

Board of Okanogan County Commissioners and
Planning Commission Joint Meeting
Monday, May 13, 2024

JN—Jon Neal, BOCC, Chair, District 3
AH—Andy Hover, BOCC, District 1
CB—Chris Branch, BOCC, District 2—via zoom
LJ—Lanie Johns, Clerk of the Board
PP—Pete Palmer, Director of Planning
SB—Salley Bull, Planning Commission member
PD—Phil Dart, Planning Commission member
JC—John Crandall, Planning Commission member

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Summary of significant discussions:

- The commissioners explain to the Planning Commission (PC) what they're expecting from them—that the PC will make recommendations only to the changes in red in the red-line document. Then the BOCC will make changes to the zone code based on the PC's recommendations, and the revised zone code will then have a 30 day comment period.
- The PC expects to have the review done after their next two meetings.
- The BOCC will consider other changes in the zone code later on.
- The meeting adjourned at 8:46.

-1:40:00—JN—Commissioner Branch, can you hear us?

CB—Yes.

AH—You want to start?

CB—OK. Good evening. It's good to meet with the Planning Commission (PC). We were going to send you a letter about our intent, but decided it's better to meet with you. It's a different process than what you're used to. For me too—to have a zoning proposal that goes from the BOCC to the PC for its recommendations. Really, it's a product that won't be perfect. We need a fairly timely response so we can deal with litigation that's been going on ever since AH and I took office (*note: 2017*). It's a challenge to the Comprehensive Plan and zoning. We've finally got a product we can put on the table. All we're looking for you is a recommendation, not a re-write. Then we'll consider your recommendation, and we have to decide how to act on the issues brought up. Some are straight forward and some may involve delay. It depends on what the comments are. We have to sort through them with the lawyers to check about legal issues. There will still be work to do on the zoning code after we're done with this. So, I'll defer to AH now, as Commissioner of District 2.

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-1:36:10—AH—Thanks for coming. It's easier to talk in person. There are a lot of rumors going around, and we want to talk to PC members, but we don't want people to think we're trying to sway your decisions. There's a lot of confusion about how the PC is set up. When Perry Huston stepped down, some people from the other side of the hill (*Methow Valley?*) said—well, the PC gets to say who the Planning Director is. But that's not true. The BOCC appoints the Planning Director.

AH—This PC was set up on Feb. 22, 1971 based on the Planning and Enabling Act. One option was having a Planning Department (PD) and the PC would work with it. You as a body can start changes to zoning and can bring up changes in the Comp Plan. If you see something in the zone code you think looks bad, and you'd like to have the PD look at it, that's totally up to you. In that format, you initiate the formal control, and with the PD, work up whatever change you want, it goes through a public hearing. After that, it comes to the BOCC and all we can say is Yes or No.

PD—I've been involved in this for a while. We'd work something up and have a public hearing. We'd send it to you and you'd have a public hearing. If you made substantial changes, you had to send it back to us. But you didn't have to say Y or N. I'm not saying it's in the RCWs, but it's how we've done it in the past.

AH—There were things done in the past and I don't know they were done exactly correct. But this particular one is "Official Controls Originated by the Board". You guys didn't really have to have a public hearing because we had one.

?—But what we've been doing in this process is taking public comments. It's not a hearing.

AH—You guys had a hearing? Technically, you didn't have to. Then it comes back to us with your recommendation. There's no right or wrong. We've been very open about the two acre minimum. It's been a big deal. There are some places with one acre minimum that could probably be smaller if they could join up with a city's water and sewer—in a city expansion area. That isn't in this paper.

(Discussion if annexation would be required. Oroville has water and sewer all the way out to the lake.)

-1:28:05—AH—There are a lot of things with zone codes where you can see lots of places where it doesn't fit. Gravel pits, for example. We're not trying to hinder gravel pits.

AH—We don't have a huge budget in the county. Sometimes it's hard to have the manpower to deal with it, especially water issues. We have to deal with the instream flow rules in the Methow. Maybe it was written poorly, but it's there in black and white and we have to follow it.

AH—For this document, I hope the PC goes down the proposed changes and goes—Yes, this change is good. That change is bad. We want it to stay the way it was. Or this other change, you should reword it. But if you want to change something that's not in this document, we don't want to start making it more complicated. To add more changes would make it more complicated. If there are things we overlooked and you want to change, that's perfectly fine. But for this document, we're trying to get through it with your Y or N. I've heard people saying—Hopefully, the PC changes this. Hopefully, they keep this other part the same. There are a lot of good comments, but things we didn't think of—like we shouldn't have gravel pits on a two acre parcel. But then someone says—we have a 40 acre gravel pit but it's zoned in two acre parcels. Then the light goes on and we see the problem. Closing the gravel pits isn't what we're intending to do.

PD—That's kind of self-regulating. If a person owns only two acres, he won't be able to turn his truck around to fill it up without falling into the hole.

AH—I've seen interesting things on small lots.

PD—It's not going to be a large gravel pit.

AH—I've also heard people say they don't want conditional uses. But conditional uses are the only way as the property owner next door, I can exert my right not to have my rights taken away. If someone

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proposes a gravel pit next door, I can say I can live with that, but I don't want crushing 24 hours/day. I don't want mining lights and dust. With condition use, I can make comments to keep the dust down and not crush at night, etc.

AH—Conditional use can work poorly, too. If you've got neighbors who are newcomers, they might not be used to...I had a guy tell me he'd sue me for spraying my field with roundup.

AH—Back when I became commissioner, the Yakama Nation brought a law suit about the way we look at water, and most of all in the Methow. We're trying to get through that.

AH—There's the Rawson decision where we sued the Department of Ecology. The DOE wasn't going to let anyone in the Methow build on their own parcels that had been subdivide after 2002. We said no, because they've invested in the county. So we sued them and ended up with a decision that everyone with a parcel can get water, but you can't subdivide. That was the legal agreement. The black and white of the WAC is that there's no group use over there, and it's horrible. I think it was written for surface water allocations. When DOE changed that rule in the 1980s or whenever, to connect surface water to ground water, they forgot the ground water rule is different than surface water.

AH—So what we have to do, connected with law suits from over on the coast, and the things we've agreed to so people could build on their property, is to check if there's legally available water. That was the Hirst decision. They had an instream flow rule without any reserves. Over in the Methow, we have reserves we're supposed to keep a tally on, and when there's no more reserve, you have to stop building. But over in Skagit County, they didn't have any reserve, but since nobody's telling them not to, they said they're going to keep on issuing building permits, even though the river was below what the instream flow should have been. Over there, there's lots of physical water, but it's like an irrigation water right. If it's not on paper, that's what you're looking at.

-1:16:35—I know that's long, but I wanted to make sure I said all the things I wanted to say.

PD—Don't cut it short, because we want to hear your thinking on this.

JN—It's sad to go last. I'll keep it short and sweet. It's a process. I hope we all understand that after the PC gets done, it's coming back to us. We'll have a 30 day comment period readdress what you present. It's not a done deal yet. Commissioners Branch and Hover pretty much said everything we've been talking about. Rest assured we're not taking anything lightly. We're continuing to learn what we've overlooked or gone too far on. I hope you all are comfortable with the fact that the BOCC and PC are trying to look out for what the public wants.

?—I'm glad to hear that. As a PC member sitting in the meetings and over at the Agriplex, hearing the comments from people—we need to do the right thing. I appreciate meeting with you guys.

AH—And like Commissioner Neal said, we *have* to have a public meeting about this. It'll go through a bunch of iterations. Pete sent this document to us a long time ago, before January. It said we needed a Conditional Use Permit (CUP) for home occupations. I said this isn't going to fly. Home occupations have pretty decent restrictions on them already. With CUP, if your neighbor didn't like you, they could say you can't cut hair in your home. So we pulled that out.

AH—You try to go through those things that a consultant has put together from lots of comments. And people have lots of different ideas. One person doesn't want light pollution, and another guy said lights are the only way I can shoot the cougars sneaking up on my chickens.

AH—With this document, there are things we probably overlooked. But if you can take those things you're adamantly opposed to. The two acre lots came about because of Public Health.

AH—As a government, we're trying to help the citizens with efficiencies of government—build roads, public safety, etc. I think the two acre thing came about when someone with a one acre lot wanted to build a house, but the Health Department said no because other people had their well pads too close to

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them. There are unscrupulous people who will sell a person property you can't build on. We were trying to protect people some, but we realized you can build on a one acre lot if you do it in a certain way—like get city water instead of a well, or if there's a sewer system.

PD—I think the compromise you guys came up with—an overlying two acre zone with caveats to bring it down smaller without restriction on how small it can go, is a good thing.

PD—The heartburn I had with this whole thing—we got the red line document in December and had to have a public hearing. The document changed a couple of times before we had the hearing. We'd get a whole new document to go through. I think once it was given to us to go through and have a hearing, we shouldn't have been getting new versions.

AH—We had that conversation with Pete. We didn't want the public to blow up for what we realized was a blatant mistake.

PD—But it was already out. It looks like you're trying to undermine us and disrespecting our ability to say if this is a bad deal or a good deal. We've only had one meeting to address some stuff we don't like it. There's a lot more to do. I think the CUP is a valuable tool but it went way too far. CUPs for yard sales? Who'll be able to afford it? It went overboard with CUP, but there's still an issue like music festivals in the Methow. I want to come up with something help alleviate the problem

PD—There are a lot of law abiding people who say, well, I'll need a CUP. But then there are people who just won't get the CUP and then say—What are you going to do about it? The people you're trying to stop will ignore it.

AH—A lot of things that went into that document are things we end up hearing. They say—my neighbor has been having a yard day every day for the last six months. Trying to keep bad actors from ruining it for everyone, but it's hard to do that without a guide that says you can't do that.

PD—If they have a yard sale for too long, they need a business license. There are rules now they're violating. Enforce those rather than force CUPs on everyone. It takes \$3,000 and several months to get a CUP.

AH—Put more teeth into it. I don't even want to say the word in this room. The problem we have is we've got jailing offenses on the books. Instead we need civil penalties so you just get a ticket instead of jail. Then we started talking about an Enforcement Officer. People wonder why in the world Okanogan County would want an Enforcement Officer.

PD—I've been involved in this a lot. We tried twice and got smashed really hard. But if you've got rules but no way to make people follow the rules, why bother. But people think this guy would drive around the county looking for offenses.

AH—But they're not.

PD—I've been yelled at a lot. Maybe lower the penalty so it can be enforced. I want to try to come up with something other than the CUP.

?—Aren't we not supposed to look at things you didn't change?

AH—Yes. If there are things in the District Use Chart (DUC) or things that need a CUP that you don't like, we'll talk about it later. We take them in small chunks. It'll take more time.

PD—We voted to take the part out where you needed the CUP for yard sales. I want to see if there's some other solution.

AH—Are you doing it on ones that weren't changed yet?

PD—No. It was a whole new section. We'll try to think up a fix at our next meeting.

AH—The DUC is where we see the C's, P's, etc. and a lot weren't changed.

PD—We've only had one meeting to go over this document. If something came up with a part that wasn't changed, we tabled it to go through later.

?—No. They were not tabled. We approved stuff that hadn't been changed.

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Discussion about whether things not changed would be addressed later.

-57:15—CB—Phil—you said earlier that the document would come through as proposed. You'd make comments on it to us. My impression is that's exactly the way to go. Some of the proposed changes to the zone code can wait. CUPs. I've been in the Planning business for a long time. We need to have these made due to a law suit that can't wait. Other issues, like home occupations, I dealt with in 1990. I remember a woman had to apply for a CUP back when the internet first became something. We changed it so all you needed to have a home occupation was sign a document saying you had one. Applications that dealt with applications to prove (*inaudible, maybe water adequacy?*), those are things we've got to do. I'd totally prefer that this document contains comments about CUPs, etc., that's fine. Make those comments. When we get to it, we'll decide what to do with the comments. Making changes midstream in the hearing process doesn't work. You'll be as frustrated as you are right now. And I agree with you. The public doesn't know what they're commenting on. There was a lot of information put out there by a very few people making claims about the zone code that aren't true, and a lot of people making comments not based on zone code at all, but based on what they were told. That's unfair to everyone, but it's the world we live in.

CB—What I would like to see, and I think what the other commissioners would like to see, we received comments based on the proposed action. That's what we're basing SEPA on—the proposed action. We see the comments on the proposed action. We may adopt it in part, or maybe send it back. There are situational details that need to be addressed. I suggest we get this document through the way it's proposed. Treat it as a SEPA proposed action. Then when we get the document we can decide what to do. We're the ones that sent the document out, based mostly on the law suit that's been around for a long time and that we've spent a whole lot of money responding to. We weren't the ones who put it out in the first place—the Comp Plan and Zoning Code combined. I don't recommend anyone does that. It gets too confusing to the public. We've done a strong message that we've got a proposed document and we'll get comments and make revisions later. That's my expectation.

CB—If you've got questions, ask them now. Commissioner Hover, do you agree with that?

AH—I have a little bit different expectation. I think of bullet point recommendations. For the red-line document, number the changes. We agree with #1. Disagree with #2. #3 needs more thought later so let's go back to the original for now.

AH—Certainly I didn't want changes made to the document. Just comment on our changes.

PD—That's what we are trying to do. We've only had one meeting so far.

?—I thought that's what we were doing.

SB—Everything in black we weren't discussing.

JC—That's what we did in the last meeting. Went through section by section and focused on the red lines. We made it through the whole document, but we didn't do the DUC. At our meeting next week, we can go through it again and get what you want.

PD—Yes. We want to revisit some and maybe tweak it. There's only one part that will be an issue. It'll take some time to go through the DUC and look at the CUPs.

PD—The communication has been poor. We've been begging since we got this to hear what you expect us to do with it.

AH—That's on us.

PD—It's gone from "you can't change anything" to "you can change anything you want".

AH—Especially in the water section—you have to ask yourself will this pass legal muster. If you change "shall" to "may" it changes the meaning. Give us a recommendation but don't change the verbiage.

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PD—The only question about water we've asked Pete is about water. It says you have to have water, but does it have to be potable water?

AH—That's a Health Department issue.

PD—Does it have to be in our zone code or is it something they'll enforce?

AH—It's in the Building Code.

AH—Cisterns are a Public Health issue, but there are other ways to get potable water.

PD—My son lived in Fairbanks, AK for 12 years and has a cistern. It works great.

AH—One valid concern I heard was that it's cold in winter and driveways can be steep. How does a truck get up there to deliver the water?

PD—They can do it in Fairbanks.

PD—We're in the process making the changes exactly the way you want us to.

AH—Let's re-word that. *(Everyone laughs.)*

PD—I mean the format. We're not that far off. There will be recommended changes. I don't see there's much we can do about the water. The cryptocurrency...

AH—Let's go back to the water. If you see something that could cause issues—because I've heard a lot of public scuttlebutt about the water issues—I'd like to hear what you have to say. You could say—we can't change the verbiage, but this is how we think it will impact people. I want to hear that. That's why we have a PC. It's a group with different interests and different thoughts.

AH—But we have to get it done. It's great that you think you're getting close to getting it done. We don't want to have to pay for outside attorneys any more than we have to.

PD—If we make a lot of recommendations, I'd like it to go out for public comment again.

AH—It will.

(Discussion between PC members about whether they're stalling or being productive.)

AH—I'm comfortable with your timeline. Do you think you can have a recommendation after your next meeting?

PD—Can't guarantee, but we're going as fast as we can.

JC—We meet next Monday, and then we meet in another four weeks, and I think we can get it done by then.

AH—When it comes back to us, it's got to go out (for comment) again.

-30:45—JN to CB—Do you have additional comments?

CB—I have nothing more to say.

?—Out of all the public comments, there wasn't one that said—I love it.

AH—There would never be one like that.

?—But they all had something they liked.

AH—Looking at the other parts, we need to take in smaller chunks. Pete reminds me the Critical Areas Ordinance and a Clearing and Grading Ordinance are coming up next.

JC—If we have changes outside the red lines, can we include it?

AH—I'd like you to stick with what you sent you, but we do want to know what you're thinking.

JC—Lots of the comments we received weren't about red-line stuff, but could be included in the zone code.

PD—After we get this done, we're supposed to go over the whole zone code and make recommendations for that. Maybe take a year? And then do the Critical Areas Ordinance. Laws that impact that are always changing. Then go on to a Clearing and Grading Ordinance.

JC—Some of the stuff in the rezone document you gave us wasn't involved in the law suit—like yard sales.

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Discussion about zoning changes for airports.

AH—The zoning code is a living document and it will change, especially with new commissioners. We don't have to get it all done right now. But let's get stuff done that should last a while.

AH—I'm glad we had this meeting. We should have them more often.

PD—I'd like to see a commissioner come to our meetings. Makes for good communications.

?—Just tell the Planning Director what you're interested in.

AH—It's slowing down to go fast. We want to be efficient. It might have been better to look just at the water section. And that's all on the commissioners. Pete does what we direct her to do.

PD—If it came directly from a commissioner, maybe Pete wouldn't be getting torn into.

JN—It makes it awfully easy for one commissioner to push his agenda and not what the whole commission thinks.

PD—Pete's been thrown to the wolves on this.

AH—I think we just need joint meetings more often.

-17:20—JN—Personally, I appreciate all of you showing up—the public and the PC. You're volunteers and we get paid. You don't always hear the answers you want, but we're always listening to you and looking out for the best interests of the county.

They take several comments from people attending the meeting.

AH explains the comment situation again. There's no more opportunity to comment on the red-line document but the public will have 30 days to comments on the changes the BOCC will make due to the recommendations of the PC.

Someone asks the BOCC to hold meetings in different areas in the county. AH says they will consider it.

A PC member says she would like better notes taken on the public comments people made.

-12:30—Rod discussed fees involved in CUP. He wonders why people have to pay for applying for a CUP when they're being processed by county employees who are already paid for by taxpayers. There is much discussion on this issue.

Meeting adjourned at 8:46.