

**MINUTES**  
**City of Newport Planning Commission**  
**Regular Session**  
**Newport City Hall Council Chambers**  
**July 12, 2021**

**Planning Commissioners Present:** Bob Berman, Jim Hanselman, Lee Hardy, Braulio Escobar, Gary East, and Bill Branigan.

**Planning Commissioners Absent:** Jim Patrick (excused).

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

1. **Call to Order & Roll Call.** Vice Chair Branigan called the meeting to order in the City Hall Council Chambers at 7:00 p.m. On roll call, Commissioners Hanselman, Branigan, Berman, Hardy, Escobar, and East were present.

2. **Approval of Minutes.**

A. **Approval of the Planning Commission Work Session Meeting Minutes of May 24, 2021.**

**MOTION** was made by Commissioner Berman, seconded by Commissioner Escobar to approve the Planning Commission Work Session Meeting Minutes of May 24, 2021 with minor corrections. The motion carried unanimously in a voice vote.

B. **Approval of the Planning Commission Regular Session Meeting Minutes of May 24, 2021.**

**MOTION** was made by Commissioner Berman, seconded by Commissioner Escobar to approve the Planning Commission Regular Session Meeting Minutes of May 24, 2021 as written. The motion carried unanimously in a voice vote.

C. **Approval of the Planning Commission Work Session Meeting Minutes of June 14, 2021.**

**MOTION** was made by Commissioner Berman, seconded by Commissioner Escobar to approve the Planning Commission Work Session Meeting Minutes of June 14, 2021 with minor corrections. The motion carried unanimously in a voice vote.

3. **Citizen/Public Comment.** None were heard.

4. **Public Hearings.** At 7:05 p.m. Vice Chair Branigan opened the public hearing portion of the meeting.

Vice Chair Branigan read the statement of rights and relevance. He asked the Commissioners for declarations of conflicts of interest, ex parte contacts, bias, or site visits. None were heard. Branigan called for objections to any member of the Planning Commission or the Commission as a whole hearing this matter; and none were heard.

A. **File 1-Z-21.**

Tokos acknowledged the comments that came in after the staff report was posted that were received from Bonnie Hendren, Janet Webster, Victor Mettle, Front Street Marine LLC, and the attorneys representing the Lincoln County School District.

Tokos reviewed the staff report and made a request that the Commission discuss the policy options after public testimony was taken. He also noted that they could choose to continue the hearing.

Berman asked for more precision when referring to residential areas in the draft. He asked if residential areas was limited to the "R" type zones, and if this would be clarified. Tokos confirmed that he changed the draft to read "residential zoned areas" and these were the R-1, R-2, R-3 and R-4 zones. Any reference to residential areas would be changed to residential zoned areas. Berman noted Chapter 4.10.010 didn't have this change. Tokos would make sure all instances were changed in the draft.

Berman conveyed that he was not comfortable with a lottery if renewal applications exceed for the authorized spot. He thought it wasn't fair that someone could get established in a spot and then lose the spot due to a random lottery. Tokos noted this applied to the five licenses at the Nye Beach turnaround and the Bayfront by the Hatfield pump station. Business licenses for these were issued on an annual basis and they didn't proposing to change this. Tokos noted that the spots weren't the vendor's property and they weren't entitled to those locations, except for the season they applied and obtained an endorsement for them. Berman asked if vendors didn't renew in time could someone else come in and take the spot. Tokos explained that the business license renewed but the fixed based endorsement didn't. If someone else put their name in for the space for the next year they would get the spot. Language could be added to address this. Tokos reported that this hadn't been a significant issue that they had observed, and there wasn't anyone who had locked up licenses for multiple years. Berman didn't think it was fair to have someone who was already established not be able to be there through no fault of their own. Hanselman agreed with Berman. He thought they could put in a renewal period for the business license holders. If they didn't do this, someone else could get the spot that someone was already established at. Escobar asked how they would feel about limiting a holders ability to hold or transfer a license. Berman thought this should be the same as short-term rental licenses. They would get to continue to use it, and when they stopped using it, it would go to someone else. Escobar suggested the licenses not be transferable.

**Proponents:** Susannah Montague addressed the Commission. She explained that she planned to open a fixed stand to serve fish and chips. Montague reported that she had already been approved by Lincoln County and she wanted to be open in Newport. She saw an influx of business in Newport and didn't think food carts would create competition. Montague also noted that she wasn't interested in being in front of a school, in Nye Beach or the Bayfront. Branigan asked where she planned to locate. Montague hoped to be located in the Deco District.

Nathan Wallner, owner of the Tsunami Training Center addressed the Commission. He reported that they had a lot they wanted to set up food carts on, and there were vendors who already wanted to set up at this location. Wallner noted the location was close to the Szabos Steakhouse. There were a lot of surfers that frequented this location and a new housing development being built close to it that they could serve. Wallner thought that the food carts could add to the value of the city. Berman asked if they went through the County process to get approved yet. Wallner reported they hadn't. Berman asked if the lots were residential. Wallner explained they were commercial lots.

**Opponents:** Mike Franklin, owner of the Chowder Bowl addressed the Commission. He explained that over the last year restaurants had been dealing with COVID restrictions, higher costs, and it was hard to hire enough employees. Franklin had nothing against food pods but didn't agree that carts should be allowed without them having to pay for the infrastructure to operate. He noted the Nye Beach turnaround area needed additional trash cans. Franklin didn't agree with taking out the half mile restriction and 15 minute rule. The lack of parking was a problem and food carts would affect the amount of parking spaces there was. Enforcement was also already a problem, with overnight parking happening in the area. Franklin felt that enforcement of a food truck would be up to a complaint driven response by business owners and he didn't think that was fair as a business owner.

Franklin explained that the Nye Beach turnaround was often used for family picnics. He thought the hum of generators, smoke, and blocking of the views would be horrible for Nye Beach. This area was better suited to ice cream and jewelry vendors. Franklin didn't think there was room for food carts there.

Franklin questions who would pay for the increase in trash disposal at the turnaround, and he thought that food trucks should pay for this. He noted that if they were to put in pods, all of this would be handled and money would be coming into the city. The impact on brick and mortar restaurants were dependent on summer business. Franklin thought that a food truck outside his business would directly affect the community and employees of his business. He listed the reasons why they city shouldn't change the code and felt the current code still served the original intent.

Escobar noted that most of Franklin's complaints were about trucks in Nye Beach. He asked if Franklin had concerns about other areas in the city. Franklin thought this wouldn't work if it wasn't done properly, there wasn't infrastructure, and the city wasn't handling things. He thought pods were a better way to handle it.

Benedict Linsenmeyer, attorney representing the Lincoln County School District (LCSD) and Kim Cusick with the LCSD addressed the Commission. Linsenmeyer reported that the LCSD was against allowing the part of the proposed changes to allow food carts within 500 feet of secondary schools. They wanted to see them be excluded from 500 feet regardless of they were on public or private property. Linsenmeyer explained that the school food program currently used in Newport allowed free meals to children K-12, but it was participation based program. This meant that if students went to food carts instead of school lunches, it could lead to drops in participation and the School District may become ineligible for the food program. This could further the inequality for the already disadvantaged children that relied on the one set meal a day at school. Linsenmeyer thought this was reason enough to show that food carts were contrary to the general welfare of the community. They believed that food carts and pods should be precluded from being within 500 feet regardless of if they are on public or private property.

Escobar pointed out that the Cub Cave restaurant was across from the high school. He asked how the felt about this business versus a food cart. Cusick reported that this location consistently took away from their food program. She thought the building had been sold and they didn't think the new owners would use it in this manner. Escobar noted that he saw a lot of students around town getting food and asked if they had a closed campus. Cusick reported that they didn't currently have a closed campus but they were considering closing it to 9th and 10th graders next year. Escobar asked if they would be open to a food cart or a brick and mortar restaurant on 3rd Street. Cusick confirmed they were against both. Linsenmeyer added that food carts were different from a brick and mortar restaurant and attractive for everyone in general. Because they already had a problem with children leaving campus for other food sources, they don't want to make this more of a problem than it already was. The changes could very easily push them over the edge of losing the food program.

Hanselman asked how many students qualified for free meals. Cusick reported 100 percent of the students qualified under the community eligibility program, based on poverty rates. If participation dipped below a certain level, they could lose their services or they would have to return to a free and reduced program. Currently every student received free breakfasts and lunches. Berman asked what the current participation counts were for the program. Cusick didn't have the counts to report at that time. Berman asked what percentage level they would have to fall under before the program went away. Cusick reported that if a certain school fell below a certain percentage they would need to reduce staff and return to the free and reduced meal pattern instead. She offered to provide the numbers to the Commission if needed. Branigan asked for the details to be provided. Escobar asked them to also provide what the level of participation for the high school was, and what the level of the threshold was.

Berman asked why the LCSD thought the food carts would be less healthy. Cusick explained that there were very strict guidelines for meals through the Healthy Meal Act to insure that students were receiving

healthier meals. Berman asked if they had any comparative data on food carts as to whether or not they meet that same criteria. Cusick could provide those materials.

Hanselman asked what the history was for the open campus and the possibility of that being curtailed. Cusick reported that the Kindergarten through 8th grades had closed campuses. 9th grade and above were currently open campuses but they were considering closing them due to the level of truancy.

Greg Morrow, owner of the Tap House in Nye Beach addressed the Commission. He stated that he agreed with what Mike Franklin said. Morrow noted that when the parking was full at the Nye Beach turnaround his restaurant typically got the overflow. He described the garbage in the area as phenomenal and noted how a past hotdog vendor who was located in the turnaround created a lot of garbage. Morrow was concerned about parking enforcement for food carts and thought that if the changes were approved, the city would see the holes in the guidelines. He was in favor of pods and thought there were some small spots in Newport for these. Morrow pointed out that there were a lot of restaurants that were closed or closing, and many were struggling at that time.

Janell Gulpen, owner of Clearwater Restaurant and the Barge Inn addressed the Commission. She wanted to see the hearing continued to get additional information, and to further the conversation and get it right for the small businesses that wanted to get into the restaurant community and the city. Many of the small restaurants have invested their time and energy into weathering COVID. Gulpen reported she just recently purchased the Cub Cave as well. She thought that having to face the chance to have a food cart across the street from their businesses was hard. Gulpen liked food pods and she felt there were other options for food trucks to be on public lots instead of in front of restaurants.

Escobar asked if there was a food truck that parked in front of the fish plant on the Bayfront. Scott Gulpen addressed the Commission and noted that there was a food truck that parked randomly on the Bayfront, but not in front of their restaurant. They didn't want trucks to be able to park within a certain feet from a restaurant. Gulpen noted they were also planning on reopening the Cub Cave under the current permitted use. Escobar asked if their concerns was about food trucks as opposed to a food pods. Gulpen pointed out that pods had to be regulated with bathrooms, sewer and parking. They opposed the change of the current structure of the code.

**Rebuttal:** Montague pointed out that the current requirements to have a food cart in Lincoln County required them to have a plan for trash and a bathroom.

**Rebuttal:** Franklin explained that the reason he was in favor of pods was because the food trucks on the Bayfront only went to high traffic areas. If food trucks were going to act like a brick and mortar restaurant and stay in one spot every day, they should have the same requirements as a brick and mortar restaurant and be located on a pod site.

**Rebuttal:** Scott Gulpen reported that he had owned a food cart before and in order to have a plan for your food truck, all you needed to do was designate a restroom, which could be a public bathroom, and provide trash cans. He knew the food cart of the Bayfront relied on public bathrooms and private trashcans and they didn't provide either.

Branigan concluded the testimony portion of the hearing for the evening at 8:20 p.m.

Tokos reviewed the issues raised and asked for a Commission discussion on the policies to prepare updates for the continued hearing.

The Commission discussed Chapter 4.10.35 policy options 1(A) and 1(B). Hardy stated that she didn't like either option. She wanted restrictions in front of schools and felt that given the short lived investments of food carts and the marginal income, she thought they were wasting their time. There was general consensus to provide both options in the draft.

The Commission discussed Chapter 4.10.35 policy options 4(A) and 4(B), and the general consensus was to provide option 4(B) only.

The Commission discussed Chapter 4.10.040 policy options A(1) and A(2). East didn't want to see this changed for Nye Beach but for Bayfront. Berman thought instead of having the designated areas being the same, they could ask the City Council to designate push cart areas and food truck areas. This way the Council could decide the given areas each type could be located at. Hardy agreed with Berman. Escobar wasn't in favor of food carts at the Nye Beach turnaround. He also felt it would be a disservice to have a food truck at the pump station. Escobar was in favor of Berman's suggestion. Tokos would reframe the language such that the Council by resolution would have to designate which locations are appropriate for food trucks and fixed based vending on properties, and which locations should be reserved for carts. Berman reminded that the Commission could also make a recommendation on the two current locations. Tokos confirmed this could be done, but noted it wouldn't be included in the language and would have to be done by motion.

The Commission discussed Chapter 14.09.050 policy options A(1) and A(2). Tokos asked if the Commission wanted to add language to restrict food pods only to the Bayfront or Nye Beach. The Commission was in general consensus to have the additional language added.

The Commission discussed Chapter 14.09.050 policy options B(1), B(2) and B(3). The general consensus was to keep all three policy options.

Berman requested there be a work session before a continued hearing to review draft policies and to ask question before it was presented at the hearing for additional public testimony.

**MOTION** was made by Commissioner Escobar, seconded by Commissioner East to continue the hearing for File 1-Z-21 to the July 26, 2021 Planning Commission regular session meeting. The motion carried unanimously in a voice vote.

5. **New Business.** None were heard.
6. **Unfinished Business.** None were heard.
7. **Action Items.** None were heard.
8. **Director Comments.** None were heard.
9. **Adjournment.** Having no further business, the meeting adjourned at 8:40 p.m.

Respectfully submitted,



Sherri Marineau  
Executive Assistant

