

MINUTES
City of Newport Planning Commission
Regular Session
Newport City Hall Council Chambers
January 14, 2019

Planning Commissioners Present: Jim Patrick, Lee Hardy, Bob Berman, Rod Croteau, Mike Franklin, Jim Hanselman, and Bill Branigan.

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 Hardy, Berman, Croteau, Patrick, Franklin, Hanselman, and Branigan were present.

2. **Approval of Minutes.**

A. Approval of the Planning Commission work session meeting minutes of December 10, 2018.

MOTION was made by Commissioner Croteau, seconded by Commissioner Berman to approve the Planning Commission work session meeting minutes of December 10, 2018 with minor corrections. The motion carried unanimously in a voice vote.

B. Approval of the Planning Commission regular session meeting minutes of December 10, 2018.

MOTION was made by Commissioner Croteau, seconded by Commissioner Berman to approve the Planning Commission regular session meeting minutes of December 10, 2018 with minor corrections. The motion carried unanimously in a voice vote.

C. Approval of the Planning Commission work session meeting minutes of January 8, 2019.

MOTION was made by Commissioner Croteau, seconded by Commissioner Berman to approve the Planning Commission work session meeting minutes of January 8, 2019 with minor corrections. The motion carried unanimously in a voice vote.

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

4. **Action Items.**

A. **Election of the Planning Commission Chair and Vice Chair.**

MOTION by Berman, seconded by Croteau to appoint Jim Patrick as the Planning Commission Chair. The motion carried unanimously in a voice vote.

MOTION by Berman, seconded by Hanselman to appoint Rod Croteau as the Planning Commission Vice Chair. The motion carried unanimously in a voice vote.

B. **Applications for Planning Commission Citizens Advisory Committee.**

Tokos noted there had been one response by Braulio Escobar for the advertisement. He said that Escobar was a member of the Vacation Rental Ad Hoc Workgroup. Tokos said there would need to be another advertisement for second committee member vacancy.

MOTION by Hardy, seconded by Branigan to appoint Braulio Escobar as the Planning Commission Citizen Advisory Committee Member. The motion carried unanimously in a voice vote.

C. File No. 5-Z-17 (Continued Deliberations).

Tokos informed the Commission that the revisions they had requested at the January 8, 2019 work session meeting were included in the current packet. He further distributed at the meeting a graphic representation of the VRD Zoning Overlay to the Commission to show where the permitted VRDs were located and their spacing. Berman complimented the map.

Branigan noted that on Chapter 4.25 clean copy under "Proof of Residential Use" the "identification card" should be changed to "government issued identification card". Tokos said this was meant to be the state issued identification card. Branigan suggested changing it to say a "state identification card". He requested that on section 6.I. they should add that the smoke alarm and carbon monoxide units should be "functioning". Patrick thought they should just reference an outside standard and thought the reference to the State Fire Marshall Rules and Building Codes would suffice because these codes changed all the time. Tokos said this could be handled administratively with informational materials as a handout to people. Patrick said that the reference for the State Fire Marshall Rules and Building Codes needed to be referenced for both the smoke detectors and carbon monoxide sections.

Hardy said that somewhere in the ordinance it should be stipulated that the city administration develop some clear, enforceable administrative rules to administrate this ordinance, particularly given the lack of objective policy premise such as "character of neighborhood" and "affordable housing", which was a nil.

Berman thought that item B under "Definitions" didn't have a reason to include the last phrase and the sentence should end after the word "fee" and be done. He said on item G the words "on a day to day basis or" should be taken out. Berman wanted the Commission's commentary at the end of "Definitions" to be made clear that short-term rentals would be allowed to continue until they had not been used for 12 months and would lose their grandfather rules. He thought this should also apply to not having a valid business license or valid endorsement license. Tokos said there was language under the nonconforming use code that was explicit on the 12 month succession of use. A license was one tool that if someone let their license expire for more than 12 months, use would be terminated because they don't have a license. If they don't have a rental in a 12 month period they would lose their license as well. Tokos thought they should lean on the nonconforming use language because it applied to a broad range of uses and would give the city the ability to determine things on a case by case basis. Berman was concerned that they had to wait for 12 months to evaluate whether there was a lapse. He thought that it was more appropriate that if they let an endorsement license lapse they should lose their license instead of having to wait an additional number of months to determine the unit needed to be taken off the grandfather list. Tokos explained there could be a number of reasons why someone wouldn't immediately re-up their license because people's plans changed. They could think they wouldn't want to continue but then after a few months, they could decide to continue and re-up their license.

Croteau asked about the conversion time to transfer a property to a new owner. He asked if a new owner would have 12 months to apply. Tokos said yes, the key would be secession of the 12 months period of use.

Berman said on page 4 of 16 of Chapter 4.25.020 that "email" needed to be referenced consistently.

Franklin asked what would happen if there was a fire at a short-term rental and they needed more than 12 months to rebuild in order to operate. Tokos said if a home was destroyed there was an allowance that it could be rebuilt in a fixed amount of time under the nonconforming rules.

Berman said the text under item 9 "Good Neighbor Guidelines" should be changed to indicate plural not singular. On page 9, under "Contact Information" the contact forwarding information should be changed to "by" the owner instead of "to" the owner. Berman asked if there were still some residential areas in the permitted areas. Tokos said this was correct. Berman said the landscaping standards that applied to residential zones wasn't referenced under "Landscaping". Tokos said it applied to all residential zones but didn't commercial.

Croteau said on Chapter 14.25.030 under "B.2. Spacing", he wanted to see if the Commissioners were okay with the spacing of one in five for a street segment. The Commission had no comments. Croteau asked if the Commission needed to address the parking district standards in commercial districts. Tokos recommended that the Commission leave this up to the parking districts.

Berman asked Tokos to explain what he meant in the last paragraph of his staff memo. Tokos said all he was saying was that where the staff recommendation aligned with the Commission it would be mirrored in the staff

recommendation. Berman asked what form the staff recommendation would be presented. Tokos said there would be a markup and clean version of the staff recommendation and it would pick up on the same changes as the Commission.

Croteau said the Commission's accompanying memo that would be going forward to the City Council was missing and he wanted to see this before the Council hearing. The memo should include their recommendations on enforcement, the complaint log, the third party vendor, and the suggestion to increase license fees. Croteau asked how much of the public comment and background materials would be forwarded to the Council. He wasn't comfortable going forward without knowing what would be shared with the Council. Tokos said he could put a memo on enforcement together for the Commission for a future meeting. He said he understood that the Commission was going to address that issue with a motion and was how he addressed it. Tokos said the Commission has seen the staff recommendation and he was just cleaning up the language on it. When it went to the Council it would have the Commission recommendation and reasoning, the staff recommendation and its reasoning, and the public comments. Tokos said the Council will know where to go to see the public comments and have a chance to review them. The Council would also be provided an overview of the process to date at their January 22nd work session meeting. There would be more than one public hearing and the first hearing would be for public testimony and provide direction on if they were comfortable with the Commission's recommendation and if they wanted any changes. Tokos said the Council needed to have the same opportunity to digest things like the Commission. He said they were trying to be sensitive to business licensing and wanted to have things worked out by the end of March if possible. This would give the city a chance to get things organized to notify people on what the changes would be. Croteau asked if there would be a joint work session meeting on January 22nd. Tokos said there wouldn't be but he would be giving an overview of the process and let the Council know what the next steps would be.

Hanselman asked Tokos if in the last paragraph of his memo that said the staff recommendation would be amended to include elements of the Commission recommendation where the concepts are aligned, was he saying this was where the Commission's recommendation aligned with the staff report. Tokos said the Commission's recommendation was to go with Map Alternative 3 and applying a spacing standards without a cap, and the staff recommendation was to not go with a map alternative and apply a cap. These were the areas where they did not align. He said what he was talking about was changes in clarifying definitions such as definitions for B&Bs and vacation rentals. Hanselman asked if it was common when a Council asked for a Commission recommendation to have a staff recommendation be presented along with it. Tokos said yes, the Council was entitled to a staff recommendation. Croteau asked if he thought the most substantive difference was Map Alternative 3, cap and spacing. Tokos said part of it hinged on the compatibility. He said what he was hearing was that Commission recommendation for Map Alternative 3 was appropriate because VRDs weren't compatible in residential areas and thus needed to be phased out in the bulk of residential areas. The staff recommendation was more about trying to get control on the top level number so it didn't continue to escalate with the impact on affordable housing and things of that nature.

Franklin stated he liked the staff recommendation going forward because the maps didn't align with his feelings. Patrick thought that when there was a split Commission on a recommendation, it was good to have the staff recommendation go forward as well. Hanselman thought it was hard to think the work of people would not be recognized. Tokos said both the Commission and Staff recommendation came out of the advisory committee work. He said when this was presented to the Council, it was their job to decide how to go forward and what was compelling.

MOTION by Branigan, seconded by Croteau to recommend the City Council adopt Ordinance No. 2744 in the manner outlined in draft Chapters 4.25 and 14.25 presented and amended this evening, and that findings be prepared to support the changes in a manner that aligns with the Commission's reasoning as articulated in the mark-up versions of these documents. The Commission recognizes, and supports, minor changes to other code sections that maybe needed to fully implement these recommendations. Berman, Croteau, Hanselman and Branigan were a yes. Hardy was a yes with reservations. Patrick and Franklin were a nay. The motion carried in a voice vote.

Berman stated that the motion Branigan read did not mention the mark up copy as presented that evening. If there was going to be another markup copy and staff recommendations, it wasn't referenced there as anything to do with the Council. Patrick asked Tokos to confirm that the Commission couldn't tell staff what their recommendation should be. Tokos said this was correct. Croteau thought the draft ordinance did a good job of giving some order and clarity, represented substantial compromises, and went along with the Comprehensive Plan and the Vision 2040 plan. Branigan wanted to thank the members of the subcommittee who put in countless hours of work on this. Hardy wanted the Council to strike an objective target with their deliberations on this matter and reject the emotional, subjective and nonviable premise that was presented. Patrick said even though he didn't agree with what the Commission recommendation was, he thought it was a good document and process.

Patrick asked for comments on enforcement and a third party vendor. Berman said they needed to convey to the Council some of the specifics that came out of the ad hoc committee and Commission discussions about what was needed for enforcement. He asked if any endorsement licenses had been suspended in the last five years. Tokos wasn't aware of any suspensions. Berman thought there needed to be a major focus to say that things will not get better without changes to enforcement and have it include an increase in fees, and increase in code enforcement personnel. He wanted to see a memo in addition to the motion on this. Patrick asked for the timeline and asked if it was going direct to the Council. Tokos said the Council would have a work session on January 22nd and February 19th would be the earliest the Council would have a hearing. Berman asked to have any Council meetings that had the short-term rental subject on it be noticed as Planning Commission meetings. Patrick thought there wouldn't be any time to do a memo before a Council work session and asked if the Commission just wanted to send them a note. Croteau preferred Tokos mockup something that the Commission would take a look at it before the February Council hearing. Franklin wanted Chief Malloy to give input on what it would take to enforce and what the cost would be to find out the fee base. Hardy suggested finding out how they would be enforcing the administrative controls, and data sharing. Hanselman said enforcement had been a problem all along and this needed to be strongly worded for the Council that this policy wouldn't succeed without enforcement. It was also important the recommendation state there was no system currently to honestly track how many rentals were being done and who wasn't paying taxes. Hanselman wanted the memo to include a need for a tracking mechanism. Berman said one way to do this was to require the guest log be included with the room tax remittance.

Patrick wanted the memo to say the Commission would be taking this up and discussing it in another meeting before the first Council hearing. Tokos suggested the Commission at this time use a motion to convey language to the Council that they are supportive of a recommendation coming out of the ad hoc committee recognizing that additional steps needed to be taken to tighten up enforcement, and the Commission will be offering up a memo for articulating this at a later date.

MOTION by Croteau, seconded by Franklin, to move that a memo be prepared for the Commission to consider that conveys the need for enforcement of the rules with serious attention to the cost of enforcement by either the police or a third party vendor, and include things that will be included in enforcement discussion such as developing a centralized complaint registry, increasing license fees to recover cost of enforcement, and the need for financial information relative to the city's room tax income. The motion carried in a voice vote.

5. **Public Hearings.** At 7:50 p.m. Chair Patrick opened the public hearing portion of the meeting.

A. **File No. File 5-CUP-18.**

Tokos said the owner requested a continuance of hearing.

MOTION was made by Commissioner Croteau, seconded by Commissioner Branigan to continue the public hearing for File 5-CUP-18 to the January 28, 2019 Planning Commission regular session meeting. The motion carried unanimously in a voice vote.

Tokos said the hearing continuation would be held on Jan 28, 2019 at 7 p.m.

6. **New Business.** None were heard.

7 **Unfinished Business.** None were heard.

8. **Director Comments.** Tokos said the work session of the Council on January 22nd would happen around noon and would be condensed because Council members would be leaving to go to a meeting. He asked which of the Commissioners would be attending the meeting. Patrick, Croteau, and Hanselman would be attending. Tokos said there would be no quorum and it wouldn't need to be noticed.


Tokos noted that the January 28th Commission meeting would have goal setting included on the agenda. There would be an updated work program as well.

Tokos noted the Transportation System Plan would be starting and would be a big planning project the Commission would be working on this year. Regional housing was working with the County on this on a DLCD grant program.

The Park System Master Plan was moving forward and the Commission would have another joint session meeting on this in a month or two. Croteau asked how the parking district was going. Tokos said there would be a meeting with the group on January 31st and they would be discussing if they could move it forward to the Commission to make specific changes to the code. This would be largely what the rules are for the districts that would be relieving off-street parking requirements if metering was to go in.

9. **Adjournment.** Having no further business, the meeting adjourned at 7:55 p.m.

Respectfully submitted,



Sherri Marineau
Sherri Marineau
Executive Assistant