary access to the beach is maintained; negative impacts on adjacent property are minimized; and long-term or recurring costs to the public are avoided. He said that what some of those mean is a little vague, which was intentional because we need for it to be somewhat broad and subject to interpretation at the local level. For the Comprehensive Plan policy, he would recommend putting in more specific language than this. In the development code, you can be more specific in what these mean. This language gives authority to put the code together by talking about what we want to do that. Policy 6 is the scope of what we can look at in the development code. The development code is where you want to be specific about how we address these issues.

Franklin thought that the one that says "negative impacts on adjacent property are minimized" seemed hard. Tokos said these are discretionary standards. He structured this as a Type 2 (Staff) review appealable to the Planning Commission. He could have it go straight to the Planning Commission. At the end of the day, it is a discretionary decision subject to appeal. Berman asked if these maps that were included in the material are part of the Comprehensive Plan. Tokos said yes, even though they are very rough they are the maps in the Comprehensive Plan that show the ocean shorelands. We haven't tried to refine them. He said that they are suitable for this purpose. He noted that the black line shows the boundaries. Everything from 101 to the coast falls within ocean shorelands. It picks up all beachfront property, which is all we need to care about for this exercise. Whether it deals with habitat is something else.

Tokos asked if there were any questions on the Comprehensive Plan policies. He asked if they seem to make sense. Everyone agreed that they did. Tokos then moved on to the actual code changes. He said that the place that seems to make the most sense for this is in the Ocean Shorelands chapter. It fits cleanly here. This whole chapter is set up as Planning Director review depending on the issue; significant habitat, parks and outstanding natural areas, and public access points. So he added beachfront protective structures at the end. Branigan asked on 14.38.020 where Tokos changed "Planning Director" to "Community Development Director," why not change it in the definition. Tokos said this should be Planning Director because that is the term in the Administrative Rule. Elsewhere in our code we use Community Development Director. We want to be consistent in terminology. Tokos said that for Beachfront Protective Structures, what most jurisdictions have tried to do is define that; and that is what this first part is here. What this explains is that it can be a lot of different things; riprap, revetments, or other manmade improvements to stabilize or support a slope. He thought it seemed reasonable to put in more language to provide context. It says it is including these types; it doesn't preclude something else if we run into it. We are talking about manmade improvements to stabilize or support a slope. The code goes on to say that you are eligible if you are on the inventory, which is what item "(a)" says; or item "(b)" if you can prove there was development on the property on January 1, 1977. Then "(b)" gives the goal definition of development. Item "(c)" is the goal exception option. Number "2" gets into the discretionary standards and acts to define them better. Tokos said he set this up, because as you see from the Administrative Rule, OPRD has to do a comparable review if the beachfront protective structure extends below the vegetation line. He crafted this to cover this above that line; if below that line the City would accept OPRD's evaluation. He said that we don't have to do it that way. He noted that Tillamook County didn't; they require in all circumstances landowners to have double review. All standards are different. Somebody doing structures below that vegetation line in Tillamook County has to get approval from both and has to meet different standards. Below the vegetation line, the State has to do an evaluation. Tokos said if the Commission elects to have discretionary review, the State can take the City's findings and use them as their own. If they don't agree, they don't have to use the City's findings; they are not obligated. Tokos said it depends on how strongly the Commission feels if someone is doing new riprap on the bank and it extends below that vegetation line because it will be highly visible. He said it comes down to how much say you want or if you want to say OPRD can deal with it, and we will just deal with the eligibility part of it. Tokos said that area above the vegetation line where we could have a number of projects come in is in Agate Beach where slopes are way up high. That's where we could have a number of projects that wouldn't get to the vegetation line. Having that under our standards would make sense. OPRD looks at an extensive set of standards; far more than Tokos outlined here. These seem to address what we are required to address.

Capri noted that if someone wants to build a two-story house, they could block the adjacent property's view; where under item "2(d)" if it's riprap, they couldn't block the view. With a protective structure, you have no right to block their view. Tokos said no you don't in this case. We have a statewide goal and it's in the Comprehensive Plan. If someone came in tomorrow and wanted to put in riprap, we would have to address that as a staff decision and possibly a Planning Commission hearing. The goal language regarding visual impacts would have to apply. Patrick said an example of this would be in Bay Shore where houses were built at varying heights on the existing dunes and someone builds riprap at their level blocking the view of the house lower down. Capri assumed that this is making it so you are putting in riprap when all other things don't work. Tokos said that is what items "(a)" and "(b)" get at. You have to demonstrate that you have a problem at this point, and the structure is the solution to that. Vegetation is one way to stabilize if you can pull it off; if the slope can take vegetation. Capri said if you've gone through options that don't work and you have to put in riprap; if it's blocking the neighbor, you can't put it in. Tokos said if you look at the State standards, OPRD has a pretty fair pattern with what they have to apply for scenic standards. That is on page 6 of the Administrative Rule. He noted that Capri was worried about visual impact. OPRD defined view obstruction as being to existing views of the ocean and beaches on adjacent properties. That is what they mention they are concerned about; but there may be other views people are concerned about. Franklin asked, view from where? Tokos said this would be obstruction of existing views of the ocean and beaches from adjacent properties; and adjacent means next to. It's existing views of very identifiable features; ocean and beaches. Hardy said that she hasn't seen riprap the height of a house. Patrick said someone could do it with a high bank by putting a new wall in and building it out six to eight feet. Tokos said yes, it could block the view to the northwest or something. Branigan said but you can build a house and block someone's view and it's okay. Tokos said it says minimize. What they are driving for is that you have to explore other opportunities that have less impact to the beachfront visual corridor in case it doesn't have to be a riprap bank of that mass to achieve what you are trying to achieve. He said some folks get it. We would have that worked into the analysis. Going back to the code, Tokos noted that public ownership and use (item "2(d)") is pretty straightforward. You can't put the protective structure over the top of a beach access. If you are losing slope but there is an access down to the beach there, you can't block that access. You have to look for a way to achieve what you want but still preserve the access.

Patrick said if there is a separate approach in the State's jurisdiction, there is no sense for us to do it. Berman said he could make the argument for consistency. What could happen is that the State applies one set of standards to one property, and a neighbor two doors down comes into the City and has to comply with a whole different analysis. Branigan said the State doesn't do the upslope. Patrick said they would have to come get two reviews. Tokos asked if we should be keeping ours simple; looking at eligibility. Or should we be looking at it more because of where it is located; down on the beach. Do we want to have a say on discretionary stuff if it gets down on the beach? He said if you feel OPRD, given their responsibility for protecting the beach, can do an adequate job then let them handle it and we just review eligibility. Capri asked if Tokos felt OPRD could handle it.

Tokos said yes; especially Tony Stein who is currently the director. He has overseen stuff all along the beach. Hardy said if we only do above the vegetation line, we want to have a parallel value system so we don't have the State standards widely varied from what the City wants to allow upslope. Tokos said that if any portion of the structure extends below the vegetation line, OPRD gets the whole thing; we just deal with eligibility. Franklin said they have more experience; so let them do it. Tokos said we can always change the rule.

Croteau said there is something to say for having as much say at the local jurisdiction as we can. He gave an example of Nye Beach. Yes, it is discretionary; but he would rather have it set here by us along with the State. We may agree or disagree. It's not a burdensome level of review we are asking for here. It is discretionary and will take some interpretation. Tokos said they would do a review and we would do a review. Tokos would modify this code and strip out number "3". It would be drafted as more of an acknowledgement so they are aware they have to do a review. Building permits are not issued until that review is complete. We are not obligated to get the rules the same as the State's, which means that we would have a say, but OPRD may end up differently anyway. They may say "no, City, we don't agree with you; and this is appropriate or this is not." If it's below the vegetation line, they are going to trump. Berman asked if Tokos is saying the State is going to do that anyway. Tokos said, yes they are going to do a discretionary review anyway. Tokos said if the Commission wants, he can talk to Tony Stein and ask if this is enough for OPRD to feel they could accept the City's findings or would they want to see more on the City's side to make this process easier on the applicant. Is there a way to hammer out the discretionary at one level with either one doing it and the other accepting it? Then there may possibly be a few more standards coming back to the Planning Commission. Berman thought that's needed for consistency. He said that places where this turns up are the heart and soul of Newport. He would be more comfortable is we are looking at all requests. Branigan asked how many we get. Tokos said it's very rare. Hardy said there are a lot more in the County. Tokos said that stuff will hit in mass if we get a severe weather turn and we start losing the bluff. It will be either move the house or stabilize the slope. Franklin said and they will want to handle it quickly. In those cases the neighbor will be wanting to riprap too. Patrick said if they are grandfathered. He said that has been the big rubbing point; erosion shifting to either side of the riprap.

Hardy said there are other issues that riprap won't solve. You have huge slide blocks in town. Drainage control might help somewhat; but that stuff moves whenever it wants. Croteau said that drainage control is a much bigger issue.

Capri suggested adding language to item "2(c)" "obstruction of existing views of the ocean and beaches from adjacent properties is minimized to the extent practical." Tokos said he probably could do that.

Tokos asked if it's the general consensus to look at this in all cases and was told yes.

Berman asked if there is a non-grandfathered area that is public access and it starts to disappear, what would it take to get some structure to maintain that public access. Tokos said that is a goal exception right now. It goes through us and then to the State by whoever is trying to protect that access. He noted that at Beverly Beach you can see their attempt to stabilize that slope is right up to the edge of the pavement. They can't armor that embankment. The State Highway Department is not exempted from that goal; but they can get a goal exception. They are looking into that. They identified alternatives such as relocating the highway slightly to the east, which seemed viable in the past. They are looking again to see if the exemptions are good ones, alternative analyses, and thing of that nature. Berman mentioned the beach access that was at the end of 68th. There could be a 10 foot drop that exists. Tokos said you see beach accesses have been lost all up and down the coast. He said the State does have the ability to do emergency authorization in certain circumstances. He will take a look at that because we will probably need to incorporate that. We would similarly want to do something since you want to look below the vegetation line. Patrick said as soon as the bluff gets eroded, it is State property because it's the high water mark. Capri asked if as a private citizen you can ask the State to repair State land. Tokos said you would have to talk to the State agency responsible for that and whether they would be willing to do that. They would have to approach the local jurisdiction to check for goal exception. ODOT can't just do that unilaterally. Patrick said if access is on a platted street then the City could apply to themselves. Tokos said or come in with a request down the road to do some sort of staircase structure. Berman asked if a beachfront protective structure is permanent. Tokos said he wouldn't go there per se.

Berman talked about a big gulley by his house where each couple of years he has dumped rocks in there with OPRD approval. Tokos said that's riprap effectively. Berman said that Stein said it was okay if he did it. Berman asked if that type of dumping rocks is beachfront protective structure. Patrick asked if it was above the vegetation line; and Berman said mostly. Tokos said OPRD takes the full extent of responsibility of the project because they take jurisdiction below that line.

Tokos said he will modify the code as discussed and get it noticed to the State for a hearing in late July or early August because of the 35-day notice requirement.

Croteau said when looking at past history, he would also be interested if goal exceptions were granted in the past; if so, he would like to see it. Tokos said he is nervous whether the City has been doing what it's supposed to have in the past; but he can bring that forward. Franklin asked if the Commission could get an example of things done in the past. Tokos said Stein could provide

that. They have had to reject things up and down the coast. Patrick said mostly because they are ugly piles of rocks. Tokos said these are mostly cases where a property owner goes a little bit overboard in terms of what they are doing. It's where there is some loss to the slope and they're going to fix it to last for the next 200 years and it's way more than what is technically needed and there are way more impacts to neighbors. Patrick said that he's seen pictures of some 150-foot tall walls.

B. New Business.

1. Review and discussion on draft Memo of Agreement (MOU) between Lincoln County, Lincoln City, and City of Newport for workforce housing. Tokos noted that workforce housing is an ever-evolving conversation and takes a lot of patience because it's difficult to get any progress on it. He said as a Planning Commission we talked about goals in the housing element of the Comprehensive Plan and did an update to the housing inventory and policies. We did that large outreach with the Technical Advisory Committee in 2010 and made a number of changes based on the recommendations from that. We put in the accessory dwelling units and manufactured dwellings sections. The City set up a revolving loan program this year from the sale of property on the Bay Front as resources for workforce housing construction. As one of the goals, we are looking to put a land bank in place, which is making City property available and entering into an agreement with the Lincoln Community Land Trust (LCLT). When a home is constructed, LCLT retains the ownership of the land. The homeowner is buying the unit at unit cost; not plus the land cost, which makes that home more affordable for the workforce. LCLT had two properties developed and sold. Both of which were in Lincoln City because that's where the property was available. The latest home was a 3-bedroom new construction and sold for just under \$135 thousand. Tokos said the original concept was that there would be an agreement between the Land Trust and the City of Newport where the City would make properties available over a five-year period to get basically a unit a year; six units over five years. The City would make available revolving loan funds to cover the costs of construction. The loan funds come back when the unit is sold and would be used for the next house. Tokos noted that the Planning Commission provided a favorable recommendation for that to the City Council. The Council didn't rule out going with that but decided they would be more comfortable if this was a broader partnership. Tokos said that is what is being brought forward now. He had included a copy of the MOU that provides that the city of Lincoln City, the city of Newport, and Lincoln County will each contribute \$30 thousand a year; which is more than it was. It was just our annual dues. These contributions are for three years to fund and hire our own executive director for the Land Trust so that we have somebody locally. The agreement is more general in terms of other commitments; revolving loan funds available, properties available, and County tax-foreclosed properties. It was intentionally a little vague. All three parties aren't in a position to spell that out. Tokos said that MOU is going to Lincoln County on the 22nd, Lincoln City later in the month, and Newport on July 21st tentatively. All three jurisdictions have budgeted the funds. Tokos said it was discussed at the Newport budget committee, and there was an attempt to get it out of the budget. He noted that we don't have unanimity on the City Council. The majority supported it so it cleared the budget committee.

Tokos said the Planning Commission is charged with taking a stance on these issues, and you supported it prior. His question is if the Commission is prepared to support this concept. He said it's very comparable; it's just a broader partnership for a shorter term of three years and is vaguer about who is offering up what.

Croteau said we have spent a lot of time on this issue and want to get something moving. He said there are a lot of people involved, and there is the commercial factor. We need to act responsibly. He said this is a baby step necessary for moving forward with this. The broader base of funding is better; but the time is short. He said that he gives this this blessing. We have to get started on this issue.

Tokos said that is what the housing study shows. It's a pinch point for employers. Tokos had included a recent newspaper article and said look at OSU and the housing it needs for those students. We don't have the capacity for an additional 5,000 students. Franklin asked how we could resolve that quickly. Tokos said that is what Croteau is getting at. Tokos said that he thinks that those on the City Council that support this understand that this is just a piece of the puzzle that's not presently being addressed by anyone else. If over three years we get six to eight units, that's six to eight that didn't exist prior. Those opposed are saying that we are making a lot of resources available for a small number of units and is this the best use of those resources. Capri asked what about townhouses or row houses, which would impact more people. Tokos said that he wouldn't rule that out; but do we have land suitable for that in Newport inventory, or Lincoln City, or the County tax-foreclosed properties. Do we have resources for this type of construction; it would be more expensive to construct than a single-family home. Do we have an organization capable of handling a bigger project yet? Croteau said there is a big demographic. We need single-family homes. Townhouses are great for young couples starting out; not for families. He said he doesn't know how OSU will house all of these students without constructing a dormitory. Tokos said Wilder is an excellent place for them; and they are talking. From OSU's perspective that is a pretty big expense on their capital. Croteau said that's even more reason to put the chips on the table as soon as we can. Tokos said that the housing study and the interviews with major employers indicate that they are having a hard time recruiting teachers, medical professional, etc., let alone the service category. Tokos said that is why the Land Trust is talking up to 120% of median family income. We have such a tight housing market, particularly with second homes. People are holding on to those homes. Franklin said and there is no big place for the City to expand. Tokos said we have a development trying to hit that market by selling cottages and smaller homes. They had some under \$210 thousand; now they are probably \$220-\$230

thousand on the smaller sites. Tokos said the difference between \$400 thousand and \$450 thousand is one thing. The difference between \$150 thousand and \$200 thousand is a big thing in terms of who you hit. Franklin asked who's eligible to buy these homes. Could an investor come in and buy them up? Tokos said they have to hit individual thresholds. They don't own the land, and they recognize that when they walk in. It is a 99-year renewable lease. These folks looking to have their own home recognize they can't reach the home they want without a program like this. Tokos said the first house the Land Trust sold was in the \$140-\$145 thousand range and was a 5-bedroom rehab.

Berman agreed that we need to get started. He noted that there are no commitments to the distribution of the properties. It references the Villages, and he can see Lincoln City making some of that property available and our \$30 thousand goes to construct in Lincoln City, which doesn't benefit Newport. Tokos said that two things that would temper that is that the Trust will be aware where the contribution is coming from, and it's only a three-year commitment so if there are a bunch in Lincoln City, then what are the chances Newport will continue. He added what's not to say that a home in Siletz or Toledo won't benefit Newport. The study showed that we have a large number of people that work here but don't live here. Berman said that he couldn't see these folks living in Lincoln City and contributing to the Newport economy. Several of the other members said, these people work here. Tokos said that he can put language in here that encourages that. Berman said he would like to see it stronger than that. He said something along the lines that in recognition that the contribution is coming equally from the three, each of the three will have at least one property constructed. Tokos said the Trust could approach the City and the City decides not to release property; so if Siletz is the closest available, then that is where it's going. Patrick said that Newport doesn't have much for inventory; at least nothing that's very good. Capri asked what about the lots across from City Hall. Tokos said those are probably some of the best. Tokos said the path the City Council will want to take is to have all the details brought forward as a proposal. We probably will have a new Council when we start the project. Tokos said the tax foreclosed properties with the County are probably the best. A number of those properties are developed, so we are talking rehab and we can turn them over faster. In the past the County has talked about their fiduciary responsibility to the public; and when these properties are sold, they are paying property taxes.

Croteau said this is a win-win. It's a small investment. It will get sorted out in time. Once the minimum is in place, we can push forward. We can experiment. There is a lot of oversight. Hardy agreed there is quality control. Tokos said the Trust has that in place in terms of contractors. There are standards they have to meet. The Trust has a little bit of experience. Franklin asked if local labor is utilized. Tokos said yes. The new construction in Lincoln City was done by a Lincoln City contractor. Croteau said a land trust is not breaking new ground; they work. It was asked if it could be a point of emphasis for the Trust to use local contractors. Tokos said that he is a member of the board for the Land Trust, Lincoln City has representatives on the board, and County Commissioner Bill Hall is the board chair. Tokos said he expects how the selection of a contractor plays out is just because of the cost. He said the bottom line for the Trust is if it's going to hit the budget. There isn't much in the way of wiggle room. Franklin asked if they have looked at going with somebody like HiLine homes. Tokos said the Trust has talked to Adair Homes, but haven't gotten comfortable with them. That is a 99-year lease and is in the Trust inventory for a very long time so they are looking for quality construction. They want it to be energy efficient so that the utility bills won't break the person getting into it. The Trust has pretty strict standards in terms of energy efficiency; and volume builders haven't gotten there.

Tokos asked if there was consensus for him to bring a letter of support forward for the next meeting; and the answer was yes. It was noted that we have to start somewhere.

C. Adjournment. Having no further discussion, the work session meeting adjourned at 7:04 p.m.

Respectfully submitted,



Wanda Haney
Executive Assistant

