

MINUTES
City of Newport Planning Commission
Work Session
Newport City Hall Council Chambers by Video Conference
November 23, 2020
6:00 p.m.

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

PC Citizens Advisory Committee Members Present by Video Conference: Greg Sutton, and Braulio Escobar.

PC Citizens Advisory Committee Members Absent: Dustin Capri (*excused*)

City Staff Present: 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 6:02 p.m.
2. **Unfinished Business.**
 - A. **Updated Draft of Small Wireless Facility Design Standards.** Tokos reviewed the changes from the last work session meeting that were shown in the draft, and asked for comments. None were heard. Tokos noted that there was an action item on the night's regular session meeting to give a recommendation on the standards to the City Council so they could take this up in an ordinance.
3. **New Business.**
 - A. **Review of Land Use Regulatory Options for Wireless Telecommunication Facilities.** Tokos reviewed the PowerPoint slides. The Commission would review the provisions that were commonly applied by local governments through their land use regulations, and determining which ones they were concerned about so draft could be packaged for future review.

Tokos reviewed Newport's existing standards. He explained that towers were permitted outright as communication facilities in C-1, C-3, industrial and public zones. They weren't allowed in tourist commercial, water related zones, and residential zones. The height limits were 150 feet in industrial, and 100 feet in commercial and public zones. Tokos noted that there were more stringent height limitations if the property was adjacent to a residential zone. The height limit was scalable depending on how close it was to the residential zone. Tokos noted that towers weren't typically placed near residential zones and didn't think this was much of an issue.

Tokos explained how antennas were allowed as accessory uses on non-residential buildings as long as they did not exceed 25% of the maximum allowable building height. Berman asked if a building was 50 feet high, could they have a 12.5 foot tower on top of the building. Tokos confirmed they could. Berman asked if a building was 10 feet high, could they have a 12.5 foot tower. Tokos confirmed they could because this would be under the building height limit. Patrick questioned if there was a federal law that gave an exception for free standing ham antennas up to 50 feet in residential zones. Tokos wasn't sure but explained that this review focused on the commercial aspect, not the residential use. It set up the parameters for what they could and couldn't regulate in local zoning. They couldn't adopt regulations that appeared to prohibit wireless services, or discriminate between providers. Berman asked if what they were talking about was only for communications. Tokos confirmed this was correct. Berman asked if electrical transmission towers fell somewhere else. Tokos would take a look at this and thought it was addressed as a conditional use. He would have to double check on the height limitation language to see if it was picked up there. Tokos reviewed the height limits for conditional uses

in the Municipal Code and was able to confirm that electrical transmission towers were captured under these rules.

Tokos continued his review of the FCC limitations on local zoning. Patrick asked if there were any clock problems with the procedures. Tokos thought they needed to be cognizant of this when making changes. For example, they wouldn't want to set up a conditional use process for small wireless because we couldn't complete a conditional use process in 60 days. Tokos reminded that conditional uses had a 120 day clock because any conditional use decision was appealable to the City Council. A discuss ensued regarding on whether or not a conditional use could be done with enough time to go to LUBA.

Tokos reviewed the location of key wireless facilities and the existing facilities images next. He then discussed the local government regulatory approach to wireless facilities small wireless (5G) and antenna collocates. Tokos noted that the Bend example included 5G and was beneficial for the Commission's review.

Tokos asked for the Commissioner's thoughts. Berman asked if they were just reviewing the current ordinance to see if it needed tweaking or something else. Tokos explained they weren't obligated to do anything but they were opening it up to address small wireless and how the rules would apply outside of the right-of-way. He noted they could modernized other parts of the code as well. Berman asked how much modernizing would be done. Tokos explained this would be up to the Commission. Patrick didn't want to do limits because there was already limited wireless service in Newport. He wasn't sure about making considerations for colors as well.

Patrick questioned how much noise the towers would make. Franklin thought they would make a hum. Patrick asked if the towers were tall enough to get picked up for the lighting standards. Tokos confirmed they didn't and why there weren't lights on them. He wondered if the C-1 zone was a good fit for towers but noted there were towers already in that zone. Patrick suggested a lower height limit for towers in the C-1 zone. A discuss ensued regarding an existing tower on a Lincoln County building in the C-1 zone and how it met the height limits through a possible variance approval.

Tokos asked if the Commission wanted him to bring forward a code that dealt with small wireless provisions on private property, and clarification on collocation, but not a lot of language on the towers. Branigan wanted to look at private properties because there would be more little antennas for 5G wireless and their reach was smaller. Tokos asked if 5G should be treated similar to how they were treating it in the right-of-way. Branigan thought they should treat it similar, but the Commission should review it. Tokos explained he could put together a package that treated 5G similar in terms of design standards for private properties, and then hold them to the design guidelines that the Commission reviewed already if they were to be placed on the side of a building.

Hanselman thought that keeping just one set of rules would be beneficial for city to make decisions. Tokos agreed that it would keep things consistent. Hanselman wanted to see 5G limited to 35-45 feet in residential neighborhoods.

Tokos ran through the category headers to see if the Commission thought there was anything needed. He asked if they were comfortable with where towers were allowed. The Commission was in general agreement. Tokos asked if they saw a need for alternatives analysis. Hanselman thought it was a good idea and would give the city options. Escobar asked if this would put a crunch on the timeline. Tokos explained it wouldn't for a new tower because they had 150 days for this. He would put language together for an alternatives analysis. He asked if the Commission wanted to require separation between towers. Patrick didn't think so because some areas had typography where towers needed to be placed by each other because they were on a hill. Tokos asked if they wanted to see any adjustments to the height limitations that were typically between 100 to 150 feet. Berman thought they would need all the height given the typography. He liked the stealth deployment for historical buildings and didn't want to see a big tower on a historical building. Hanselman thought that the alternative analysis would allow them some leeway on height restrictions. Tokos noted that the alternative analysis he was thinking of was different. The analysis would be for scenarios such as when a provider wanted to put up a new tower close to one that another service provider had installed. The applicant for the new tower would have to prove they couldn't collocate on the other tower.

Sutton suggested adding language for removing abandoned towers. He also thought they should stay away from the lattice towers. Tokos asked for thoughts on lattice or guy wire towers. Berman didn't like guy wire towers but didn't have any problems with lattice towers.

Tokos asked about the Commissioner's thoughts on setbacks, and noted this was typically for residential zones. The city already had this but it needed clarification in the code. Patrick wanted to look at this but noted the tower at the football field might have been in violation of this. He explained there was a hearing around 12 years before to allow it to be built there. Tokos thought they would had a variance for this at the time.

Tokos asked if the Commission saw any need for viewshed standards. Hanselman liked the concept but didn't know where this would apply in Newport because they weren't allowed in areas where they would be an issue. Patrick couldn't think of any area this would apply other than the tower at the Yaquina Head.

Tokos asked if they should require new towers to show that they could accommodate a certain number of collocates. The Commission was in general agreement that this was a good idea. Patrick questioned what a good cut off number would be. Tokos noted that a tower up to 75 to 100 feet would have two collocates at this height. A tower under 75 feet would require one collocate. Berman asked how the number of collocates were verified. Tokos reported the design engineer would provide a letter on how many the tower could accommodate.

Tokos asked for thoughts on buffering or screening requirements for ground mounted equipment. Patrick thought if they did this, it had to be limited the equipment close to residential areas. Hanselman noted there was also the issue of whether they would maintain the buffering landscaping. Tokos explained security fences were generally a requirement for them.

Tokos asked for thoughts on the FCC requirements. Patrick didn't see any problems asking for this. Hanselman asked if they could do ask for annual or biannual testing to make sure towers were operating within safe parameters. Tokos explained the FCC prohibited regulations to get emissions. If someone said they were operating outside of the requirements it would go to the FCC. There was a process with the FCC to decide if they would look into the complaint any further. Berman asked if the city had any kind of process to confirm if the standards were met when a second transmitter was installed. Tokos reported that there would be a building code review. Though it wasn't currently done, the city could require them to provide documentation for collocates. Berman and Hanselman thought this should be required.

Tokos asked for thoughts on prohibiting signage other than for safety. Patrick didn't think the city would want to see branding posted on the towers. Tokos asked if the Commission saw any reason to impose noise limitations above the noise ordinance. The Commission was in general agreement not to. Tokos asked if they wanted to regulate color. The Commission was in general agreement not to regulate this. Tokos asked if they wanted to regulate lighting. Escobar thought residential areas should have standards.

Franklin asked if a tower was having problems with a noise in the city, what avenue would the city have to address the problem. Tokos explained this could be addressed with the nuisance code. East was concerned about the noise levels of backup generators. Tokos explained this would be handled with the nuisance code and noted the code didn't specify where the noise came from.

Tokos reiterated that what he heard was the Commission wasn't interested in prohibiting specific types of towers, and that they thought they should address abandoned towers. Berman thought they should add language for guy wires to require the applicant to show a need for them.

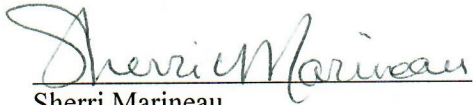
Tokos asked the Commission if there was anything else they wanted to add. Patrick thought there needed to be a variance process included. Tokos would add this. Berman asked if public agencies would be subject to all the same provisions. Tokos confirmed they would.

Tokos reported that Mike Franklin would not be renewing his term as a Planning Commissioner and they would

be recruiting to fill his place. The Commissioners thanked Franklin for his service. There would be an advertisement done around the first of the year and the City Council would make the appointment.

4. **Adjourn.** The meeting adjourned at 7:00 p.m.

Respectfully submitted,

A handwritten signature in cursive script, reading "Sherri Marineau", written in dark ink. The signature is fluid and stylized, with the first name "Sherri" and last name "Marineau" clearly distinguishable.

Sherri Marineau,
Executive Assistant