

**MINUTES**  
**City of Newport Planning Commission**  
**Work Session**  
**Newport City Hall Conference Room 'A'**  
**Monday, December 10, 2012**

**Planning Commissioners Present:** Jim Patrick, Mark Fisher, Rod Croteau, Bill Branigan, Gary East, and Glen Small.

**Planning Commissioners Absent:** Jim McIntyre.

**Citizens Advisory Committee Members Present:** Bob Berman, Lee Hardy, and Suzanne Dalton.

**Citizens Advisory Committee Members Absent:** Lisa Mulcahy (excused).

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

**Audience Members:** David Allen (public-at-large member of OPAC) and Walter Chuck (member of FINE).

Chair Patrick called the Planning Commission work session to order at 6:01 p.m. He noted that the order of the agenda would be flipped and turned the meeting over to CDD Tokos.

**A. Unfinished Business.**

1. Further discussion of the proposed amendments to the Territorial Sea Plan (TSP) for potential action in regular session. Tokos said that he would break the discussion into two parts. He noted that the packets included a copy of the FINE letter supporting sites for research only; not where commercial deployment could occur. On the overhead screen, Tokos presented slides to give the Commissioners a context of where the proposed sites are that are under consideration. Tokos explained that there are eight sites that have been considered for commercial deployment at different depths; but it is still very much under discussion. He showed maps and explained that the dark green areas are where commercial deployment could occur; the other colors have to do with resources relative to the review. He noted that over time the area off Newport has been modified somewhat. Allen noted that a lot of people are focusing on these sites and that there has become more focus than should be. He said there are a lot of other things going on that will put it in perspective. He said that the focus is on what are called the "suitability study areas", which have the least amount of standards that a developer would have to meet as far as requirements. There will be a regulatory piece if someone applies. This is to guide the developer. The areas we are talking about now are what the State determined had the least Goal 19 resources. Developers may choose these if they don't want to go through other hurdles. Tokos said that with that in mind, Oregon State has one non-grid-connected area where they had the test buoy. We are also looking at a grid-connected location for PMEC; and the two locations being considered are Reedsport and Newport. That is a grid-connected site for testing commercial devices where developers can sign up to test their equipment. It is outside the territorial sea, but the grid connection would go through the territorial sea to upland connections. A local group is putting together a proposal for what the option for that deployment would be. OSU would compare Newport to Reedsport to determine which community is chosen. Tokos said that we will have the green areas and the purple test areas shown on the maps.

Chuck gave the history of the committee. He noted that County Commissioner Terry Thompson thought it was best to have fishermen involved. He said that FINE is mandated by the County to advise the County Commission on territorial sea issues. They helped select the 1 square mile NNMREC site where the test buoy was this summer. He said their goal is mainly to use their expertise to assist with advice to some of these companies for things like what would be the best way to mark the devices so boats wouldn't hit them and to alleviate as much conflict as possible. Chuck said that FINE was pretty well represented with regional charter boats, recreational fishermen, and commercial fishermen. He said the reason they are supporting the PMEC site is that they believe this is a very experimental type of technology, and it would be best to test them and make sure they work. They think having the research out there to make sure they work and show that they work would be the best way to go instead of having blocks set off for possible commercial sites. Chuck noted that the PMEC site is going to be about 5-6 miles out from 32 to about 38 fathoms south of the fishing lane coming in and between that and the tow boat lane. The group picked out an area about 4 miles long and 2 miles wide. PMEC needs about 2 square miles. Chuck is on the site selection committee. The group decided they would focus on the FINE-proposed site as their basis for a recommendation coming out of the site selection team. He said that the FINE option was a compilation by the stakeholders, and it was good to get input from the fishermen in the community first. Branigan asked why that site? Chuck said that the fish affected the most are salmon and crab. These are some of the less valuable fishing grounds. There is still some crabbing that will be displaced from there. In the name of research, hopefully we can get on the forefront of collaborating. They thought that if there is any spot, that would be the best. Branigan asked if boats can be around the devices. Chuck said they can still fish around it. The Coast Guard's

determination was that these are things that are not going to be there year-round, and the Coast Guard's process for no-transit is 18 months; so they have said nothing about this. Chuck said the device will be well-marked. He said it is 5 miles out and is missing the tug boat lane and the shipping lane. He said it is also said to be a plus if it is closer to port because ship captains are more likely to be paying attention. Croteau wondered if NOAA would give Newport an advantage for the PMEC site. Fisher noted that Reedsport is in such sad economic situation, that they might like to have something and probably see this as a plus.

Tokos said that the siting process is moving rapidly, and the State will be looking for recommendations in the early part of the year. Allen said probably at the end of this month. There will probably be two or three more meetings. Tokos noted that the City Council hasn't weighed in on this yet. He wondered if the Planning Commission wanted to recommend to the City Council that they speak to this with respect to the FINE letter. The City's recently-adopted policies in the economic section of the Comprehensive Plan states that the City will support marine-related industries and working waterfronts. That would be consistent with the direction the FINE letter goes. The Commission might suggest that the Council look at the FINE letter and determine whether the City should weigh in. Tokos said that if the Commission has specific recommendations; now would be the time to suggest them. He said that the letter will be presented at the City Council meeting on December 17<sup>th</sup>. Allen noted that if a recommendation goes to the City Council, because he is an OPAC member, he will be abstaining from any vote. He said a recommendation will probably go to OPAC in early January. His goal is to be here tonight as an OPAC member with the understanding that he will be abstaining at the City Council level. Allen said that OPAC has been looking at the research on this siting process. We still have to open it up for the potential for commercial development, but you want to go slowly and incrementally. The FINE letter can be placed in the record at the State level.

Patrick wondered if the Commissioners had any objection to supporting the FINE letter. Berman said that he supports the research portion 100%; but the statement that they strongly oppose identifying ocean areas adjacent to the coast for utility-scale projects, he doesn't believe is appropriate. He believes that the assessment going on to select areas that could potentially be used for commercial development in the future is an appropriate exercise. He said that he can't see saying we don't want any sites designated off the coast of Newport for future commercial development. He thinks that is inappropriate at this time. Fisher said that he might agree if in fact the letter was written by a group representing the whole Oregon coast; but because the fact is that this is a specified area (Lincoln County only) that these people are talking about, he is in favor of it. Berman said that, without knowing anything about the nature of these devices, what might be the potential impacts, and what the economic benefits might be; he doesn't think it is the right thing to say no. He said that the whole process is underway. It has the potential for being horrible for fishermen, but also a tremendous economic benefit. At this point there is no way of evaluating that. Patrick said that FINE's point is that they don't know that. They are interested in research, but not in setting sites apart until we have data. We don't know what types we will get or where they will be. Berman said that without sites designated to accommodate it, this type of development will not happen. Patrick noted that this is only talking about within the 3 miles. The City has no jurisdiction outside those 3 miles. It means they can do anything they want; it is a federal issue. We do have a say about the first 3 miles. Patrick said that he likes what the County said; do research, but keep commercial development out of the 3-mile area until we have enough information.

Allen said that the reason why PMEC selection is going to be important, even though it is outside the territorial sea, is that it could influence the final recommendation as far as the distribution area in the territorial sea. How the federal waters are used could actually affect the State's decision. Those two are actually going hand in hand. Fisher said that he is not willing to risk industries we have had for generations. He said that in some way, setting the site locations is getting the cart before the horse. If these developers do a small project and convince people it can be done safely, will be good for the community, and will bring money and jobs; then the rules can always be changed. To give them that latitude before they have proven themselves, might not be good. Allen noted that these areas are what are being called facility suitability study areas with the lowest thresholds; but there are other areas called management areas with higher thresholds. Development is not precluded if the device meets the requirements. Patrick said that he is not opposed to supporting the letter. All the Commission can do is state their opinion and make a recommendation to the City Council. He said that he would just as soon be on the same page as the County. Tokos said that the Planning Commission can recommend that the City Council support the letter and weigh in with their support in a timely manner so it can be considered. He said the Commission could say that they support the research element specifically. Patrick added that we could put a footnote that there was some sentiment to not oppose any area at all and make sure that is part of the record. He said the Commission could recommend that the letter be approved as written but that we are not opposed if the Council makes more prescriptive language about other sites. Fisher thought that if the Commission suggests that the Council sign on to the County's letter, if the City does anything else, we will be reducing the impact of the letter and might as well do our own letter. Patrick thought the City being on the same side as the County will make more sense and have more impact. He said that also we are trying to get the PMEC site here instead of Reedsport. Allen said that this letter will address both the PMEC siting and the State's efforts in the territorial sea. Chuck said that just because FINE said they are not in favor now, once these devices are proven at the PMEC site, we may need more buy-in. He said the feeling from the group is that the area just west of that test site would be where most commercial development would be because the area beyond that is very favorable. He said these areas up and down the coast are small footprint compared to once the cable comes to shore. The concern is about what is west of these areas also. He said it doesn't mean that the group would

be adverse to near-shore technology. There is no technology that would work out there right now. The wave technology industry just tried to pick up areas with the least resistance. There will be sites out there whether they use it or not. Allen said that even if they apply in areas with the lower standards, there are inventory requirements and other thresholds; and there is the joint review process. The fact that they can apply is only the beginning; there is the regulatory process where the local governments can weigh in. He said that there are a lot of hoops along the way. Patrick said that he feels that he would rather go with that site and keep away from the others. He thought for the immediate future, that is the best site. Allen said that at the last OPAC meeting, there was discussion about a periodic review process. In roughly 7 years or when 1% of the territorial sea is developed, the sites and process and thresholds will be reviewed. He said this is not the final document.

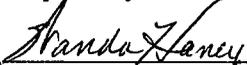
Dalton wondered what questions the Commission should be asking, and noted that we would like to be involved in the answers. Allen said this also requires State approval, but it's been approved at the Federal level at NOAA. Then it becomes an enforcement policy that the State can enforce. There will be further data and interior revising. Patrick said that he doesn't have questions because he doesn't know what to ask. To adopt the Part 5 document, DSL at the State level will go through rule making to implement this. Dalton asked what other things Allen could share about this. Allen noted that the final recommendation on this list is going to LCDC in January. OPAC will have its own recommendation going to LCDC. They will try to put those together. There will be an OPAC meeting in early January on the visual assessment up and down the coast. Tokos noted that at previous work sessions, the Commission went over the view sheds and assessments done in Lincoln County. Branigan said his concern is that there are non-state lands, but so much is state lands where they did their own assessment that it became a State process. Tokos wondered if the Commissioners felt we had enough discussion so that at regular session they can pick up deliberation on whether to make a recommendation on the FINE letter. He wondered also if there is a desire to make a recommendation on the visual or just let it go at this point. Allen said that as an OPAC member, he has had a lot of input. He said if it's not even a recommendation, from the comments made on the record, the City Council can always look at the minutes. That is part of the public process. He said that OPAC has had a lot of input on that issue. Allen said the FINE letter is probably the more essential piece. Because of time, Patrick said that the site selection between Newport and Reedsport can be taken up at regular session.

## **B. New Business.**

1. Discussion of text amendments to the Comprehensive Plan by updating the criteria for making UGB amendments to conform to State Goal 14 and updating the water system plan policies regarding the reservoir structure deficiencies. Tokos noted that the packet included the actual draft code changes. He said that if the Commission agrees with the changes to the Urbanization and the Public Facilities elements, the earliest a public hearing would be held is January 28<sup>th</sup>, the second meeting in January. He noted that the Commission had a work session talking about the reservoir UGB expansion and the various reasons why the City is interested in that. He said that this is the cleanup of the Comprehensive Plan so that process can move forward as smoothly as possible. A change he made to the Comp Plan is basically to update the population forecast. References to 2010 should be changed to 2030. There were some confusing references to future growth areas that he clarified. And then, he modified the criteria against which we evaluate UGB map amendments so we are using the most current State's Goal 14 standards. We had a whole set of criteria predating the changes the State made in 2006. What he is proposing is changing the findings so they match up with State rules so that when we submit the map amendments, we can use current standards. He said that the findings are the meat of this, and are things we have talked about already; a demonstrated need, boundary analysis, and the goal exception piece. If this gets adopted into the Comp Plan, then there is the map amendment that would follow this. Fisher wondered if any rights have changed under this for people who own land that may be taken into the boundary. Tokos said not at all by this. He explained that the map amendment is a separate thing and would come at a later date (January 14<sup>th</sup> work session). Tokos said that this part has no impact whatsoever. He continued that the Public Facilities element changes are correction of a bad reference in Policy 6 that referred to the 1990's maps, which are outdated. There are new Policies 4 and 5 that would go in. Policy 4 talks about acquiring land to protect water quality and makes it a matter of City policy; which is obvious. Policy 5 deals with the deficiencies of the dams, which is not in there right now. We didn't have the benefit of the seismic studies. Then it goes into implementation measures. Tokos said that if the Commission agrees with these changes, they would initiate the process; and he would schedule it for the next available hearing (January 28<sup>th</sup>). Then it would go to the City Council. Then if the State doesn't object, it becomes effective. This text amendment does not go to the County. The map amendment requires both City and County adoption. Berman asked if Tokos foresees any objections. Tokos said Policy 4 might be the only one. Some folks might be cautious about that. The amendment to the Urbanization section is basically for cleanup. The Public Facilities changes are practical given what we now know about the condition of the dams. Tokos said that this is an important step for setting out a road map for addressing questions coming up.

C. Adjournment. Having no further discussion, the work session meeting adjourned at 6:54 p.m.

Respectfully submitted,



Wanda Haney, Executive Assistant