

Board of Okanogan County Commissioners
Monday, October 18, 2021 PM

JD—Jim DeTro
AH—Andy Hover
CB—Chris Branch
LJ—Lalena Johns-clerk to the Commissioners
Jan—Okanogan County Tourist Council
Mr. Marchand—Okanogan County Tourist Council
PP—Pete Palmer—County Planner
SB—Scott Burka—Grower
KT—Kelsey Taylor—Grower

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Summary of significant discussions:

1:54:35 Lodging Tax Advisory Committee (LTAC) agrees to keep the Okanogan County Tourism Council (OCTC) its Destination Marketing Organization (DMO) for another three years. OCTC will try to promote more tourism in the north county. The total funding is \$270,000.

2:54:55 Public Hearing Ordinance 2021-9 Marijuana Moratorium. Planning Department recommends continuing the Moratorium on licensing new grows and expanding currently licenses grows. According to the Liquor and Cannabis Control Board, the county has 125 permitted sites in the county, but according to county records we have 82. Current licensees were sent a letter telling people to come in to the office with their documents to make sure they were in compliance. However, only three people have done that. Two people testify, saying they're right in the middle of harvest and everyone is working very hard, so that's why there are so few comments. The commissioners decide to amend the moratorium to allow more time for growers to present their documents to show they're in compliance with the county. They also discuss the issue of leasing grow land vs owning grow land. They also emphasize that the County needs to get a handle on what's currently permitted.

1:54:35—Presentation- Destination Marketing Organization (DMO) Request for Qualifications (RFQ)- Okanogan County Tourism Council (OCTC)

AH—The County made a RFQ for an organization to be the DMO for the county. The current contract expires in December. The new contract would be for three years. OCTC was the only organization that applied.

Presentation by Jan from OCTC of what it's been doing. Recreation master plan for the county, video. TV ads, hiking guides, fishing guides, maps of public parks.

AH—Your budget shows \$27,000 for strategic planning partnership. What's that?

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Jan—Work with other groups, such as Washington Tourism Council. Newsletters. Marketing but collaborate with these other groups on advertisements.

AH—Some of those other groups have applied for LTAC (Lodging Tax Advisory Committee) money. \$24,000 for Ad campaign production?

Jan—That's video production. We got this budget format from you, but it didn't really fit our budget

AH—So you took your budget and put it in our template? Can you send us a copy of your budget?

AH--\$100,000 media buying placement?

Jan—TV and radio ads mostly.

2:12:15—AH--\$15,000 for research and analytics?

Jan—That's for reports and statistics, Google analytics, etc.

AH—The DMO got \$225,000 last year? Yes. The \$50,464 is for two employees?

Jan—One part time, but we don't have any currently.

AH—Travel & administration included part time employee: \$25,000. Where's the other

Jan—Economic Alliance, basically. 1040 hours at \$20/hour plus payroll taxes. I put it under admin. But this person will probably go around and distribute maps, etc.

AH—LTAC met last week or so, some projects in the north county. Consensus to build infrastructure to build north county up to take pressure off the Methow Valley. I want that to be a significant push. How do we get stuff established to attract people? Methow Valley in the winter time has really good pictures.

Jan—For winter, except for winter fisheries, snow sports are the driving factor. We have Sitzmark Ski Area near Tonasket, and the Loup. How to change this? Trying to get a refrigerated ice rink in Pateros. Also snow shoe trails and fat tire bike trails. In summer, the Methow Valley is booked. More ads won't lead to more LTAC money in the Methow. If we promote North County, we need to take the pictures when it's most beautiful.

AH—Pateros and Brewster aren't North County.

Jan—We want to promote North County when it's most beautiful and we need visitors.

CB—What's your answer to this question, Mr. Marchand?

MrM—two trail systems—water and land (hiking and biking). Working with Southern BC and the Okanogan. Added 565 miles of new rail trail, connecting with our trails, we going to do five loop tours into Canada, Ferry and Okanogan counties. That adds about 3,000 miles of trails on the map. Working with NCW Tri-county Development Council. Working to develop a trail system for summer, also fall and winters. Hiking, skiing, snowshoeing. Working with trails people in BC who are funded by the government. Our little golden egg is that funding. Identified trails, so we'll develop the maps this year.

CB—Winter fishing? Ice fishing is better than in the Methow.

AH—LTAC recommended giving \$30,000 to TreadMap. Would you work with TreadMap to push people from place to place?

Jan—Especially when things are bad—too many people or too smokey. Load balance the trails.

Jan—We finally got Gamble Sands to work with us. It was hard.

CB—Have you got the gorge and the bridge across the gorge?

Jan—We don't have that one.

CB—Great picture. Trail is county owned. Great attraction that's pretty undiscovered.

MrM—The reason we haven't brought the trail information about BC, Ferry, Stevens and Okanogan is because we're still building the package. It's going to be a big deal.

CB—We need to stop this pretty soon because we've got a hearing coming up.

AH—Do LTAC people here have a problem with OCTC continuing as DMO? (No one does.)

AH—LTAC funded the DMO for \$270,000. OCTC asked for \$270,476, but they'll accept \$476 less.

AH—I move to accept OCTC as the Okanogan County DMO for three years. Direct LJ to create a contract stating that.

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CB—If we get a few more businesses to join, we can make up the \$476.

AH—Last Friday LTAC made its recommendation, so I move to approve that. Passes 3-0.

CB—Thank you for the presentation and sorry we had to cut you off.

2:48:15—Public Hearing Ordinance 2021-9 Marijuana Moratorium- Director Pete Palmer

CB & LJ discuss how they'll call on people to testify at the hearing.

2:54:55—CB—It's 2:30 and we're considering the Ordinance we adopted about Marijuana Moratorium.

We're going to decide if it should be modified, adopted or rescinded. Limit testimony to 3 minutes.

Begin with the staff report

PP—I'm Pete Palmer, Director of Planning. There's a moratorium of permitting of new cannabis grows and expansion of cannabis grows. Required grower to make appointments with the Planning Department to show us their state license and site plan to make sure that what we'd permitted between the time Okanogan County started allowing cannabis grows until now is basically in agreement with what the state thinks we have. Make sure they're in compliance with what they're permitted for. Also directed Planning Department to look at amendments to the code to address issues we're dealing with now. Matching our records with what the state has permitted in Okanogan County.

PP—We sent letters to every grow site Okanogan has permitted. Sent letters to grow licensee and property owners. It's been 60 days and we've had three come in to meet with us. Meetings went well. According to the Liquor and Cannabis Control Board, we have 125 permitted sites in the county, but according to our county records we have 82. Given until January 1 to come in to assure compliance. Not good that we've heard from only 3.

PP—I've provided a staff report. Bottom line is we advise to move forward with the moratorium and try to get our records matching the state records and doing our due diligence as far as other property owners go as far as siting and regulations. Looking at the issue of sub-letting. State gives a permit but we don't hear that there may be many other growers using that site. Encroaching on home sites.

PP—Indoor vs Outdoor grows. Chelan does it differently. Specific zones would only allow indoor grows. Also, annual registration fee to get them to check in every year. Minimum lot size. We'd like to see a change to get a conditional use permit or binding site plan, so they'd be vesting their site and site plans, so the neighbors will know the details. People won't be caught off guard.

PP—These are items we plan to explore. I've looked at 5 different counties similar to ours and compare our regulations to theirs and to the state's. See if we can find a happy medium.

AH—I'll reserve my remarks until we've heard the testimony.

PP—Also, we didn't get any written comments. It was advertised correctly.

SB—I have questions and so I'd like to go later. And it's harvest, so maybe that's why there's been few people coming in. Everybody's very busy.

KT—I was on the Okanogan County Advisory Council. Try to find common grounds between growers and neighbors. Also give security for growers. Mitigate impact to neighbors. My concern is the BOCC has put moratoriums on our business that hamstringing our ability to plan for the future. Federal legalization is coming, consolidation in the market we need to adept to. With moratoriums in place, and by hoping to modify the ordinance without input from growers in the county, it undermines the trust you commissioners earned back in 2019 when the code was originally agreed to. Chelan County just lost a case with the State Supreme Court. Moratoriums continue to erode our property rights and this hearing is scheduled right in the middle of harvest season. We're not raking in the dough. Frankly, this moratorium seems sneaky and underhanded. I hope you can restore my trust by rescinding the moratorium. I sat on that panel in good faith and I hope you plan on honoring the recommendations that were made there. Thank you.

CB—Thanks you, Kelsey. Anyone else? OK, don't see anyone else, so it's SB's turn.

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3:11:10—SB—I'm Scott Burka. Licensed 502 producer-processor in Okanogan since 2016. I echo Kelsey. Lots of time and effort was put into drafting the previous ordinance and I thought it was settled. I apologize for my fellow growers but it's the most critical time of the year for us and we're extremely busy. There are documents that I've provided for my SEPA approval, and I'm being brought into the county's inability to find the other documents. We want to operate next year and we're planning for that right now. Request moratorium put off until next year at a time we can come in. Lots of that information is at your fingertips. Asking us to come down is a big imposition. We're having a really hard year due to other problems—synthetic cannabinoids, etc. So thank you for letting me speak today.

CB—Anyone else? One other hand raised.....

Alexa—I raised my hand. I support the other two statements. The moratorium process itself is unclear. What's going to happen to facilities that may not be exactly compliant, but not intentionally so. What will happen to them? I don't want these meetings turn into enforcement actions and that this isn't a money making process for the county. Thank you.

3:15:40—CB—No more comments. I'll close testimony part of the hearing. Before we go to the board, I'll give PP an opportunity to speak to some of the comments.

PP—Right now we aren't doing enforcement. Basically trying to open a line of communication with the growers and come into compliance with what the regulations are today. Also, trying to make our regulations better than what they are. Making sure the documents are complete is important for the growers as well as for the county. If they make an insurance claim, I'm sure they'll need certificates of occupancy for any building.

PP—We do have one enforcement action open. It had nothing to do with the moratorium but it shed light on situations we were unaware of re: subletting and expansion without permits.

CB—The commissioners got a report from the Liquor and Cannabis Control Board that's got a lot of fine print and it's hard to read. Moratorium stops further expansion until we figure this out.

PP—Notices we get from the state. We've found that a lot of the addresses given to the state are made up or not matching addresses in our department and not matched with a parcel number. That's a big issue—keeping track of the parcel number.

AH—How can you be stymied unless your subleasing or want a second or third license for your grows? As far as I understand, one grower can get three permits for 30,000 sq ft area.

SB—It relevant to the tier level. Approximately 30,000.

AH—So whatever you've got going on now is still going to be going on next year. We've only stopped subletting or getting an additional license.

AH—As far as trust issue, we could go back into the records of the discussion we had those years ago. They said subletting wouldn't be a big deal. The person who gave that answer was not the Planning Director. The commissioners back then had trust it wouldn't be an issue, but it is.

AH—I'd like to see all these grows to be under a Conditional Use Permit (CUP) and I'd like to see only the owners of the parcels be able to get a license on that parcel.

KT—I apologize, but that's outrageous. Deeply concerning to hear this.

CB—Testimony is closed.

AH—It's deeply concerning because subletting is how they make money. Can you mute her?

AH—I understand there's vesting and we can't go backwards on that, just like what happened in Chelan County.

CB—Commissioner Hover expressed his desire and that's just one person's desire.

JD—I agree with AH's comments because Scott said he's in compliance and I know what happens when one group is doing everything by the rules, but another group is thumbing their noses at the regulations. I know one property owner who said to me that he's got a ranch and this guy's got a parcel number out

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in the middle of my ranch and he's got a grow. We're just trying to interfere with your operation or harvest. If you're in compliance, you can go on right along next year. Unfortunately, no matter where you go, there's always a segment of the population that wants to do an end run around.... Here's an example from the Building Dept. There are so many buildings in the county not properly permitted and we're trying to go through and catch them. We're trying to rectify problems so that people aren't always doing an end run and jeopardizing a business. That's where I'm going with this. I've never been against cannabis. It was a referendum by the people so the commissioners had to do our due diligence and try to make it fair to all. It's not fair if you have to comply and another person doesn't

AH—Another thing. On site plans, are we saying they can't continue with their business if they don't come in?

PP—No.

AH--Not in the least bit.

SB—It said you had to comply by the 31st.

AH—We might want to modify that.

PP—It was reviewed by Gecas (Dave Gecas, Deputy Pros. Attorney). It does say existing growers are required to make an appointment to provide documents. Part 3 says existing cannabis grows that don't meet this requirement may have permits revoked and we'll inform the state board.

AH—Any new permits will be revoked, right?

CB—it's easy to misunderstand.

AH—What is the site plan going to do?

PP—They should have filed a site plan when they got vested years ago. I'm finding them even though Perry (Huston, former Planning Director) was sending letters that said you're operation is vested. No parcel number or address.

AH—So that's not their fault.

PP—No. We're trying to complete our records to show what's actually vested.

AH—To hold up somebody's permit based on something we don't have isn't right.

PP—We're not doing that. But if they don't show us licensing and a vested site plan and we can't get them up to compliance, at some point, not at the beginning of the year but sometime, we'll have to take some enforcement action. Those who are operating without county permits or expanded without a county permit since they were vested. One of them we met was totally compliant. Another one had 5 or 6 structures without permits. We helped them get permits so now they're in compliance.

CB—That's a good demonstration what the intent is, but some may be fearful and don't trust the county to treat them fairly.

PP—Right now we just want to see who's compliant and get those who aren't compliant into compliance.

AH—By what date?

PP—January 1.

AH—I think we should move that date out. If it's harvest right now, giving them 6 extra months will help.

CB—The intent is to find out who's vested and so it would protect those who are vested. One option is to continue the ordinance. If there are other questions to be answered, we can modify. Some of those answers might bring up unintended consequences. We want to make sure we address those, but we don't know what they are. So we need to let people know we can change it if it's not doing what we want. Don't know if it'll take six months.

3:30:00—CB—People have a chance to testify and then as the process goes forward, they don't have a chance to address other problems. If there are unfair issues I'd like to be able to modify the ordinance if it's unfair.

AH—Would we have to go through another public hearing?

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CB—During the interim, I plan to talk to people about this.

AH—Two different growers I talked to, and they said pretty easy fix to have the owner of the parcel be the license owner.

CB—I agree to an extent, but I learn new things because I'm not in the business.

AH—But if the state wanted to have licenses bigger than 30,000 sq ft, they would have licenses people for bigger plots. But they didn't.

SB—Can I clarify something? In state of Washington, the size is based on canopy and not based on physical square feet, and Oregon bases it on one acre plots. Here, your canopy can spread over several acres. So I didn't want you to think it's just a 30,000 sq ft area.

AH—Yeah, I knew that, but the point remains the same—the state put a maximum amount on it.

CB—And your point is that stacking up on permits makes that area bigger. But what if multiple people get licenses right next to each other? That doesn't fix that problem in all cases.

CB—Kelsey, do you have anything to add?

KT—Yes. I don't mean to be disrespectful, but this idea that somebody has to own the land where they operate their business is very frustrating to people like me. I don't have much money and very hard to buy property. I can only do this business because I lease it.

CB—OK, we get your point. Again, the moratorium is a breather but we shouldn't take more time than we need. Those things that cause unintended consequences need to be addressed.

AH—I'm OK with farm leases, and Kelsey's point is very well taken, so we're trying not to have 10 licensees on one piece of property.

CB—Before, there was a committee and that probably took a lot of time. I'd like to have this activity to happen right here before the commissioners. One part of the rule that I think could be fixed is density determined by short plots with one house or two. That causes some grief. It was a little arbitrary.

AH—Licenses per acre is what I'm trying to get at.

KT—May I speak to that? One concern with licenses per acre is: Cannabis industry is relatively new and Washington has a head start. If we do this well, we'll become a state with a vibrant growing industry. But if you make it so there can't be consolidation, then they can't scale. I guarantee you that will cause all of the farms to fail in Okanogan County when we have national legalization. So think about this. We'll need consolidation later on.

AH—So these people know they're skirting the law with multiple licenses?

KT—No!

AH—What's consolidation?

KT—It's setting things up so that when legalization comes, there's the infrastructure in place so when the legislation changes, and it will, it will allow for consolidation of licenses under umbrellas. That's not skirting the rules.

CB—Thanks, Kelsey. So that's why I wanted to have this discussion here because that was valuable, right?

AH—It's out of the ordinary. And there should be sometimes when we have a public meeting prior to a public hearing. Because in a meeting has a different format than a hearing. In a meeting you have a dialogue back and forth.

CB—I understand what you're saying. If it's a quasi-judicial hearing, I don't do that, but if there's a little bit of time, sometimes I do.

PP—That's one of the concerns I'm having—what's working and not working for them. Another reason to hold these meetings with them—to teach us. All three that came in said they had gotten themselves in some trouble with subleasing because they don't have control over the companies they're leasing to. Or the companies are so big, they can just pay the fine and do whatever they're doing anyway. So the property owners voiced not having concern over those they lease to.

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CB—A lot of us is just the way the message (of the letter) comes out. For some I've talked to, it scared them.

AH—So, do you really need the January 1 date?

PP—No. We figured it would be long enough, but I don't grow, so I don't know. Moratorium runs out of February 24.

AH—Can you move the date to February 15? Then we'll see how many are in compliance.

PP—I've set every Wednesday aside for these meetings, figuring I'd be bombarded.

AH—I move to continue the moratorium with changing the date to Feb. 15.

CB—That still gives the opportunity when you're doing those interviews, if you learn something unexpected, you can tell us about it.

Motion passes 3-0.

3:54:00—PP—Are we on the agenda to talk about the Interlocal Agreement about the Watershed Foundation and the Commissioners?

LJ—You can do it now.

PP—But first, there's a planned development modification that the State Parks and Recreation Department is proposing. Pearrygin Lake. They haven't had time to finish all the tasks they had to do and asking for another 10 year extension, which isn't a problem. I have authority to sign that, but just wanted to make sure the board agreed.

PP—One other thing before the Watershed. We made a job offer for Senior Planner, but she declined because of the wage amount. And we're probably going to lose a Senior Planner to a county in Montana. One suggestion was the possibility to waive the driver's license requirement for one year. There was one really good applicant and that person not driving isn't an issue. But HR made waiving the requirement sound like it was unheard of. I wanted to know if you guys feel it's undoable.

AH—It might be a problem in a background check.

CB—We're seeing real challenges these days. Maybe we have to be flexible.

AH—But the issue was the pay wasn't high enough, right?

PP—Yes, she couldn't afford the cut in pay, which would be about \$10/hr from what the tribe would pay.

AH—Well, we'll have to address the pay issue. Temporarily, for the driver's license, I don't see a big problem. But we know what the ramifications are.

CB—Given our situation now for staff needs, we may have to make some concessions in some issues.

PP—Interlocal agreement. Drafted one using the same format that was used by the Conservation District with they contracted with WRIA 49. Commissioner Hover helped me fluff it around a little bit.

PP—We got to the point where the Watershed Foundation and the county employees involved were comfortable with the agreement and the scope of the work. We inserted some dates: From November 1, 2021 to December 31, 2023. Budget: \$1,650/month. Total of \$42,900. Allowable expenses are staff time, materials, website hosting, etc.

PP—Dave Gecas hasn't seen it yet. This is for you to OK before I take it to him.

AH—Watershed Foundation has to take it to their board. If we're comfortable with it and the Foundation is comfortable, then it goes to the lawyer.

CB—Hourly wage is?

PP--\$35/hour with 45 hours/month. I'll get it to Dave Gecas to review it.

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PP—The Comprehensive Plan—I forwarded the draft to the Commissioners. Trying to fulfill public records requests but the red line version that tracks changes is not available to the public. The work is a product with client/attorney privilege.

PP—Isabelle Spohn is working on fine tuning the time line for the Comp Plan.

PP—That's all I have.

CB—Tomorrow I'd like to have an executive session about personnel issue related to HIPAA.

JD—I may want a short executive session, too, but I won't know until tonight.