

**BOARD OF OKANOGAN COUNTY COMMISSIONERS**  
**2/26/2018**

**In Attendance at Meeting:**

Jim DeTro- JD (BOCC)

Andy Hover - AH (BOCC)

Chris Branch – CB (BOCC)

Lanie Johns – LJ (Clerk of the Board)

Perry Huston - PH (Administrator & Planning Director)

*These notes have been taken by one of several volunteer citizen note takers and published on the website of Represent Okanogan County (ROC.) The notes have been taken as close to verbatim as possible, with any writer's comments or explanations in italics. For officially approved minutes of Board of Commissioner meetings, normally published at a later date, see [www.okanogancounty.org](http://www.okanogancounty.org).*

**Summary of significant discussions**

**Update – Planning**

**Public Hearing - Cannabis Moratorium**

*The moratorium on permitting new cannabis growing operations is about to expire. PH outlined the options available to the Commissioners and, on behalf of the Marijuana Advisory Committee, recommended repeal and adoption of controls developed by the committee, including restricting new growing operations from high density areas; setbacks from property boundaries for fencing and buffers between commercial hemp crops and marijuana growing operations. The definition of 'high density development' was discussed at length. Public testimony was generally in favor of the committee's recommendations. The Commissioners voted to repeal the moratorium, adopt the committee's recommendations and send the proposal to the Planning Commission.*

**Comprehensive Plan**

*PH refers to ongoing changes to the draft Comprehensive Plan under development. AH wants to schedule an entire Planning Department Update session devoted to going through the draft. That is scheduled for March 6<sup>th</sup>. Much of the rest of the discussion involved developing the capabilities for tracking exempt wells and a searchable database with information about parcels, development, watershed/basin.*

**OCC 20 Public Hearing**

*PH provides overview of the history of the development of OCC 20, including provisions for verifying the legal and physical availability of water prior to issuing a building permit. With the recent passage of ESSB 6091, counties have been relieved of that responsibility, so the question for the Commissioners was whether to alter or repeal and replace OCC 20. The Commissioners have an extensive discussion of how to adjust to the situation created by ESSB 6091 before opening the hearing for public testimony. Public*

*comments were mixed between maintaining and repealing the section of OCC 20 pertaining to water availability. The Commissioners have a lengthy discussion of tracking water withdrawals and public notification or access to the information. PH suggests creating a new code section titled 'Exempt Well Administration', consistent with what is required under ESSB 6091. The Commissioners vote to repeal Section 20.10-050 and create a separate water section in the code.*

## **1:30 Update – Planning**

### **Public Hearing - Cannabis Moratorium**

PH – Advisory Committee met weekly for the last 6 months. Moratorium set to expire on Mar. 5, 2018. 4 options: repeal, extend, extend and (?), and repeal. Advisory committee recommends repeal.

*Brings up District Use Chart.*

Approach was to try to revise 17.90 to minimize impacts to individuals. We created definition of high density area. Would not be able to site a cannabis grow in those areas. *(Goes over definitions showing different levels of development within various parcel sizes)*

You will see that mosaic of permitted uses in the District Use Chart, based on definitions of high density. Vested operations will be allowed to continue but will be required to fence, with new requirements (e.g. new setbacks).

The Advisory Committee agreed on a lot. Didn't agree on setbacks, buffers.

We are operating under interim controls until you adopt one of the options. (Discusses mechanics of revising the code – e.g. requirements for public hearings.

AH – In high density areas, you could theoretically have a checkerboard of grow operations within areas surrounded by high density development?

PH – That is theoretically possible. Then that site would be vested until abandoned (*3 years, under current code*).

CB – Background on definitions for high density? Operation that is then surrounded by high density.

PH – Originally started by determining high density on map. Then the decision was made to go with definition. *(gives examples of build-outs)*

*Discussion of areas set aside as future high density, such as urban growth areas are separate from definition of high density.*

AH – Inclusive of multiple owners of multiple short plats, then...

PH – If it meets that definition...

CB – What are the boundaries?

AH – So, if I have a place like Crumbacher – an area of 2 acre lots that extends for several miles, how do you treat that?

PH – Physically and functionally similar. Would treat that as a high density area.

AH – I was worried that you would treat that as a checkerboard.

PH – Definition tried to take into account future development. Idea from advisory group was to not put these operations in areas of future high density.

JD – Still have to go through Conditional Use Permit?

PH – No. Go back to the use chart. (*Gives example from R-1 zone*)

AH – Even though it is permitted, that overrides?

PH – Yes. You have to go the footnotes. Shooting for predictability. Can't site in the middle of built-up lots; also other restrictions.

AH – Last time, I asked about setbacks from state highways, in addition to setbacks from county roads.

PH – My mistake (*didn't include that*)

JD – Isn't there a Universal Code for state highways?

PH – Right of way extends 60 ft. from centerline.

AH – Can't operate within right of way. Did we find out about 8 ft fences in the building code?

CB – Can't do that inside city limits.

(*discussion of deer fences*)

PH – It would still have to meet the requirements of 17.290(?)

CB – (*inaudible*)

PH – There was language created about signs, how they would look.

CB – Can't see any great effort to eliminate signs.

PH – We had a few complaints early on, mostly about advertising. Mostly, they have been dealt with. To summarize: if you look, you will see a lot of additional language: density, fencing, lighting, signs. Trying to minimize the number of people affected. District use chart – industrial hemp in district use chart is a conditional use. Advisory committee decided that the impacts – in terms of things like odor – are similar. A lot of concern from growers about the potential for cross-pollination. Recommendation from group was minimal (?). The Colville Tribe could assume responsibility for anything permitted on the Reservation. We left it as a conditional use permit. .... 10 miles from the boundary of the Reservation.

AH – What about unincorporated towns?

PH – Zoned neighbor commercial. Follows platted boundaries, where those existed; otherwise, our best guess.

CB – *(inaudible)*

PH – Other questions?

JD – Hearing none, I will close the staff input and open public comment. Currently, we only have Keith Kistler wanting to testify. Jeremy? *(yes)* I will mark you down as a yes. Jeremy, you would be first.

Jeremy Moberg, President (?) – I want to thank the Commissioners. There was a lot of agreement within the advisory committee. Would like to point out the pieces that were not controversial. Fences, lighting. Hope the definition of high density suffices. My concern is 25 ft. setback. Could amount to untended areas, and represents a taking. Should be allowed to fence to the property line. Keep the setback from county road. We have dealt with odors elsewhere *(in the recommendations)*. Asked about state licenses where grows are not consistent with zoning. Think they will ultimately have to respect zoning.

AH – If a person owns a grow license, if you were to move, and somebody wants to take over, do they have to reapply?

JM – Have to go through a change of license. Same if I want to change footprint, add machinery.

Keith Kistler – Started meeting 6 months ago. What you have in front of you is our best effort. Tried to come up with both industry and non-industry ideas. Everyone was there to try to discuss things. Would like to see these adopted as interim controls, adjust if needed. Would like to meet with Planning Commission so we can explain our thinking.

PH – Building official is available to answer questions about fences.

Dan Higbee – Building ordinance exempts ag fences, snow brakes and similar fences. In 20 years I have been here we have not issued a building permit for any kind of fence.

PH – Commissioners, how do you wish to proceed?

CB – Move to repeal moratorium, adopt to measures proposed and send to the Planning Commission.

JD – Second.

AH – A little concerned about the 3 year period *(for abandonment)*. When this is transmitted to the Planning Commission, that should be taken into account. I have no problem with existing operations but question getting a license now and delaying it 3 years....

CB – Understand your point. I am concerned about vesting.

PH – Look at something less than 3 years?

CB – I am used to 2 years.

JD – I'd like to commend you people. At the inception of this idea, I asked other county commissioners. They said an advisory committee would not work; quagmire that nothing would come out of it.

*(calls the question; passes unanimously)*

PH – Could probably get the resolution repealing the moratorium out to you tomorrow.

*(End of Cannabis Moratorium meeting)*

### **Tonasket EMS**

*Commissioners convene as Tonasket EMS*

*PH distributes handout*

PH – Nothing new. What we have been working on since July.

CB – Move to approve ...

*(Commissioners approve two items for payment; commissioners adjourn and reconvene as BOCC)*

### **Veterans' Affairs**

AH – *(describes veterans program in Douglas County)*. They were definitely in favor of contracting for services in Okanogan County. About the same as what we are putting in now. 5 year contract, then transition to their own veterans service office, have a good program in place.

CB - Would like to see what he puts together.

AH – Eric is going to put it together; we will review it. *(agreement)*

### **Fairgrounds**

PH – Last week was eventful in the south-east (inaudible) RV park (?) currently closed. Sunrise RV has taken full responsibility. Want to make sure scheduling... Rocky Mountain Elk function. Agriplex currently closed. We can get in and out.

CB – They don't have to go through that door, do they?

PH – It is the one they usually use. It is still operable...

AH – May be a blessing in disguise. Never did like that sign.

### **Comprehensive Plan**

PH – Comp Plan. Sent you the latest draft last week. *(too rapid)* Water section we added some time ago, Mr. Branch offered some amendments. That is what is in front of you. Still need environmental...

AH – Think we need to schedule an entire session of your time. Go through section by section and discuss

PH – Next week, the 5<sup>th</sup>, the remnants of your 49 planning group coming in. Fair advisory was invited.

*LJ clarifies schedule – budget, Fair Advisory Committee.*

PH – Not much time on the 5<sup>th</sup> or 12<sup>th</sup>. Tuesday, or if you want to come in on a Wednesday.

LJ – There is time on the 6<sup>th</sup>.

AH – Let's do that.

PH – Mostly have cleaned up & condensed. For instance, several references to property rights – put all of those into one section.

CB – Changes to Resource Lands.

PH – You are correct. Brought that back. Used language from Yakima.

Under banner of (?), we are simply moving ahead. My crew, Gene, has created the database to reconcile well logs, parcel numbers. Will be able to search by parcel number, developed lots, undeveloped lots, WRIA. Track new exempt wells. Don't have time to really focus on it. If grant funding comes through, suggest hiring a temp to do the data entry.

AH – Watershed Council technical team wants to meet with Gene with their thoughts about the database, so it is usable when they go out for grant funding. Talked to Scott (Assessor). Would be nice to have a large company supporting.

PH – Tracking is specific to tracking the permitting. Bigger system would integrate everything. Big advantage to the public, as well as us. What we are doing is tracking the wells.

AH – Would it be easy to migrate into a larger system?

PH ()

AH – Any other data we could extract?

PH – Don't know; he is using some mapping. Parcels, well logs.

CB – Based on ArcInfo?

PH – Don't know. We can bring him in.

AH – Chelan County well tracking database breaks it down to tributaries.

PH – Meeting with watershed council. Sooner or later there will be the list of parcels, wells. Will need to do ground-truthing. Could contract that out.

AH – They are looking into applying for grant funding for planning.

PH – Looking at 1 year full-time staffer would cost. Craig Nelson has put together what he thinks revision to plan would cost.

### **Shoreline Management Plan**

SMP – haven't heard back from Lennard (*Department of Ecology*), in terms of required vs. desired changes. Do have some language suggested in regards to riverine designation perhaps going into conservancy. Need to schedule time to chat about that.

AH – This has gone all the way up the food chain, in terms of his recommendations?

PH - That is what I believe. We already adopted their required changes.

### **BLM Restoration Project**

BLM scoping notice on restoration project. Comes into Okanogan County a little bit. Have commissioners had a chance to look at that?

CB – Honestly, no I haven't

PH – Simple approach would be to request they send an appropriate representative to discuss it.

AH – Why don't we do that?

PH – That is your agenda for today, other than your OCC 20 public hearing.

### **3:00 OCC 20 Public Hearing**

PH – Discuss since adoption of ESSB 6091. Okanogan County, mixed bag. One WRIA that explicitly addresses exempt wells (Methow). WRIA 49, Okanogan, does not address exempt wells. Advisory group for zone code came up with a proposal (Title 20?). Want to put all related provisions in same (?). That went out for review. During that time, Hirst decision came out. Water section was drafted and included in Title 20. Created a notification process; administrative and non-administrative. Permits were reviewed by Hearings Examiner; published. Operating under that since that time. Since the enactment of 6091, commissioners questioned whether Title 20 was still needed. Title 20A has water section pulled out. What you are doing today is discussing what, if anything, you want to do differently. In the case of 49 we have a grace period in terms of the plan to mitigate. A number of options are available: leave existing code in place; repeal 20 and adopt 20A, morph water requirements into another section of the code. Responsibility will primarily be tracking exempt wells, how it related to 2 cfs. 6091, my interpretation is that our responsibility, in terms of the watershed plan, becomes much greater. Whatever we do at the end of today, should draft a letter of agreement that establishes who is doing what. 49, members of the previous planning unit coming in to discuss plan. Need to extend invitation to Tribe and others to participate.

Do we need to repeal 20? It is up to you. The things we have been doing, not spelled out in 20, as a matter of policy – like existing wells- do we want to keep doing them? We have stopped issuing certificates. Now we are tying it to building permits, subdivisions only.

One of the documents I have distributed that is relevant but not central, is the buildable lands analysis in the Methow. It's a piece of a more detailed review that we will be doing.

AH – On legend – Build-out by zone, reach parcels... Is there a total number of parcels, or do I have to add these together.

PH – Add them together.

AH – This is worse case scenario? (correct) If we repeal 20 right now, replace with 20A, we don't track wells?

PH – Don't have a notification requirement. Still have to track building permits. Wouldn't be taking water applications.

AH – In 48, somebody wants to buy a parcel, sight unseen. They immediately want to start building on it. From today, forward, they have to contact ECY for a start card?

PH – If they want to drill a well first.

AH – Then we have to coordinate with ECY. When we use the 2 cfs, we have to let ECY know not to issue start card.

PH – Similar to a building permit in a closed basin. Before building permit, part of the site analysis, review. As of now, ECY start card allows installation of well, not permission to use it.

AH – We need to know what is going on with water. Senior water rights holders have a senior water right that is senior. County needs to be sure that we are not causing impairment. Do senior water rights holders have the right to come forward with concerns that their water right will be impaired?

PH – Would not have a process in place by which senior water right holders would be informed. We had one meeting addressing that question. We are doing review, determining availability. ECY is tasked with protecting senior water rights.

JD (inaudible)

AH – There are places where wells are dropping every time a new well goes in.

CB – From my perspective, Okanogan County created these lots based on the belief that water would be available. Subdivisions did not have an analysis. (JD gives example)

PH – Related, Planning Commission meets this evening. Going to ask them to consider (?)

CB – Concept of having a letter of agreement with ECY, think we need to do that. Don't know that Title 20 serves us. We have these obligations. Didn't see much reference to regulations to deal with verified water. (reads from comments, too rapid)

PH – The idea behind the inclusion of the water language in 20 was to try to get to our obligations under Hirst. The subdivision regulation, where to put that, is up for discussion. 20 was not necessarily the right place to put it.

CB – Could be a source of confusion. 20 is primarily – had to meet requirements in terms of processing permits.

PH – GMA counties had to do it. Draft that went out for public review, that morphed out of group working on zone code.

CB – Fundamentally, permit-processing stuff. Water availability is out of sorts for me. Repeal 20 and adopt 20A, there are a couple of ways to go about it. The main thing is that we don't have a process well defined in there. Work with ECY. Don't need an ordinance to do it.

JD – Ask our deputy prosecutor? Before we get shoved into the abyss of litigation.

PH – Could leave all water language in place, with the exception of 20.10.050. A number of ways to do it.

JD – Close staff discussion and move into public testimony (*collects additional names of people wanting to speak*).

Jim Soriano – Here to discuss Title 20. Start by saying, sure glad I don't have your job. In defense of 20, it is helpful to notify neighbors and water right holders about what is coming down the pipe. In my own

experience, bringing information to Dan Beardsley about impairment to water rights. Commissioner DeTro, you know the property. Property owners had to stop irrigating. Were able to present written statements that people were impaired by exempt wells. No feedback, but it was improved. What are we looking for? If we have a problem, aren't we obligated to address them? I have senior stock water rights. Those are being impaired. I trace it back to the additional wells going into the (Tunk) valley. It's a big deal. I understand property rights, people want to build their dream houses. It is tragic if you can't do it. But it is more tragic to build a dream house and not have any water. Don't know if we can wait for 3 years and get a blue-ribbon panel. We have to do something.

Jim (?) I would like to know what are the procedures? They are somewhat cloudy. I know they are changing. I am a developer. I have lots, some in a closed basin. I have wells on some of them. I am developing. I need to know what the procedures are. When does it trigger a public review? Short plat. What are the steps.

CB – Valid question. That is what we are trying to do now.

JD – Public hearing – first we have staff report, then public comment. Not a time for questions/back & forth.

CB – You need predictability.

Phil Milam, MVCC – County is between a rock and a hard place. We were critical of 20, but now we have come to love parts of it. It would be a mistake to repeal 20 without written interim procedures. Need predictability, as Jim said. Understand you need to work with Tribe and ECY, but to repeal it and just leave a blank would be a big mistake. Our written comments were sent on Friday. *(some confusion about what happened to written comments)*

Dave Thomsen, Realtor – Appreciate comments from Andy regarding tracking wells, inventory, and from Chris about working with ECY. My perspective is that 6091 makes 20 irrelevant, in regards to water. Very much in support of repeal. Represent many landowners. They have been gridlocked, in regards to what they can do. 20 is standing in the way, for real people.

Chris Erlandsen (?) – Agree you have a hard row to hoe. 20 does provide some guidance, but it doesn't fit all situations. Some subdivisions do not affect water use. Many wells need to be redrilled. May have water right or have seniority as exempt wells. Agree we need to track. Each valley is different. One thing I want to bring up – prior approved subdivisions. They may not have been built on, but they did receive approval. One had a Group B water system with a well that was approved. Then, with Hirst, that subdivision had to go through the process. Well drillers, property owners, developers are all affected.

*(end of public testimony)*

PH – Suggest you recess public hearing, conduct 4 o'clock hearing, and reconvene. *(AH so moves; passed)*

**Public Hearing -Supplemental Appropriation – Treasurer's O & M - \$10,000**

**4:05 Reconvene OCC 20**

AH – Notification process. People want to know what is going on. WRIA 48, 6 of 7 reaches are never going to be over-developed. Not going to be out of water, but there could be site-specific issues. Need to have some kind of notification process, separate from 20.

JD – Agree. We were trying to correct some of this stuff, and then Hirst came along. What is the plan? Are you going to take (?) out, or are you going to repeal the whole thing.

PH – Need a more robust process, tidy up. All 20 does is create a notification process, fulfill our obligations. Our interpretation is that we would count new water, as opposed to new wells. Under 6091, we may be in conflict.

AH – A tracking process that the public can see will do what we need to do...

PH – Should we do our notification process?. 6091 did not vest existing wells.

AH – Don't think we do that through the entire WRIA. If we had a live system, where people could go online and check...

PH – We are working on an online process. Different options. Could do the check. Send notification within a basin.

CB – Requires an amendment to 20. Going to take some time. What to do in the interim?

PH – Leaning to an independent water section. 48 is going to be different from 49. Something for the CCT. Anything we do in 49 is interim.

CB – If we don't repeal the water section of 20...

PH – We are still mailing them out.

CB – There is still an appeal process.

PH – Most of the push back we got was from people doing things that they thought were simple: subdividing a 40 into 2-20's.

AH – Right now we could repeal 20 and go to 20A....

CB – That is just removing the water section...

AH – Not really.

PH – Suggest removing water section, leaving 20 in place. Didn't anticipate this level of concern.

AH – Want to know what is happening. How are people going to get the information? That is the thing that needs to be taken care of the quickest.

CB – Just so people can find out what documents have been issued. We should have a water section on the website.

PH – We had the old stuff on 20 on the website. Pulling the old stuff off, making a new section of the website. People can track that.

AH – Department of Health has to give out permit for every well....

PH – Pumps and pipes; water delivery system.

AH – If we can import that... that provides water availability information. Don't want to get pushed over the litigation cliff. Get the information out there.

PH – Working on that. Can develop an ordinance repealing just the water section. Can divert resources toward that.

AH – How hard would it be to that Dept. of Health's....

PH – Need to submit a public records request.

AH – Continue this public hearing.

PH – Could pass an ordinance to repeal water section. Leaves us without (?)

CB – (Inaudible)

PH – All processed, except for 2; starting with a clean slate.

CB – I am for repealing the section. Otherwise we are in error.

AH – And then directing the planning department to create a new section?

PH – Suggest creating a new code section, new title: 'Exempt Well Administration'; outline what we believe we need to do under 6091.

AH – Move to repeal 20.10-050 and direct Planning Department to create a free-standing water section in our code (Seconded; passed)

JD – Close public testimony.

PH – Will do my best to get that soonest.

AH – Hopefully people in this room understand we are trying to create a process, predictability.

JB – Shall we close the hearing?

*(discussion of whether to discuss development of new code section)*

PH – Envision discussing routing through the system. Set up another public hearing.

JD – Will go ahead and close meeting.

**4:30 End of BOCC meeting**

