



City of Rockaway Beach

Special City Council Meeting Minutes

Date: Tuesday, September 9, 2025
Location: Rockaway Beach City Hall, 276 Hwy 101 - Civic Facility

1. CALL TO ORDER

Mayor McNeilly called the meeting to order at 5:30 p.m.

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL

Council Members Present: Mayor Charles McNeilly; Councilors Penny Cheek, Mary McGinnis, Tom Martine, and Kiley Konruff, Pat Ryan

Staff Present: Luke Shepard, City Manager; Melissa Thompson, City Recorder; Abram Tapia, City Planner; and Armand Resto-Spotts, Legal Counsel, Local Government Law Group

4. CONSENT AGENDA – None Scheduled

5. PRESENTATIONS, GUESTS & ANNOUNCEMENTS – None Scheduled

6. STAFF REPORTS – None Scheduled

7. PUBLIC HEARING

- a. **Application on Remand by the Land Use Board of Appeals (LUBA) No. 2025-001 on July 2, 2025 related to Application of Nedonna Development for Phase 2 Planned Unit Development approval: #PUD-24-1. The Case File for this matter is #Remand-25-1.**

- McNeilly announced the matter under consideration and directed anyone wishing to provide testimony to the sign-up sheet outside the meeting room.

Public Hearing opened at 5:32 p.m.

- McNeilly stated that the City Council will conduct a de novo review, in which City Council will accept new evidence and argument limited to the two assignments of error on which LUBA remanded to the city.
- McNeilly explained the public hearing process and procedures, and testifying instructions.

Declarations of Conflict of Interest/Bias/Ex-Parte Contacts

- McNeilly stated email correspondence sent prior to the notice for this hearing and public comments that were expressed at the July 16th, 2025 Planning Commission meeting and the July 17th, 2025 City Council meeting about this underlying application and remand have been included in the record for the purpose of disclosing ex-parte contacts on behalf of the full Council.
- McGinnis declared she was offered a scholarship by the Oregon Coast Visitors Association, and was unaware that a person with Oregon Shores, at party in the appeal, also received scholarship and was introduced to them over Zoom meeting. McGinnis stated she had no real substantial conversation about anything and did not discuss the application, so it will not affect her judgement.
- Konruff declared she received a few emails regarding the application and did not read them, and it will not sway her judgement.
- McNeilly declared he did not believe any ex-parte contacts would affect or impair his ability to review the appeal and record before him and he was able to act as a fair and impartial decision maker and could make a decision based on the facts, the record and the criteria applicable to the matter.

There were no challenges from the audience as to conflicts of interest, ex-parte contacts or bias related to any member of the city council.

Required Statements:

- McNeilly read aloud statements required by state law.

Staff Report:

Start time: 5:11 p.m.

- Tapia shared slides, presenting the Staff Report, reviewing the criteria and staff findings, concluding that staff supported the conclusion to reverse the Planning Commission's July 18, 2024, decision on application #PUD-24-1 and, in doing so, deny the application. (A copy of the slides and Staff Report are included in the record for the meeting.)

Staff Response to Council Questions:

- Council can consider any facts that they deem relevant to assignment of error. City Council may consider relevant facts when evaluating Assignment of Error 1, specifically regarding which areas are designated as SA Zone or R1. For Assignment of Error 2, the Council may assess whether a specific condition of approval applies to the second phase of development or is broadly applicable.
- All public testimony must be directly related to either Assignment of Error 1 or Assignment of Error 2.

Applicant Presentation – Dean Alterman, Attorney representing applicant:

Start time: 5:53 p.m.

- Alterman stated that staff made a fair presentation of facts, but disagreed with the conclusion in the staff report.
- Alterman made the following comments related to Assignment of Error 1:

- Assignment of Error 1 concerns the boundary between R1 and SA zones and their role in approving Phase 2.
- Boundary was fixed by a 2006 wetlands delineation, accepted by the city in 2008.
- All Phase 2 development is within the R1 zone.
- The city's zoning map is outdated and unreliable.
- The city has historically treated the SA zone as an overlay and approved similar developments based on delineations.
- Under the PUD ordinance, the exact boundary is irrelevant if total density does not exceed 33–34 units.
- Alterman made the following comments related to Assignment of Error 2:
 - Assignment of Error 2 relates to whether the applicant must complete Phase 2 improvements before applying for a plat.
 - The original 2008 approval allowed phasing and postponed certain improvements.
 - The term “postpone” implies no fixed deadline until tentative plat approval is granted.
 - The applicant has not yet applied for Phase 2 plat approval, so the timeline for improvements has not started.
 - The city previously certified that all required Phase 1 improvements were completed.
- Alterman suggested that adopting the staff's zoning interpretation would render 23 existing homes illegal.
- Alterman offered to collaborate with staff on crafting findings to support approval of Phase 2.

Questions from Council:

- None

Public Testimony in Favor:

- None

Public Testimony Neutral:

- None

Public Testimony in Opposition:

- Dick Martindale spoke regarding Assignment of Error 2, advocating for expiration dates on development approvals to ensure alignment with updates to the Comprehensive Plan and City Ordinances. Martindale urged the city to evaluate how new developments interact with current policies, especially regarding short-term rental limits and potential impacts on existing residents.
- Nancy Webster submitted the booklet on wetland and stream delineation, titled *What is a Wetland?* Webster expressed concerns about the importance of protecting wetlands as backup water sources, and fish bearing streams subject to buffers. Webster expressed additional concerns about the validity of the applicant's 2024 delineation, and streams omitted from the applicant's map.

- Paul Gover expressed concerns regarding the water table, wetlands, and stream flow from the mountain into Nedonna Pond, which is regulated by Oregon Department of Fish & Wildlife (ODFW). Gover urged common sense over development interests, advocating to leave the wetlands alone.
- Art LaFrance praised the staff report and cautioned that legal findings were required by LUBA for Assignment of Error 1. LaFrance noted that Assignment of Error 2 requires the Council to resolve certain questions independently, and urged careful distinction between the two assignments. LaFrance encouraged the Council to bring closure to the long-running case and commended staff for their work.
- Michael Zuniga expressed appreciation for the community and staff. Zuniga shared concern about the proposed expansion near waterways, referencing questionable past development. Zuniga urged the City Council to support the staff report and act in alignment with constituent concerns, and encouraged a timely resolution to the issue.
- Delta Holderness expressed agreement with the staff report and LUBA's decision that Special Area (SA) wetlands are a base zone where residential development is not permitted and supported the conclusion that Phase 1 and Phase 2 of the Nedonna Wave PUD are linked under a one-year time limit for completing improvements. Holderman asserted that the development has expired and is no longer valid, and urged the City Council to adopt the staff report in full.
- Judy Coleman stated she was an environmental scientist and observed wetland plants in the Nedonna development area. Coleman advocated for the benefits of keeping wetlands intact, including water filtration, flood control, and biodiversity.
- Suzanne Thompson commented on the importance of protecting the Nedonna wetlands and watershed, which provide clean water to residents and visitors. Thompson urged the Council to reject the Nedonna Wave development application and follow the staff report recommendations to preserve public health and the environment.
- Seth Thompson commented that the staff report was comprehensive, thorough and sensible, and encouraged the Council to adopt the staff report.
- Mandy Watson, Coastal Conservation Manager for Oregon Shores Conservation Coalition (petitioners in the LUBA appeal), commented on the ecological importance of the Special Area wetlands, including wildlife habitat, flood protection, and their role as a backup drinking water aquifer for Rockaway Beach. Watson expressed concerns about threats from climate change, sea level rise, and septic tank overload, stressing the need to preserve wetlands for future water security. Watson argued that approving the Nedonna Wave PUD would compromise community resilience and quality of life. Watson urged the City Council to follow the staff report and LUBA decision, reject the development, and uphold city rules to maintain public trust and environmental integrity.
- C. Embrie declined time to speak, noting it had already been said.
- Gary Corbin urged the City Council to reject the application. Corbin commented that one-year deadline for completing improvements has long expired, with no extension granted, and the proposed development area is zoned SA where residential development is prohibited under city code. Corbin stated that city maps confirm the SA zoning and that wetland expansion since 2008 further supports rejection. Corbin recommended hiring independent experts to remap the area and halt development until zoning is clarified.

- Eric Wriston, Attorney at Crag Law Center, representing Oregon Shores Coalition, urged the City Council to follow LUBA's decision and the staff report. Wriston emphasized that the proposed development is within the Special Area Wetland (SA) zone, where residential development is not permitted. Wriston rejected the applicant's claim that the site was rezoned by implication, noting that rezoning requires a formal process. Wriston commented that the development violates density requirements PUD zone which are limited to the underlying zone, the full SA zone, which doesn't allow any residential development. Wriston stated that the one-year deadline for completing improvements has expired, making the application invalid. Wriston stated that denying the application would not affect existing homes, which are already permitted and legal.
- Chris Berrie expressed support for the staff report and LUBA's findings, urging the City Council to deny the application. Barrie cited personal and family ties to Rockaway Beach and past examples of environmental harm due to poor adherence to regulations. Barrie warned against repeating past planning errors and emphasized the need to protect coastal habitats and public interest over private development. Barrie rejected the applicant's claims about prior decisions and legal status of existing homes, stating they are permitted and grandfathered.

Staff Response/Clarification:

- Tapia provided detailed clarification on the timeline of approvals for the Nedonna Way PUD in 2008:
 - There were four distinct processes involved: preliminary development plan (also referred to as preliminary plan), final plan (both PUD-related), and tentative plan (also referred to as preliminary subdivision plan in the zoning ordinance and referred to as tentative plat in the historic record) and final plat (subdivision-related).
 - On January 29, 2008, the Planning Commission approved the preliminary development plan and related variances.
 - On May 27, 2008, the Commission approved the final development plan and a tentative subdivision plan for the full 28-lot PUD (Appendix I).
 - On July 22, 2008, the applicant requested phasing. At point there were amendments to both the preliminary development plan, the final plan and the tentative plan.
 - The sequence of events was unusual, contributing to confusion around the second assignment of error.

Applicant Final Rebuttal – Dean Alterman:

- Proposed development does not include construction within delineated wetlands, except for Jackson Street, which became a wetland after excavation but is not part of any residential lot.
- LUBA did not say anything about who was right and who was wrong. LUBA only requested more detailed findings from the city.
- Zoning was fixed in 2008 with the PUD approval.

- County GIS map does not accurately reflect city zoning and cannot be used to rezone properties.
- Application meets all criteria, and requested the City Council approve the development, emphasizing that it lies outside delineated wetlands.

Public Hearing closed at 6:56 p.m.

- McNeilly called for a 4-minutes recess.

Meeting called back to order at 7:00 p.m.

Deliberation & Decision

- McNeilly thanked all participants for their civic engagement and emphasized the importance of a legally justified decision. McNeilly stated that no one in city government or on the council supports building in wetlands or sensitive areas.
- Ryan acknowledged the 15+ year history of the Nedonna development process and appreciated the effort involved. Ryan emphasized that developing wetlands is not an option, and no evidence presented supported otherwise. Ryan noted that the wetlands have likely changed over time and called for a current study and delineation before any further consideration. Ryan expressed support for sunseting the project due to the extended timeline and environmental concerns.
- McGinnis thanked community members for their ongoing engagement since 2024 and emphasized its importance for a strong community. McGinnis expressed appreciation for staff, as well as the city's legal counsel, for helping councilors navigate the complex material. McGinnis acknowledged learning from both sides of the appeal and stressed the value of improving city processes through such cases. McGinnis noted that the development area has changed significantly since 2008 and suggested it will likely be re-evaluated in the future, regardless of the current decision, but for now the Council will make a decision on what is before them.
- Cheek shared she had served on the Planning Commission or City Council since 2011 and acknowledged the extensive history of the development. Cheek emphasized the importance of basing decisions on evidence, not personal opinion, and stated her readiness to vote on the matter.

Motion by McGinnis, seconded by Martine, that based on the facts and evaluations presented in the City Staff Report, and evidence presented, that the Rockaway Beach City Council REVERSE the Planning Commission's July 18, 2024 decision on application #PUD-24-1 and, in doing so, DENY application #PUD-24-1, and direct staff to prepare findings and conclusions consistent with this decision, and authorize the Mayor to sign an order to that effect.

McGinnis thanked everyone for the input they had provided, especially city staff, city attorney, and all the different people working on the matter.

Motion carried by the following vote:

Yes: 5 (Cheek, McGinnis, Martine, Konruff, Ryan)
No: 0

8. PUBLIC COMMENT ON NON-AGENDA ITEMS – None Scheduled

9. OLD BUSINESS – None Scheduled

10. NEW BUSINESS – None Scheduled

11. ITEMS REMOVED FROM CONSENT AGENDA – None removed

12. COUNCIL CONCERNS – None Scheduled

13. MAYOR'S REPORT – None Scheduled

14. ADJOURNMENT

Start time: 7:09 p.m.

Motion by Martine, seconded by Cheek, to adjourn the meeting at 7:09 p.m.

Motion carried by the following vote:

Yes: 5 (McGinnis, Martine, Cheek, Konruff, Ryan)
No: 0

MINUTES APPROVED THE
12TH DAY OF NOVEMBER 2025


Charles McNeilly, Mayor

ATTEST


Melissa Thompson, City Recorder