

Board of Okanogan County Commissioners
Tuesday, December 6th, 2022, 1:30 p.m.

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Present:

Andy Hover (AH), BOCC District 2
Chris Branch (CB), BOCC District 1
Jim Detro (JD), BOCC District 3
Lanie Johns (LJ), County Clerk
Pete Palmer (PP), Planning Director

Time stamps refer to the time on the wall clock. An AV Capture archive of the meeting on this date is available at: https://okanogancounty.org/departments/boards/live_streaming_of_meetings.php

Summary of Important Discussions:

- *Report from Planning Director Palmer on Planning Commission discussions: in light of water scarcity, rezoning in Tunk Basin to limit subdivisions to 100 or 160-acre parcels, eliminate subdivision altogether, or zone as R-20. Additional PC meeting on December 16th, public hearing on January 23rd.*
- *Branch says rezoning must take roads situation as well as water into account; sees need to clarify code as pertains to exempt wells rule. Hover says Hearst decision halting subdivisions in Methow should apply to Tunk, and to address water unavailability at the onset of large lot segregation.*
- *Branch says Fairgrounds Director deserves reprimand for spending without authorization in light of past losses of equipment.*
- *Detro giving away his desk, books and papers. Branch has dibs on his office.*

1:30 - PP summarizes the minutes from previous Planning Commission meetings regarding zoning in the Tunk Basin. **PP:** In the October meeting I shared the district use chart, our 100-acre minimum designation which I had drafted specifically for the Tunk area as suggested by the BOCC. John Crandall wanted to know how many 5-acre, 20-acre and 100-acre parcels were affected, how many were developed and how many new lots created. GIS made maps based on each scenario. Even prior to the September meeting Planning Commissioners were opposed to R100s, and changed to support the R20s based on their discussion. The 20s have seen recreational use, not developing but staying on weekends, and they become junkyards or undesirable properties. During the November 28th meeting I wanted to hear from the public. (1:34) The planning commissioners heard testimonies from Michael Wilson, Kevin Fox, Jim Soriano and, via Zoom, Isabelle Spohn. I withdrew the proposal for the R20s with an amended staff report which included timelines for zoning larger parcel sites. I scheduled a special December 19th meeting to finalize what the rezone was going to consist of. January 4th and 5th I'd give notice of the new SEPA (*environmental review*) checklist and the comment period would start. On January 19th, written comments would close and on the 23rd at a regular planning meeting would be the public hearing for that rezone. Though I withdrew the application, the Planning Commission still decided to go through with the R20 resolution as a gap-stop between the

end of the moratorium and the adoption of the rezone. (Note: The Planning Commission excluding, Schulz, who abstained, voted for R-20 zoning in Tunk after being told by Director Palmer that the current Moratorium on Subdivision in Tunk would end in four days, on 12/2/2022. However, the Moratorium ends on January 19th, 2023– six months after it was signed.) See attached Moratorium Resolution and AV Capture video for 11/28/2022 at 0:47. Click here:

<https://media.avcaptureall.cloud/meeting/b11e6f29-0e50-4180-b6bc-f7a1ca60306f>)

AH: The Planning Commission was adamant about not going to the 100s? As the planning office you have to make a determination of legal water availability. To make new lots flies in the face of what reports we have. **PP:** I agree. **AH:** And with senior rights holders, just because you have a permit-exempt well does not mean “first in time, first in right”?

1:37 - **PP:** I thought that listening to the people that grazed and owned property up there would shine a light on the separation between having water on paper and actual water in waterways. They were worried about taking away people’s property rights. If people wanted to retire, they should be able to subdivide the ranch, or have a son or daughter take over the ranch. I’m preparing documentation to go back to the original. Option one is bring back the R100s, have them revisit that. The largest parcel out there is about 642 acres. The second option: limit it to that and do no subdivisions at all. **AH:** Do we even need to re-zone at all if we have scientific documentation that there’s water issues up there?

1:40 - **CB:** I’m interested in the approach but have never seen (*controls*) other than minimum lot sizes. **AH:** with the Hearst decision the Court said the County should have the responsibility to do things based on water availability. **CB:** They emphasized that. It was already a state requirement that was ignored. ...**PP:** Let’s say we didn’t rezone and we have large property owners with a water right, and people start drilling dry wells... **AH:** If you subdivide you have to show water adequacy. If you’re already watering there’s no net change to the system. ...**CB:** I’m not at all favorable of rezoning just in terms of water. From a development point of view there are transportation problems. How do you justify increasing fire service? **JD:** ...Do the people do their fair share for the road system? ... **CB:** Investing on subdivisions already created. They have the right to drill wells. But they might have problems with the roads. *They discuss easements, and the stiffening of requirements over time.* **AH:** There’s a SEPA checklist: “Is there a road up there”? **CB:** Let’s say you want to go from 20 to five acres. You’re even exempt from SEPA. You have hodge-podge road systems, and taxpayers paying to put in roads in difficult conditions. We talk about bolstering ag but you can’t if you subdivide. It’s (*even bad for*) deer migration. ...This has been advertised. How much pushback have we had? One person who (has since) pulled back.

AH: If a rancher has a water right and wants his kid to come back, he can convert the water right. ...**CB:** Break off a piece of the water right. **AH:** Hoops to jump through, but— **CB:** Let’s say I’m going to give my son a piece of property and two years later he sells the property. **AH:** If you use water already in the system you don’t add anything. **PP:** In the Methow people are using that as a loophole—when they don’t have to prove adequacy, then a year later they sell the properties off. Developers coming in cost (*a lot of*) money for legal reviews. **CB:** When you take the subdivision rule and you make a minimum lot size of 100 acres—Our exempt subdivisions can’t exceed the lot size. (1:59) In the Methow the exempt is 20 acres. People aren’t being allowed to subdivide through the exempt rule. It needs to be in the code, to address that. **PP:** There is a statement on there for a permit. They have to go through a checklist. **CB:** But there hasn’t been a rule written to address that, so they have the right. **AH:** After the court ruling, if I were to make four 20s, that would be considered related parcel, so they can’t have water. **PP:** Well, it boils down to when they

got their building application and applied for vesting rights. The determination is made at the time of building, not when subdividing.

AH: The Methow rule and court order trump the statute. ...**PP:** The checklist asks when the well was drilled, when the lot was divided, whether the parcels are related, if the well was already used for one home. **CB:** The court case dealt with subdivisions that were approved. **AH:** And said you will not subdivide anymore. **CB:** What is the basis for not allowing subdivision? **AH:** The Methow rule. ...It would be a violation of the group rule which has been defined as “functionally related”. I think they’ve gone overboard a little bit but– **CB:** What about outside the Methow and subdivisions being approved where they can use exempt wells? ...**AH:** When we did watershed planning we made an addendum to the rule to specify the water amount. *He agrees there can be subdivisions that use single family exempt wells. PP draws a distinction between these, which require proof of potable water, and large lot and exempt segregations where it’s only when a lot is sold that they go through the checklist, and the 2-cfs (cubic feet per second) rule applies. They discuss the Wilson property, subdivided before the ruling.*

2:07 - **AH:** That’s the break point. *(The Wilsons) were vested. From now on when someone does large lot segregation it should say on the face of it that water cannot be provided to that lot.* **CB:** How does that apply to the Tunk Basin? **AH:** It has physically limited water that is known to be a problem. Allowing more divisions can put senior rights owners in jeopardy. ...That’s been going on. Figlensky ran out of water as more and more houses went in. **JD:** Twin Creeks would be a perfect pilot example for how much water they depleted out of the head waters for availability downstream. **CB:** person who inspected wells said there were more artesian wells than he’s seen anywhere. He has to look at those properties. *CB says they could propose a 160-acre minimum lot size; he’s heard no opposition.* **AH:** Other than from Planning. **CB:** They don’t want to be the ones to take something away from someone. *They talk about streams, with fish in them, that don’t exist anymore.*

PP: So we should go forward with proposing the 100 and the 160-acre minimums. During the public hearing, part of the motion included discussion with the Department of Ecology about closing the basin, much like they did in the Methow. I also want to have a real discussion on emails from Nancy (Soriano)–she’s attacked me personally, saying I lied about coming home to farm, 5-acre parcels. I’ve dealt with her. She’s demanding information, studies, minutes–it’s gotten out of control. She said the communications are not getting to her.

2:18 - *CB says people can request specific information that is usually included in a public notice. AH and JD tell her she is doing an excellent job.* **PP:** I know I have to have a thick skin.

2:21 - *As he did the previous week, CB brings up the Fairgrounds Director’s purchase of tools for \$500, which he felt should have been authorized beforehand.* **AH** says he told her to ask next time. *He’s received the invoices. CB says he’ll leave it up to AH but feels she deserves a reprimand “based on a long pattern of violations before that”...* **CB:** We’ve lost more in equipment than that (good deal) is worth. **JD:** You can’t do things with this budget and have things just walk off. **CB:** It’s easy to lose hand tools.

2:28 - *Since AH has a union negotiation meeting, he calls Matt Marsh to postpone the Tonasket Forest Ranger District report until Monday afternoon. CB complains about not having his “quick start things” on his brand new computer. He jokes with JD, saying when he arrived AH claimed the downstairs office, and CB is going to claim JD’s office when John Neil arrives. LJ announces that “just us girls” in her office have been invited to a retreat at Sun Mountain Lodge. She looks forward to touring the place for the first time. JD says they can do what they want with his books, files and old desk.* **CB:** I should have a bonfire with my old files. But’s it’s illegal. Remember

when the County got cited for burning books? They saw it in the paper and wrote a citation. Got a lot of woodstoves for people, I believe.

2:54 - Meeting adjourned until Monday morning.