

**Regular Meeting of the Planning Commission
at Bandon City Hall and via Zoom Meetings
with Live Streaming on Facebook
October 20, 2021**

COMMISSION:

- Paul Fisher, Chair
- Sally Jurkowski, Commissioner
- Ed Landucci, Vice Chair
- Gordon Norman, Commissioner
- Catherine Scobby, Commissioner
- Gerald Slothower, Commissioner
- Donald Starbuck Commissioner

STAFF:

- Dan Chandler, City Manager
- Shala Kudlac, City Attorney
- Dana Nichols, Planning Manager
- Megan Lawrence, City Planner
- Eric Montes, Planning Assistant

1.0 CALL TO ORDER

1.1 Roll Call

Fisher called the meeting to order at 3:00 p.m. Roll Call was taken as indicated above. Jurkowski joined the meeting at 3:34 p.m. using the Zoom virtual meeting application. All other members of the Commission were present in the Council Chambers.

2.0 DISCUSSION

2.1 Mobile Food Units

Nichols began the discussion, noting that mobile food units could also be called mobile vending or food carts. She reminded the Commissioners that the topic of whether to allow mobile vending in the community had developed from their joint meeting with the City Council six months earlier. The Work Session was intended to offer an opportunity for discussing pros and cons without deliberating toward any decisions and to give Staff a sense of what the Commission would like to see in an ordinance.

The Commissioners received a meeting packet that contained a memorandum from Nichols that summarized her suggested discussion points: placement of units, allowable uses, their size and design, times of operation, and fee and registration requirements. City Planner Megan Lawrence had assembled an overview of pertinent passages in the Bandon Municipal Code (BMC), State and County regulations governing mobile food units, excerpts from past City Council Minutes, and community surveys on the subject.

Norman felt the subject of mobile vending was all-encompassing, and he had the impression that selling food from a mobile unit in Bandon might be more popular than selling other items.

Nichols thought the information that came from the City Council was based on a survey of Chamber of Commerce members and may have been representative of the local business community but not necessarily of the community as a whole. She observed that Staff had found through its research of other cities that most of them were allowing and regulating mobile food units in specific, and not other types of mobile vending.

Slothower did not think mobile vending of items like t-shirts and handmade jewelry added anything to the community, so he preferred limiting any mobile units to those that would sell food.

Norman agreed, but he recognized there would be concerns that food carts would have a negative impact on existing restaurants in Bandon. However, he said his wife had conducted some research and found studies that showed mobile food sales did not have a negative impact on restaurants.

Nichols offered to do her own research on the subject.

Slothower did not think most food carts competed with sit-down restaurants, because they usually did not sell the same food or the same ambience.

Norman stated his experience with food carts had been mainly in Portland and Salem. He especially liked the high-quality “fun food” at the food cart cluster on the Park Blocks in Portland.

Fisher pointed out that among other things the Commission would be looking at where the mobile units would be located and how they would be operated. He suggested one question would be whether the City would want them gathered together in a “food court.” Fisher noted there would be difficulty finding a place for mobile vendors. He ruled out the South Jetty due to the wind and dealing with garbage.

Fisher recalled that the subject of mobile vending came up in the past when there was a hot dog stand operating at the lube shop on the south end of Bandon. In his opinion, the City shut the hot dog stand down without having the authority to do so. The City had allowed food carts for special events such as the Cranberry Festival and regularly allowed them at the Old Town Marketplace. He also felt restaurant operators in Old Town had voiced their opposition to food carts.

Landucci commented that Bandon already had the drive-through coffee stands at the Shopping Center and McKay’s Market, and a barbecue cart was frequently set up at Ray’s Food Place. He referred to these activities as food carts that set a precedent in the general commercial zones. Landucci opposed mobile vending on public property or City rights-of-way. He also emphasized that restaurants in Old Town were working hard to compete and stay in business, and he thought it would create havoc there to bring in food carts.

Nichols interjected that businesses in the general commercial zones had to get zoning compliance and pay full System Development Charges (SDCs), so a business like The Human Bean was essentially considered the same as a “brick and mortar” business, because it was not mobile.

Landucci recounted having been in Gold Beach recently and he remarked that the Thai restaurant there, situated in a big trailer, was getting excellent ratings. He believed there was a lot of land along Highway 101 south of Bandon where people might stop for something to eat who would not necessarily be headed into Old Town. Landucci favored limiting mobile food units to the general commercial zones and away from the established small restaurant scene and beautiful port area. He thought the large parking lot across from the Old Town Marketplace—leased by the City but in private ownership—could be an appropriate location for a food court, but he did not want the City to be in the business of renting space to food vendors.

Nichols drew attention to material from the Oregon Health Authority (OHA) that was included in the Commissioners’ packet for the Work Session. Among the requirements for a mobile food unit was some kind of restroom facility, and she believed that meant a business would need to host a food cart and provide a bathroom, limiting the food cart’s operating hours to those of the host business.

Scobby thought a portable toilet would satisfy the requirement, so a food cart would not have to be located outside a brick-and-mortar business. Having been to the Thai restaurant in Gold Beach, she knew that was what they used for a restroom, and their trailer appeared to her to be on a private parking lot.

Landucci expressed another concern about hosting mobile vending on public property, which was the liability factor. He continued to recommend allowing mobile units on general commercial land along Highway 101.

Fisher pointed out that most of that property was outside Bandon's city limits.

Norman strongly advocated having clusters of food carts. He thought locating them in one place would make them easier to manage and oversee, and he suggested having them in close proximity to Old Town. Norman maintained that people were going to Old Town and not somewhere out on the highway, although he acknowledged that having some successful food trucks on the south end of town might attract other businesses there.

Fisher and Landucci agreed that the parking lot by The Laurel building, at the corner of 1st Street SE and Fillmore Avenue SE, would be another good location for a food court. Fisher observed that people had changed their habits as a result of COVID and more of them were doing take-out food than before.

Fisher mentioned the City's empty lot on Fillmore Avenue, which had been thought of as a potential site for workforce housing. Keeping in mind the City did not own any significant parking lot, he suggested the property on Fillmore could be converted to a parking lot. Fisher thought the property's location, not far from a traffic light on Highway 101, would be convenient, aside from being on the opposite side of the highway from Old Town.

Landucci said there could be a shuttle to take people to and from Old Town.

Nichols sought to clarify whether the Commissioners perceived a difference between setting up food units on publicly-owned land and doing so in a City right-of-way or an on-street parking space.

Landucci believed renting any public property to private businesses would cause extra work and headaches for the City with its already overworked staff, as opposed to letting private property owners bear the burden of regulating mobile units.

To Norman, it seemed that the City, through its code, would be fostering private enterprise for both the mobile vending businesses and the private property owner, if the City were to promote the development of an unused private parcel for a food cart cluster.

Landucci commented that the citizens of Bandon had a history of wanting less government involvement, and he was sensitive to the hostility that sometimes arose when it appeared the politics of the City gave someone an unfair advantage.

Nichols introduced additional questions from her discussion points: In which zones should the City allow mobile vending, and what types of businesses should be allowed?

Fisher began listing various zones. When he brought up the CD-1 zone, Nichols stated that the CD-1 zone encompassed the Beach Loop area, where a mobile food unit could perhaps be associated with a motel or set up at Coquille Point or the 8th Street Wayside.

Fisher countered that most of the wayside or viewpoint locations were State-controlled and mobile vending would not be allowed there.

Landucci reiterated that he wanted to see the commercial activities kept to the commercial zones. He did not like the proliferation of vacation rentals and feared that allowing food carts in too many locations would invite year-round campers.

Norman contended one of the positive elements of containing the food units in a cluster was that it limited the potential locations.

Scobby asked how the City would determine which private property owner would get the cluster. She wondered if everyone would be eligible to host a cluster.

Norman thought the City could limit the possible locations.

Nichols told the Commissioners that they were helping the City determine what should and should not be allowed, and where to allow it. She suggested they could specify requirements for the size of the property and its proximity to other clusters. To designate a specific property as qualified, that property would have to go through a Conditional Use process, Nichols said.

Slothower agreed with the cluster concept and thought the City's Woolen Mill District property might be appropriate.

Landucci called for the Commission to decide whether anything aside from food could be sold from mobile units. He opposed vans taking up parking places on City streets and "selling tie-dye shirts and bongos and stuff," and he added, "We don't need that."

Scobby asked if the Eat 101 food truck parked next to the Bandon Rain taproom was operating on a special event permit.

Nichols confirmed that was how the van was permitted, and it was only allowed on certain days. She said the code did not permit roadside vending, but it was unclear what might be approved, and she noted that there had not been any requests for other food trucks since Eat 101 was granted its permit.

Landucci wondered why it was necessary to change the code.

Nichols responded that the City needed a regulatory process to follow.

Fisher pointed out that someone wanting to operate a mobile food unit would have to satisfy the County's stringent requirements. He gave the example of how local resident Brian Sprengelmeyer's successful food truck evolved from serving food at a table in a market. Fisher emphasized how someone could grow a business locally and use a food cart as a stepping stone to eventually be able to open a brick-and-mortar restaurant. He added that the owner of Eat 101 also lived in the community, near Currydale Farm Supply, and regularly set up his food truck at that location.

Landucci suggested someone wanting to copy the Thai restaurant in Gold Beach could set up a structure like The Human Bean and work within the existing code.

Nichols responded that someone doing that would have to apply for a Conditional Use Permit (CUP).

Slothower felt the City needed specific criteria to evaluate an application for a mobile food unit.

Landucci retorted that Bandon did not issue business licenses or permits. The State of Oregon and Coos County controlled the regulation of food carts. He asked how the two drive-up coffee huts were regulated.

Nichols replied that they went through the CUP process. There were specific regulations in Bandon's code for drive-up uses, and their businesses had to qualify as being an allowable use in the zone where they were located.

Slothower emphasized that there were no such regulations in the code for mobile food units, so no basis for accepting or rejecting them.

Landucci firmly opposed mobile units that could move from one place to another in town but was okay with semi-permanent structures similar to the Human Bean and Tin Cup Coffee or even the trailer used by the Thai restaurant in Gold Beach that stayed at a fixed location.

Norman did not think there was danger in companies from out of the area coming to Bandon to operate a food cart, because the profit margin was low. He also thought since Bandon was a tourist community, the City had "an interest in providing a maximum amount of resources to tourists and having it be aesthetically pleasing." That led Norman to think a cluster of food carts should best be located in a place where the City had an interest in increasing traffic, such as the open lot behind the museum.

Jurkowski, who had just joined the meeting on Zoom, agreed that food carts would be acceptable in certain situations and locations.

Norman said it would not be a good idea for food trucks to be "all over the place," so it would be essential to put them in a location with an attractive appearance and where what they did could be controlled.

Landucci asked Nichols if there had been any requests from people wanting to set up mobile units.

Nichols answered that there had been quite a few requests, but people had been told they would have to pay the full amount of SDCs required by their structure and find someone to "sponsor" them. She added that most of the inquiries about food cart regulations came over the summer, but the City had no specific regulations.

Landucci thought the City could simply extend the use of its special events permit to cover food carts that were located temporarily in town.

Norman interpreted Nichols' response as a statement that the lack of regulations caused her to have too much discretion and she needed a framework that would promote consistency.

Nichols concurred, saying that using a special event permit for Eat 101 was "a band-aid, and we really need some surgery." She thought the concept of a special event was not intended to apply to something that happened frequently. For example, a bar might want to have a food cart outside to feed people while the bar was open, which would not constitute a special event.

Landucci thought that would be fine to do in conjunction with a business.

Fisher inquired if the owner of Eat 101 had to buy a license from the City.

Nichols replied that the City did not have business licenses.

Slothower saw a division between what was done on private property and what was done on public property. He supported requiring a permit that was affordable enough that it would not discourage people who wanted to operate a mobile food unit. Slothower also believed a food court was desirable because three or four vendors could stay there for a while and split the cost of a portable toilet and pay for electricity, garbage collection, etc.

Nichols interjected that the City could regulate what was acceptable for a “pod” or food court on private property, with some requirements possibly being discretionary.

Slothower liked the idea of the City leasing the Woolen Mill property for this purpose.

Fisher asked if the Woolen Mill District was in a light industrial zone (LI), and Nichols replied that it was. He wanted to focus on deciding which zones were appropriate for mobile food units. Fisher noted that the marine commercial zone already allowed mobile vendors at the farmers market.

Nichols said that was permitted by a CUP.

Fisher thought the CD-1 and CD-2 zones would not be a good areas for food carts, but the C2 zone, mainly along Highway 101 would be appropriate.

Norman agreed with keeping the mobile units away from the water.

Landucci stated that the intent of Bandon’s Comprehensive Plan was to direct commercial developments like fast food businesses to the C2 zone, along the 101 corridor. In his opinion, restricting food carts to that area would limit the ancillary problems and complaints from the community.

Norman thought the mobile units should be kept off the highway because of the problems providing parking. He suggested some of the privately-owned vacant lots along 11th Street, east of the highway, might make a good location. Norman said he was not in favor of drive-throughs and he did not think the City should be involved in regulating the size of the mobile units. He thought that was already handled by the County or the State.

Nichols asked the Commissioners for their opinions on lighting, signage, trash, and other aspects of regulating mobile food units.

Norman indicated utility requirements such as trash service could be handled through space rent.

Nichols responded that some localities had taken a “pack it in, pack it out” approach to food carts, and the units there had to be completely self-contained, including generating their own electricity and handling fresh water and sewage needs. Elsewhere, mobile units were charged development fees for use of the utilities.

Norman was concerned that making mobile units pay SDCs would dissuade people from operating them in Bandon.

Nichols said some communities charged mobile vendors an “annual impact fee” to cover the cost of minimal administration and intermittent use of city utility services. Those fees were assessed in lieu of SDCs, which were based on the permanent impact of a development. Nichols told the Commissioners she was taking notes as they discussed their preferences, to be able to present draft ordinance language to the next Work Session on the topic.

Slothower surveyed the Commissioners’ opinions on mobile food units in Bandon. None expressed opposition to allowing them, but Landucci did not want them located on public property.

Starbuck observed that it in a tourist economy it was important to facilitate people’s ability access stores and food vendors on foot due to the limited parking. That would mean locating the food carts in the area from Face Rock Creamery through Old Town. If the vendors were located in outlying areas, Starbuck contended the traffic flow would increase, and there would need to be parking and some place for people to eat. He thought Bandon was not ideally suited for mobile food units the way larger cities were, unless they were focused in one location.

Underscoring Starbuck's contention, Nichols pointed out that Coos Bay had created an overlay zone to designate areas where mobile vending would be allowed.

Fisher noted that Face Rock Creamery owned the old City shop at 3rd Street SE and Fillmore Avenue, as well as an empty lot on the corner of 4th and Fillmore, behind the shop. Like the other prime location that had been discussed, it was privately owned. Fisher felt that area was still within walking distance to Old Town and the harbor.

Starbuck agreed, pointing out that Face Rock Creamery was included when Bandon Wine Walks were held.

Nichols asked the Commissioners for ideas about what kind of design regulations might be appropriate for mobile food units.

Fisher acknowledged that these units were often set up in unattractive "box trucks" because of their mobility and ability to carry the necessary weight. He said there were factory-made food trucks as well. Fisher was not sure the City could put design conditions on the food trucks. He complimented Brian Sprengelmeyer for turning a small bus into a very attractive mobile food vehicle.

Fisher also thought it would be hard to limit the signage, because the owners could be taking their food carts to other locations, not just staying in Bandon. He did, however, think there could be restrictions or requirements regarding lighting or loud music. Those were aspects he believed would be easier to control than the looks of the unit.

Landucci felt there were two different kinds of mobile units that were being discussed: a motor-driven food cart and a semi-permanent stationary trailer.

Nichols said the Eat 101 truck was a good example of what the mobile food unit ordinance would be regulating. She wondered if the Commissioners thought food carts ought to be required to provide seating and to handle their own trash, whether sandwich board signs would be allowed, and if lighting and other accessory components would be required.

Slothower maintained seating was necessary.

Fisher thought whoever organized a food court would be responsible for setting up tables that all participating vendors could use. He believed that was a common arrangement in cities that had food courts. Some locations did not have tables and customers could only pick up take-out orders there. Fisher said Sprengelmeyer brought tables and chairs with him to set up near his van.

Landucci did not think Bandon had the population base to support more than one mobile food unit.

Norman commented that a seating area was in the best interest of the food businesses. "They'd like to keep you there," he said, "because you're more inclined to buy something else."

Nichols had the impression that two different processes might be needed. One would be directed toward an individual food cart operator and the other would govern the operation of a pod. Siting and design regulations would be specific to the two different uses.

The Commissioners voiced their agreement to limiting the locations where food units could be allowed.

Jurkowski thought the way Eat 101 was set up was acceptable, in a parking lot with seating, and she did not feel they were "aesthetically unpleasing or causing any problems."

Landucci agreed that they had a good setup there.

Norman suggested there would need to be a separate process to accommodate those entities that would be in town just for a special event such as the Fourth of July or the Cranberry Festival. He recommended segregating the longer-term food carts and not letting them be scattered around Bandon.

Slothower was not sure that type of limitation would be possible.

Norman asserted that there could be a special food cart overlay zone.

It was not clear to Nichols that the Commissioners had reached a consensus as to whether an individual food cart could be located somewhere in town.

Fisher remarked that the City had to determine what authority it had to control the operation of a food cart on private property.

Landucci reminded the Commissioners about how the City's codes had been applied to businesses in the past. Someone who roasted coffee in Old Town had been forced to leave due to the obnoxious odor wording in the Municipal Code because several people complained. Another business was not allowed to smoke fish in Old Town for the same reason.

Norman said he would prefer not to have individual food carts at various locations around town and would rather have them clustered.

Landucci did not want to see mobile food units in Old Town unless someone had a plan for seating and lighting and operated it like "a legitimate business." He did not want to see them in the CD zones, either, and he was opposed to food carts at random locations, saying, "I just don't think it suits our town. It's not going to help us. We've got this great restaurant business going now—let's keep it on this higher level."

Nichols stated that confining mobile units to pods would require some parameters to be set for the size of the property and the specific zones where the pods could be located.

Slothower did not think mobile food businesses would hurt the restaurants in Old Town, because they would attract a totally different clientele.

Norman gave his opinion that an "above average to very good food cart is going to put out food far superior to these restaurants trying to do take-out when they're not really designed to do that." He described major metropolitan areas as "like the wild, wild west" when it came to food carts. Some of them would move to a different location each day, using social media to announce where they would be. Norman said a popular food cart would create a nuisance, with long lines of people spilling into the street, and it called it an exaggerated example of what he would not want to see in Bandon. He wanted to see the mobile units in one location, under parameters set by the City.

Jurkowski agreed with having the food carts in one location, with seating and garbage available, under specific guidelines, but not near residential areas.

Nichols asked the Commissioners about operational aspects of mobile food units that the City might regulate. She wanted to know if they thought the City should set days and hours of operation. She also solicited their opinions about additional requirements, such as insurance and food handler certification, as well as what type of permit process should be involved.

Norman thought the lion's share of food cart business was during lunchtime. He did not anticipate much traffic later in the day, aside from the occasion of special events, and he felt the hours might depend on the location.

Landucci noted that the City did not have existing limits on hours of operation and only licensed the sale of alcohol. He mentioned that the drive-up coffee businesses were open early.

Fisher suggested someone could do a great business if they had a breakfast cart that opened at 6:00. He said his son would like to do that.

Nichols wondered if non-discretionary criteria should be established for mobile food units, so Staff would be able to review applications quickly, or if the Commissioners saw a need for a more discretionary process.

Slothower supported a “boilerplate” approach, to avoid discriminating while ensuring the applicant met State and County requirements.

Nichols depicted a “Type II” process in which Staff would make a decision on an application, then send notices to surrounding property owners, who would have an opportunity to appeal to a Hearings Officer or the Planning Commission.

Landucci interjected that the biggest obstacle for someone wanting to operate a food cart in Bandon would be getting approval from the County, so that would be the first step in the application process. He asserted the biggest issue for the Commission was where to allow food carts.

Nichols offered to bring different scenarios to the next Work Session and use maps to show what potential locations would be available depending on which zones were allowed to have mobile units.

Landucci advocated involving the public in the decision-making process.

Nichols assured him this Work Session was a first step, intended to provide Staff with direction. She suggested public input could be part of future Work Sessions and she anticipated multiple public hearings.

Slothower had the feeling the food cart issue might be similar to the Planning Commission’s previous work on the issue of ADUs (Accessory Dwelling Units), when there was some concern that there would be a proliferation of ADUs in backyards throughout Bandon. It turned out there had been something like two applications for ADUs since then. He expected there would not be a great rush to set up food carts, especially with limited locations available for them.

Scobby said her experience with clusters of mobile food units elsewhere had been positive, and she saw such a cluster becoming a community gathering place that could be a nice alternative for families with children who might not feel accommodated by restaurants in Old Town.

Norman commented that in planning for mobile food units in Bandon, the City not only needed to formulate appropriate regulations, but it also needed to structure the regulations to promote the viability of those businesses. He thought their success would benefit the community by pleasing both the locals and the tourists.

Landucci requested some examples of how other rural towns were regulating mobile food units, and Nichols said she could supply that information for the next Work Session on the subject.

Nichols wanted to know how the Commissioners felt about food carts connecting to City utilities.

Landucci said one reason he favored only allowing the units on private property was their need to hook into an existing business or pay an SDC to access electricity. He thought it would impose an extra burden on the City’s small staff to service individual carts separately, if each had an account and a meter.

Mayor Mary Schamehorn was passing through City Hall and she sat and listened to the Commissioners for several minutes before asking whether the Eat 101 truck was parked on public property, since it was located in a lot where the sign said, “Public Parking.”

Nichols clarified that the parking spaces on the side of the lot next to the Bandon Rain taproom were private and belonged to that building.

From what she had heard, Schamehorn had the impression that the Commission was considering limiting mobile units to private property only.

Fisher went over some of the conditions the Commissioners had already discussed for allowing food carts in Bandon: they could not operate on City streets, on the Jetty, or at coastal waysides; no sidewalk vending would be allowed; an overlay zone might be created to designate where mobile vending could be permitted; the burden could be put on property owners who wished to have a mobile unit on their lot; carts that became a more permanent fixture would need to pay SDCs for use of City utilities.

Landucci thought it was good to recognize and address mobile food units as a legitimate business and to restrict them to private property.

Slothower was open to the possibility of clustering mobile units on City property if an appropriate lot was available. One way or another, he hoped to see food carts in Bandon, preferably within walking distance to Old Town. Slothower did not believe they would compete with existing restaurants to any significant degree.

Landucci could see that a portion of the private parking lot across from the Old Town Marketplace, which was being leased by the City, would be a perfect site for food carts. He doubted that the property was going to be developed and was best suited for vehicle parking and for food carts—activities that did not require structural engineering, geologic surveys, working in a fill area, and concern over Indian artifacts.

Fisher pointed out that no water or sewer were available at that location, but he acknowledged that the mobile units could satisfy County requirements by bringing their own sources for water and power and by having portable restrooms on the premises.

Landucci thought there was potential to coordinate with the Port to enable mobile units to cluster in that area.

Fisher liked the idea of restricting mobile units to an overlay zone, similar to what had been done by Coos Bay.

Scobby recommended establishing an overlay zone bigger than Old Town. She felt the highway was an underutilized area, and it might benefit the City to have an aesthetically-pleasing area to park and gather away from Old Town that was attractive to tourists. Scobby recognized that Old Town business owners had expressed firm opposition to food carts when they were surveyed previously, but she thought a survey of the general public should be conducted.

Nichols asked the Commissioners for input on how to solicit public comment.

Landucci thought people would be more candid when responding to an online poll.

Nichols stated there were new tools for conducting an “online open house” that would take a participant through a series of questions and scenarios.

Fisher suggested putting something in the City Manager’s newsletter.

Norman distilled his recommendations down to a short list: “designated food pod area, aesthetically cute, no drive-throughs.”

Wrapping up the Work Session, Nichols informed the Commissioners that the City had received a Transportation and Growth Management Grant to update its Transportation System Plan, and it had been awarded another grant that would be used to update its Housing Needs Analysis and Buildable Lands Inventory and to conduct a Housing Strategy Implementation Plan. She added that the Commission’s work would contribute to those plans.

3.0 ADJOURN

Fisher adjourned the Work Session at 4:42 p.m.

Planning Commission Work Session Minutes
Submitted by Richard Taylor, Minutes Clerk