

**MINUTES**  
**City of Newport Planning Commission**  
**Regular Session**  
**Newport City Hall Council Chambers**  
**July 26, 2021**

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

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

**City Staff Present:** 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 7:00 p.m. On roll call, Commissioners Patrick, Branigan, Berman, Hardy, Escobar, and East were present.

2. **Approval of Minutes.**

A. **Approval of the Planning Commission Work Session Meeting Minutes of July 12, 2021.**

**MOTION** was made by Commissioner Berman, seconded by Commissioner Escobar to approve the Planning Commission Work Session Meeting Minutes of July 12, 2021 with minor corrections. The motion carried unanimously in a voice vote.

B. **Approval of the Planning Commission Regular Session Meeting Minutes of July 12, 2021.**

**MOTION** was made by Commissioner Berman, seconded by Commissioner Escobar to approve the Planning Commission Regular Session Meeting Minutes of July 12, 2021 with minor corrections. The motion carried unanimously in a voice vote.

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

4. **Public Hearings.** At 7:02 p.m. Chair Patrick opened the public hearing portion of the meeting. He confirmed that he had listened to the testimony of the July 12, 2021 public hearing and was prepared to participate in the hearing continuation.

Chair Patrick read the statement of rights and relevance. He asked the Commissioners for declarations of conflicts of interest, ex parte contacts, bias, or site visits. Patrick and East reported possible ex parte conflict due to a conversation they had in public with one another concerning the public hearing. Patrick 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 (Continued).**

Tokos acknowledged the testimony received after the Commission package had been posted from Janet Webster, Attorney Benedict Linsenmeyer representing the Lincoln County School District (LCSD), Mark Horton, Debbie Gehlken, Lacey Horton, and Tiffany Pankey.

Tokos reviewed the policy options for Chapters 4 and 14. He noted that there was one change to the document that was different from what had been presented at the last hearing. This had to do with the process a pod would have to be reviewed and approved as opposed to one to three food trucks on a property.

Because a pod was a more permanent form of development, the review process was set up that once reviewed, approved and permitted, they wouldn't have to come in every couple of years to get a renewal because it was less of a temporary use.

Berman asked if an adjacent property referred to any parcel that shared the boundary, including a parcel across a street. Tokos explained that adjacent was a shared boundary. Typically a ROW across the street was a boundary because it was considered an easement. Therefore, anything across the street would need consent. Berman asked if this applied to properties that fell across the street on US 101. Tokos confirmed that it did, unless the Commission did clarifying language otherwise. Patrick asked how this applied to properties on corners. Tokos explained that it typically wasn't based on both corners, but if there was a contiguous property boundary it would trigger this. Patrick asked how it applied to city properties or the National Guard property. Tokos explained were public properties. Patrick wanted a definition on what an "elementary school" was. Tokos reported that this was typically K-12 grades and the Commission could ask for clarification on this through a motion.

**Proponents:** Brett Montague addressed the Commission. He stated he supported food trucks in Newport. Montague reported that the recent News Times feedback from the public showed that 26 out of 28 people were in favor of food carts. He thought food trucks would buy from local fishermen and would provide a sustainable product for Newport.

Ethan Hult addressed the Commission. He was in favor of food trucks and thought they were a great opportunity for young entrepreneurs to start a business.

Juan Hernandez addressed the Commission. He thought that having to ask permission to operate wasn't something other businesses had to ask for. Hernandez thought it was hard to tell what the 500 feet was, and thought it didn't make sense. He wanted to see more food trucks around town. They would be a good opportunity for people who didn't have enough money to open a restaurant.

Suzanne Montague addressed the Commission. She requested the Commission consider Policy Option D1 of the consent requirements as it was the only option that would apply to any other business. Branigan asked where she wanted to locate her food truck. Montague reported she was interested in the Deco District.

**Opponents:** Benedict Linsenmeyer, attorney for the LCSD addressed the Commission. He explained that the District wasn't against food carts so long as they were 500 feet from schools. The report he prepared did a good job of reviewing the reason for this. The scope of 500 feet wasn't a big deal. Linsenmeyer reported that they were passionate about this because of the District's food program which was participatory for their students. The District was asking the Commission and the Council to help protect kids as much as possible, and wanted them to consider why the original 500 feet was in place. Linsenmeyer didn't see how they could prioritize limited economic interest over the health, safety and welfare of the children.

Escobar noted that during the last hearing, staff from the District reported that if the participation dropped below 61 percent it could adversely affect the food program and the ability to feed the students. He asked the District to report on what the participation was currently. Jamie Mickelson, the Child Nutrition Food Manager for the LCSD addressed the Commission. She reported that for the last school year before COVID, the High School was participating at 28 percent and was up from 13 percent due to a new breakfast program. 28 percent was a low participation and most of the high schools in the district were around 50 percent across the district. When they went into COVID and the students weren't allowed to leave campus the participation went up to 40 percent. Escobar asked if any of the other high schools were open campuses. Mickelson reported they were open campuses but the difference was they weren't located near places that were easily accessible like Newport. Branigan asked if Toledo, Waldport and Lincoln City were addressing mobile food units like Newport. Mickelson wasn't aware that they were.

Berman noted the District's memo didn't give the exact number for the participation rate for the District. Mickelson reported the full District was 41 percent. Berman asked at what point would those funds be cut off. Mickelson reported that as a district they qualified as 41 percent, and they grouped all of their schools together. Newport High School on its own did not qualify for the program. The qualifier for the program was the poverty rate, and participation was how they funded it. If the participation was high enough they could bring in the income from the other schools and offset the schools that weren't making their percentage up. Berman asked if they could give a solid number on the percentage that it would take to lose participation. Mickelson explained that they couldn't give a specific number because it was a determination on the District as a whole. If Newport High School as an individual school was already short by 100 meals every day and the other schools were already picking up the deficit. If they lost the participation, it would be even more that the other schools would have to pick up. They had to serve 15 meals per labor hour to make it balanced and when they couldn't fund the staff they would have to get creative on how to keep staff. Kids that were homeless or were on food stamps qualified for free meals. In addition to this, the CEP program offered working families the opportunity to participate in the program and put everyone on the same level for free meals. Branigan asked if the entire program would go away if they went under a certain level. Mickelson reported it would mean that the District would change to a different food program with applications.

Escobar asked if the 27 percent participation was because of COVID. Mickelson reported that it was before COVID, and they took into account poverty rates and participation. Branigan asked about the participation rate for Waldport and Toledo. Mickelson reported that Waldport was 60 percent, Toledo was 72 percent, and Taft was 50 percent. East asked if the elementary schools came into this same program. Mickelson reported that every school participated in the program but the report was for the high school numbers. In general, the elementary schools were 80 percent participation.

Hardy asked if they could link truancy to food carts versus other social environment events. Linsenmeyer explained they could do this a little bit. Food carts were a more attractive environment than brick and mortar restaurants. They were attractive environments where students could go to quick and get delicious food if they were next to a school. Hardy asked if they had data from other municipalities who had food carts near schools, and what their affect was. Linsenmeyer didn't find any data for this. He offered to research this more and get back to the Commission about it.

Karen Gray, Superintendent for LCSD addressed the Commission. She reported that the Newport High School already had problems with students leaving campus and causing truancy. They were just asking that there not be one more attractive nuisance. Gray explained they would be making a decision on closing the campus for 9th and 10th graders. She asked that the Commission not allow food trucks to open across the street during school hours, and to think about the bigger picture for the kids.

Patrick asked why they had the 500 feet restriction for elementary schools when they already had closed campuses. Linsenmeyer explained that it would be more dangerous for elementary students to try to get into the behavior to leave school. He thought this would be the primary reason for the restriction because it was a safety concern.

**Rebuttal:** Hernandez reported that kids walked further to get to other businesses on US 101. He thought the schools should be making better food so they would stay and eat at school. If the trucks had to be more than 500 feet from school, the kids would still walk further to get to them. Hernandez reported that his own kids don't like the food at school.

**Rebuttal:** Linsenmeyer explained that one of the big issues with traffic for food carts was that they didn't only attract kids, but people from other parts of the region. He didn't think the traffic issues were solely based on where kids went, rather it was a mix of where kids went and the traffic in those areas. Linsenmeyer pointed out that he didn't know of any students who crossed US 101 to get food. The blockage of traffic during school caused an increase in traffic and decreased safety. Linsenmeyer invited Mr. Hernandez to eat lunch at the school to see firsthand the quality of their meals and how healthy they were. The mission of

the school district was to educate the students to keep them safe and healthy. Linsenmeyer thought there were plenty of spaces around town to operate food trucks at.

Chair Patrick closed the hearing at 8:05pm.

Tokos reviewed each option for the Commissioner's thoughts. For the discussion on Chapter 4.10.035(A), Policy Options 1A or 1B concerning the 500 foot buffer requirement from elementary or secondary schools when they were in session: The Commission was in general agreement to recommend Option 1A to retain the existing buffer requirement.

For the discussion on Chapter 4.10.035(A), Policy Option 2: Berman only wanted to see this just be Nye Beach and not the Bayfront. Branigan wanted to eliminate this in Nye Beach. East asked if there was a way to allow businesses to invite a food trucks. Tokos suggested they go with this language and request that the City Council establish a designated vending area that would accommodate that. Escobar noted they could also choose to eliminate the Bayfront as part of this ordinance. A discussion ensued regarding how the City Council could designate vending areas by resolution. The Commission was in general consensus to go with Option 2 and would recommend that the Council establish one or more vending areas on the Bayfront to accommodate vending in the ROW or on public properties in the Bayfront.

For the discussion on Chapter 4.10.040(A) Policy Options 1, 2 and 3 concerning the sizing of vending stands: The Commission was in general consensus to go with Option 3 which allowed the Council to set size limitations on a case by case basis depending on the circumstances inherent to a particular vending area, and to retain the size limitation in the Nye Beach turnaround as is.

For the discussion on Chapter 14.09.050 Policy Options A and B: Patrick thought that they should be consistent between public and private properties. If they were not going to allow them on the street they should be able to do them on private properties. Escobar thought they should be more restrictive on public as opposed to private. East didn't think there was any other properties to establish a pod. Escobar thought there was something to say about being consistent with other policy options. A discussion ensued regarding the system development fees that pods would pay. The Commission was in general consensus to go with Option B which imposed a 500 feet buffer from elementary and secondary schools.

For the discussion on Chapter 14.09.050 Policy Option C concerning the limiting of food carts and trucks to food pods only on private properties: The Commission was in general consensus to move forward with this option.

For the discussion on Chapter 14.09.050(D) Policy Options 1, 2 and 3 concerning consent at time of application: The Commission was in general consensus to go with Option 1, which only required the consent of the property owner where the food unit was to be place.

**MOTION** was made by Commissioner Berman, seconded by Commissioner Escobar to give a positive recommendation to the City Council for File 1-Z-21 with the additional stipulations verbalized at the hearing. The motion carried unanimously in a voice vote.

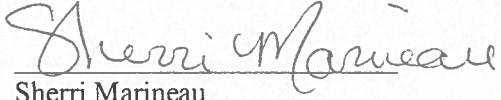
Patrick asked that the "elementary schools" definition be covered to say it meant school district schools. Tokos would take a look at this and make sure it was addressed.

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 8:34 p.m.

Respectfully submitted,



Sherri Marineau  
Executive Assistant