



PLANNING COMMISSION REGULAR SESSION AGENDA

Monday, March 14, 2022 - 6:45 PM

City Hall, Council Chambers, 169 SW Coast Hwy, Newport, OR 97365

This meeting will be held electronically. The public can livestream this meeting at <https://newportoregon.gov>. The meeting will also be broadcast on Charter Channel 190. Public comment may be made, via e-mail, up to four hours before the meeting start time at publiccomment@newportoregon.gov. The agenda may be amended during the meeting to add or delete items, change the order of agenda items, or discuss any other business deemed necessary at the time of the meeting.

Anyone wishing to make real time public comment should submit a request to publiccomment@newportoregon.gov at least four hours before the meeting start time, and a Zoom link will be e-mailed.

1. CALL TO ORDER AND ROLL CALL

Commission Members: Jim Patrick, Bill Branigan, Lee Hardy, Bob Berman, Jim Hanselman, Gary East, and Braulio Escobar.

*A public hearing, if scheduled, will be conducted utilizing the Zoom video-conference platform.
There are a few ground rules:*

- A. Individuals wishing to speak may raise their hand proper or use the raise hand feature, which can be found by clicking on the "Participants" button on the bottom of a computer screen, the "Raise Hand" button on the bottom of a smartphone, or by dialing *9 on a landline. The Chair will call out the order of testimony in cases where multiple hands are raised.*
- B. Please keep your microphone muted unless you are speaking. Press *6 to mute and unmute a landline.*
- C. For persons participating by video or phone, the City can make the shared screen feature available for those that wish to make a presentation. Information shared with the*

Planning Commission in this manner is part of the record, and a copy of the materials will need to be provided to staff.

- D. For those persons who have elected to attend the hearing in person, a computer has been setup so that they may provide testimony using the video-conference platform.*

2. APPROVAL OF MINUTES

2.A Approval of the Planning Commission Work Session Meeting Minutes of February 28, 2022.

[Draft PC Work Session Minutes 02-28-2022](#)

2.B Approval of the Planning Commission Regular Session Meeting Minutes of February 28, 2022.

[Draft PC Reg Session Minutes 02-28-2022](#)

3. CITIZENS/PUBLIC COMMENT

A Public Comment Roster is available immediately inside the Council Chambers. Anyone who would like to address the Planning Commission on any matter not on the agenda will be given the opportunity after signing the Roster. Each speaker should limit comments to three minutes. The normal disposition of these items will be at the next scheduled Planning Commission meeting.

4. ACTION ITEMS

4.A Initiate the Public Hearings Process for Housekeeping and 2021 Legislative Amendments.

5. PUBLIC HEARINGS

6. NEW BUSINESS

7. UNFINISHED BUSINESS

8. DIRECTOR COMMENTS

9. ADJOURNMENT

Draft MINUTES
City of Newport Planning Commission
Work Session
Newport City Hall Council Chambers by Video Conference
February 28, 2022
6:00 p.m.

Planning Commissioners Present by Video Conference: Jim Patrick, Bob Berman, Lee Hardy, Braulio Escobar, Jim Hanselman, Gary East, and Bill Branigan.

PC Citizens Advisory Committee Members Present by Video Conference: Dustin Capri, and Greg Sutton.

City Staff Present by Video Conference: Community Development Director (CDD), Derrick Tokos; and Executive Assistant, Sherri Marineau.

1. **Call to Order.** Chair Patrick called the Planning Commission work session to order at 6:00 p.m.

2. **New Business.**

A. **Outline of Housekeeping Amendments Addressing 2021 Legislation.** Tokos reviewed the initial take on areas in the Newport Municipal Code (NMC) that would need to be amended to implement changes to state law from the 2021 Oregon legislative session and one bill from the 2022 short session that would likely pass. The City was required to apply the statutes directly if it had not adopted the language into its municipal code. Tokos explained the Commission was looking at housekeeping to ensure that Newport's code picked up required language and they didn't miss something when assisting the public.

Tokos reviewed the HB 2008 amendment that required local governments to allow non-profit religious organizations to construct affordable housing on commercial property where it was adjacent to a residentially zoned parcel/lot. Hanselman expressed concerns that this section seemed to be specifically worded for religious entities and didn't allow for secular non-profits. He wondered if this was in violation of first amendment constitutional rights. Hanselman didn't know why non-profits that weren't religious seemed to be shut out of this. He thought they should include all non-profits. Hanselman thought the City Attorney would have information on this. Tokos noted that this was the focus on this legislation and noted that SB 8 got into other types of non-profits. The two had an inter relationship that the city would need to pick up in the code amendments. Hanselman thought they were benefitted by all non-profits having access to this. Berman agreed and didn't think there was any logical reason why it should be limited to religious organizations. Tokos noted in the end it wouldn't be.

Tokos asked for comments on water dependent and water related use categories to clarify if one or both were categorized as industrial use. He thought they needed to make it clear that water dependent properties were classified as industrial and therefore could not be coopted for affordable housing. Affordable housing was important but the city have a finite amount of water properties. Patrick thought they should leave it tied up as industrial especially because the areas weren't good locations for affordable housing. There was general agreement to write this up to say water related and water dependent were classified as industrial use.

Tokos reviewed the SB 8 amendments. SB 8 gave the definition for “affordable housing” as 80 percent of median family income and expanded the locations where affordable housing must be allowed to include land owned by a public body, including publicly owned industrial sites, and property zoned for public use. Hanselman asked how they would deal with the 80 percent and 60 percent because the HB and SB were different in what the percentage was in terms of affordability. Tokos thoughts were to go with the 60 percent because it was more common and use 80 percent as a threshold that would trigger for some of the provisions being discussed. Tokos noted they would have to allow affordable housing on public properties adjacent to land zones for residential use, which the city had properties like this. Berman asked if this would be a public effort instead of private developers. Tokos confirmed it was a public effort. The City Council had periodic discussions on what they could do to shuffle city inventory to help. They had made property available for affordable housing, such as the duplex next to City Hall. Tokos asked the Commission if they wanted to prohibit affordable housing on nonresidential properties in a tsunami hazard zone. Escobar and Capri agreed. Berman didn't like it because they didn't prevent housing in these areas and didn't see why affordable housing had any significant differences. Tokos rephrased that the City could prohibit affordable housing on “non-residential” properties in hazard areas, and they didn't generally allow housing in these areas already. Branigan asked what the definition of hazard area was. Tokos explained in the context of State legislation it was anything they had under Goal 7 hazards including flood plains, geologic hazards areas, and tsunami hazard areas. Patrick asked if wildfires were included. Tokos explained they could do this but they really didn't have any inventory to designate wildfire risks. He stated he would put together language that would limit the scope of this on nonresidential in a tsunami hazard area.

Tokos reviewed HB 2583 that prohibited local governments from imposing occupancy limits based upon familial or non-familial relationships. He then reviewed HB 3261 that required local governments to allow hotels and motels to be converted for affordable housing or emergency shelter use.

Tokos reviewed HB 2560 that required local governments provide the public the opportunity to participate at public hearings by telephone or video, and to submit testimony electronically, including during a hearing. He then reviewed amendments to HB 3109 that required local governments to allow child care centers in all commercial and industrial zones, except heavy industrial zoned areas. Tokos reviewed the amendments to HB 2607 that provided that construction excise taxes cannot be applied to residential housing being constructed to replace housing destroyed or damaged by natural disaster.

Tokos reviewed HB 2809 that required that local governments allow a recreational vehicle (RV) on a lot/parcel where the dwelling had been destroyed or damaged by natural disaster. Hanselman asked if there were term limits for the length of stay. Tokos explained it could be a maximum of 24 months. Berman requested that a definition for “natural disasters” be added. Tokos would look at the definitions to give clarity. Branigan asked if there was anything included to accommodate sanitation for parked RVs. Tokos didn't recall there being anything but thought there was language for them to connect to services. He would look into it.

Tokos reviewed SB 405 that prohibited local governments from barring the reestablishment of a non-conforming use due to discontinuance if a state or local emergency order limited or prohibited reestablishment of the use. Patrick asked for an example on this. Tokos thought they created the bill so nonconforming housing that had been burned down would be discontinued if they didn't rebuild in 12 months.

Tokos reviewed HB 4064-A which was a bill that appeared likely to pass in the coming weeks during

the 2022 legislative short session, and could be picked up with this package. The version of the bill will be released shortly. Tokos explained this was for a new class of kit homes that were being developed that were built at the manufacture and then assembled on the property. These were not built to HUD standards like traditional manufactured dwellings. Patrick asked what standards they were built to. Tokos explained they were being built to different standards depending on who was building them. The way the Building Codes Division was dealing with it was to create a registration process where builders showed they can meet the Oregon Building Code standards. If they did, they were put on a list where the city could green light them based on a foundation on a lot in Newport. East asked if this covered storage container homes and 3-D printed homes. Tokos confirmed that storage container homes would be included but he didn't know about 3-D printing. He would have to look into it. Tokos noted another piece of the HB took out the statutory manufacture dwelling standards that could be applied when putting a manufactured dwelling on a lot outside of a park. We had these in our code and they mirrored the statute, but we needed to take out anything that wasn't clear and objective. Branigan asked if commercial buildings had to adhere to the HUD standards or if they were different. Tokos explained that HUD standards were generally for manufactured dwellings. He would prepare a set of code revisions for the next meeting to pick up the issues they had been discussing.

3. Unfinished Business.

- A. Draft 2022/23 City Council Goals.** Tokos reviewed the City Council goals for Fiscal Year 2022-23. He asked for thoughts on the goals from the Commissioners to provide feedback to the Council. Berman pointed out that Goals A-6 and A-8 weren't included in the Transportation System Plan (TSP) at all. He asked if they could be added to the project list. Tokos reported that the trolley wasn't included in the TSP but it was in the Parking Study. It wasn't called a trolley in the TSP, it was called a rapid transit run in the Nye Beach, Bayfront, and City Center. Berman thought this needed to be synced up with the TSP. Tokos confirmed it was included and would take a closer look at it. He reminded that anything to do with the highways needed to be vetted with ODOT first.

Branigan asked if putting in a safety crosswalk near the movie theater was included. Tokos confirmed there was a project included and there was a capital project sheet in the proposed budget that would fund this.

Escobar asked if they were looking for funding to buy properties or condemn the properties for watersheds. Tokos explained the first step was to do a plan on how they were managing the watershed and what sites should be priority for acquisition. Then, once they know which ones they would be acquiring, they would put together the funding for it. Hanselman asked if there was a ball park on the amount of acreage they were talking about. Tokos explained there were a number of properties in the watershed and not all were equal. Some had tributary connects on them, and others were on the outskirts of the watershed and not as valuable. There was another side of this to ask when they acquire the land, would they be just holding it or allowing groups like the Community Forest Association to do sustainable harvesting of forests, and to determine what was made available for recreational purposes. These were the kinds of decisions that needed to be made in a plan to manage the watershed.

Berman asked if Rogue had figured things out and were sending the correct effluent to the system. Tokos reported this had progressed and he understood that their pretreatment system was operable at that time. Berman asked that the Commission be kept up to date on this. A discussion ensued regarding the types of uses that major players in the city had an impact to the solids issue to the system, and the ability for the system to function correctly. Hanselman suggested that as constructive criticism of the City Council goals they should suggest they look at the heavy users of the wastewater treatment and

the users that impacted the wastewater treatment more than residential customers. Tokos asked if there was general consensus with the Commission to pass along the comment to the Council. The Commission was in general agreement with this.

Berman pointed out that he didn't know what "Listos" training was for Goal E-2 was and thought it should be defined. Tokos didn't know the definition but would address it.

Tokos reviewed the homeless taskforce goal next. Escobar asked if they were creating a permanent homeless community rather than a transitory event. Tokos explained what this was trying to do was to come up with a homeless shelter to provide services to the homeless.

Berman pointed out that that Goal G-2 should be December 31, 2022, not 2021. Patrick asked if Goal G-4 would allow the public to see the City's GIS system. Tokos explained they would have to be careful with what they put out to the public so people didn't take it as gospel.

Berman noted that the last bullet under Goal B, additional ideas not prioritized, it needed a hyphen. He also noted that he didn't know what a DEI action plan was and thought it needed a definition.

B. Updated Planning Commission Work Program. Tokos noted that there were a few things that were pushed back on the work program schedule because the TSP draft wasn't complete. The executive summary hadn't been completed and the Project Advisory Committee didn't want to make a decision until it had been done. Once it was done the Committee would make a recommendation and then the Commission would initiate the legal process to begin to work through the adoption process.

4. Adjourn. The meeting adjourned at 7:06 p.m.

Respectfully submitted,

Sherri Marineau,
Executive Assistant

Draft MINUTES
City of Newport Planning Commission
Regular Session
Newport City Hall Council Chambers
February 28, 2022

Planning Commissioners Present by Video Conference: Jim Patrick, Bob Berman, Lee Hardy, Braulio Escobar, Jim Hanselman, Gary East, and Bill Branigan.

City Staff Present by Video Conference: Community Development Director (CDD), Derrick Tokos; and Executive Assistant, Sherri Marineau.

1. **Call to Order & Roll Call.** Chair Patrick called the meeting to order in the City Hall Council Chambers at 7:14 p.m. On roll call, Commissioners Patrick, Branigan, Berman, Hardy, Hanselman, Escobar, and East were present.

2. **Approval of Minutes.**

A. **Approval of the Planning Commission Regular Session Meeting Minutes of February 14, 2022.**

Berman reported one minor correction to the work session meeting minutes.

MOTION was made by Commissioner Berman, seconded by Commissioner Escobar to approve the Planning Commission Regular Session meeting minutes of February 14, 2022 with minor corrections. The motion carried unanimously in a voice vote.

3. **Action Items.**

A. **File 1-NB-22: Final Order and Findings of Fact for the Design Review Modifications to The Whaler @ Nye Beach Hotel.**

MOTION was made by Commissioner Berman, seconded by Commissioner Escobar to approve File 1-NB-22 Final Order and Findings of Facts as written. The motion carried unanimously in a voice vote.

5. **Public Hearings.** At 7:16 p.m. Chair Patrick opened the public hearing portion of the meeting.

A. **File 2-MISC-21.**

Tokos reported the public hearing item had been withdrawn. He explained this was extension for the 5th Street Loft subdivision that the Commission granted in 2018. The owners posted a cash deposit financial security for 150 percent of the cost for public improvements that were still needed. This allowed the final plat to be recorded and meant they no longer needed to ask for Planning Commission approval for an extension. The applicants already received a staff level extension which had been exhausted.

Patrick asked if the Commission needed to do any updating on these extensions because construction projects were being dragged out for longer periods of time because of limited supplies. Tokos suggested bringing it in with the the housekeeping work for the Commission so they could look at tweaking the timelines. Patrick thought they needed to add another six months because it was taking people extra time to do things currently. Tokos thought this was a good point and noted they wouldn't change the land use codes if basic development was such that granting additional time would be problematic.

6. New Business.

A. Update on the City's COVID Policies. Tokos reported the City Council elected to go back to hybrid meetings on April 1st. They were able to accommodate this anyone who wanted to participate through Zoom could still do so.

Berman asked if the policy document that was attached to the agenda was the existing policy. Tokos confirmed it was and said he would forward the new policy to the Commission when he had it.

B. March 7th HCA/HPS Project Kickoff. Tokos reported they wanted to get the analysis going. He was hoping the consultants that were coming to Newport could hear from the community. Tokos asked if any Commissioners were available to meet with them and City Council to allow the consultants to get a feel for Newport. Berman asked if this would be a joint Council and Commission meeting. Tokos confirmed it would be if there was a quorum. Commissioners Berman, Patrick, Branigan, and Hanselman stated they could attend. Tokos noted the meeting would be noticed as a joint session.

7. Unfinished Business.

A. Update on Yaquina Bay Estuary Management Planning Process. Tokos explained that he added this agenda item so the Commission knew what was happening to move this forward. There would be some regulatory changes for uses in the bay and the Commission would need to do work on the Comprehensive Plan for inventory on the bay.

8. Director Comments.

A. Ordinance Change to the Recreational Marijuana Spacing Requirements. Tokos reported the City Council decided they wanted to make a change to the spacing standards to allow sale of recreational marijuana to go from 1,000 feet apart from each other, child care and schools. The State changed the rules relative to schools and carved out exceptions that would allow for retailers to be closer to schools if there was a geographical barrier that would prevent kids from going to the retailer from schools. They also carved out that retailers established before August 2017 could be as close as 500 feet to schools. Tokos reported the reason for the change was because a retailer on the bayfront could no longer be located on the bayfront and asked the Council to amend the code so they could relocate.

Tokos reported they received an appeal on the animal shelter conditional use decision and they would be talking to the City Council about the process moving forward. It would be an on the record review. Tokos reported that he went ahead and had a transcript of the Commission hearing done and they would be able to move the process forward rather quickly.

9. **Adjournment.** Having no further business, the meeting adjourned at 7:28 p.m.

Respectfully submitted,

Sherri Marineau
Executive Assistant