

**Okanogan County Board of Commissioners
Interim Ordinance 2016-5 (in re HIRST)
12/28/16**

Present

Jim DeTro - JD, BOCC
Ray Campbell - RC, BOCC
Sheilah Kennedy - SK, BOCC
Lanie Johns - LJ Clerk of the Board
Angie Hubbard - AH, Planning Dept (Huston out of town)
Sandy Mackie - SM, Attorney (contractor to BOCC)
Albert Linn - AL Deputy Prosecuting Attorney (enters at end.)

2:30PM

DeTro: We have the Title 20/Whatcom decision.

SM - We have proposed Chapter (sic) 20 , Admin Process. Have had public hearing, kept the record open. You received correspondence . **One question is asked: We have a series of alternatives. Which do we want?**

20.10.050 - Water adequacy. Initial proposal was to send applicants to Hearing Examiner. Series of alternatives to this action:

1. Keep as is: HE deals with plats and individual applicants.
2. Plats and short plats - Admin decision (by Planning Dept.) Any appeal - to HE
3. All land use plans are dealt with administratively (Planning)

The question today is: Who will make decision on water availability? Which will you prefer? Once that decision is made, it will go into Ordinance (Title 20.) Are there recommendations as to which of these 3 alternatives?

SK - For the building permit review: Why would that go to Planning vs Building director?

SM - Prelim review looks at land use. For example, Daisy chaining - Issues like this are land use related issues. There is significant attention due to the possibility of appeal. Bldg permits already go to Planning for consistency on zoning, other issues. It's just another part of the checklist. It will be same requirement as currently in ordinance. The BOCC asked if building permit could be done administratively for a simplified process. This would be alternative #2. Comments? Questions?

RC- I have studied this in detail. Recognizing again that all your permit apps go to planning, this is another level to review that. Will not increase the cost to applicant and will not deter from the time frame. So it's my feeling that I am looking at Alternative 2 as the best bet for our county.

SM - To simplify the building permit process: Admin will issue a notice, then it goes to Hearing Examiner. Every app does not need to go to HE. Planning still has to make decision as to water availability. If someone brought in new information, it's available. In process for Alternative 2, re plats before HE - long plats already go there, short plats can be done there too. So that was the

Director's (assuming Huston) recommendation that all plats go to HE. Others to admin (planning.)

JD - Along with alt 2, that decision triggers LUPA?

SM - Yes.- HE decision. Planning director's decision triggers an admin appeal.

SK - When we got this dumped on us and how that impacts the state and every individual in the state..... At first, seemed most reasonable for all apps to go before HE. We had all ducks in row for any potential contesting.... He was supposed to hear more elevated cases. With that said, Alt 2 is the one that fits more clearly.

(Note that no one gives credit to either Futurewise or MVCC for making the suggestion the Commissioners are going to adopt (Alternative 2) as being easier for citizens than their own proposal. Other suggestions made by the public and by these groups were apparently not referred to Mr. Mackie by the BOCC for consideration and legal review - such as consideration of landowners who use their land for recreation and enjoyment, do not expect to build, and will need a water source.)

SM - Planning still has to make still decision about physically/legally available water. He will publish decision, and that can be appealed to HE. Clarifying that there is an admin appeal. If not taken, you have not exhausted your admin remedy. If you have said you created an admin appeal process - it has to go to HE before going to court. That will be clarified in ordinance.

SM - Asking for motion for Alt 2, clarifying that LUPA is available after the HE.

SK - Restates what he said.

SM: Appeals process: At HE level, it is an open record hearing. Adjacent property owners, certificate holders in that reach, and people who can demonstrate they are affected can be heard. It's a water rights land use decision. Other issues are under LUPA. Only issue for HE is whether water is available. **If applicants don't like HE decision, they can file under LUPA to Superior Court. There is only one LUPA appeal (after HE.)**

SM - Asks again for a motion to add 20.10.050, Alternative 2 with clarification - that LUPA appeal is after HE decision to draft of Title 20. Moved, seconded, approved.

JD - This is a long, arduous process that was DUMPED upon the county by the Supreme Court. (Jokes all around. Mackie joins in: "Thank you, judge so-and-so.") We did not want to dump upon land owners. The county is under litigation on water issues as we speak. This is a bit of the maze we had to negotiate. We want a bright line process for citizens.

SK - State legislature is going to be doing things during 2017 session. Who knows what they will do or what will happen. *(She was not present when Mackie stated during previous hearing that there was little possibility of change at the state legislative level in re this decision; but Mackie does not contradict her at this time.)*

SM - Almost every river on West side is over appropriated. So this is state wide, not just Okanogan County. **Some counties in E WA are looking to Okanogan County. We may be first. It's a privilege and a burden.**

RC - Clarify how rivers on West side are over appropriated. This is not necessarily true in Ok County. WRIA 48 - decision was made in 1976. **It was in process for many years. We have many studies in the Methow of in stream flow and the 7 reaches. Watershed planning unit, now watershed council is continuously working on issues. Info is being gathered to show water availability.** I have been involved in process since early '90's.

JD - Should we close written public comment first? - Yes. Closed.

SM - Larger Chapter 20 - You had staff report and review of ordinance. Also a copy of ordinance exchanged and clean draft. Also, addendum of EIS review. Perry did before. Was part of interim ordinance. If you have questions about Title 20, Angie would be happy to answer now.

Angie: Alt 2 - language has not been inserted.

SM - I am inserting right now.

SK - If we adopt Title 20

SM - Alt 2 is now in Title 20. Once adopted, no need for 2016-5 once this is in place. There is a clause - if any problem with ordinance (challenge to Title 20), the whole ordinance is not thrown out.

SK - Can staff outline if this were adopted today and by the end of the legislative session if something changes in Oly, what changes would be necessary?

SM - Because it's a procedural ordinance, county can re-open it right away.

RC - Moves to adopt Title 20.02 with ...

LJ - One is Ordinance, one a repealer.

SM - At end of section 4, top of page....etc.....deleted LUPA 21, put in administrative.

AH - (Brings up a missing point. Didn't catch.)

SM - Will ask board to amend the prior motion with language Angie just made (Angie is doing this on projector.)

SM - This is just Alternative 2.

JD - Adopting Alt 2 as amended.

SM - Now adoption of amended Title 20. Discussion?

NO. Voted upon and passed.

RC - 2016-5 repealed. (Now replaced bySM)

SK - Thanks Mackie and staff.

2:55 - Albert Linn enters as hearing on Interim Ordinance appears to end.

3:05: Unanticipated subject: Payroll Freeze

(Note to reader: note taker is not familiar with much budget language, so take that into account when reading.)

Laurie Thomas (Auditor) enters unexpectedly (about 3:05PM)

Sheilah - Laurie says payroll is shut down right now because of not enough \$\$ left in jail fund for line item overtime budget - needs \$42,000. Will need to take \$42,000 out of contingency reserve fund.

Res 25-2016 taking the money out of reserve. Resolution passed. Further discussion?

JD - For those who do not know, it does not matter how much it goes over, this shuts the whole system down. It's in the software. We have to adopt a resolution by law. It's an inherent problem we have to deal with all the time. I would like to personally address this with the new Board of Commissioners. Dept heads have continually depended upon us to take care of stop gap measures. We need to address this with something like ... if you lock up EDEN, etc. we will publish your names, etc - so they will pay attention to line item budget.

Frank Rogers (Sheriff, from back of room) -Question - budget we had to (?) is a line item budget. This is where some of the frivolous stuff has come from the judges' lawsuit (?) They were saying if that were the case, the manager in Dept can shuffle from line to line, etc. etc. We cannot control the overtime from one day to the next. We don't know how much we will spend . you are constantly stinging us....

JD - Will have to go to monthly financial meetings because these stoplight decisions...we need a good firm solution.

Frank - We can control any line item except (wages?) and overtime. You will have to deal with it monthly.

SK - Will have to watch the budget and have the communication that if your staff has had a lot of OT in a pay period, it comes up to the Board ahead of time to get a transfer or something before that.

JD - According to auditor, this software is universal, We can't just change it.

Laurie Thomas (auditor) - it's not just the OT line that is over. It's WAY over bottom line of that Dept. Only had \$48,000 in budget. Bottom line. Anyone looking at budget could have estimated that would overdraw bottom line by \$48,000. Still leaves (???) in accounts payable.....

Frank - Started off with \$75,00 overtime, which will not work. Now almost \$300,000 in OT. It's a touchy (?) thing. Line item stuff not only hard for us, but big problem for Laurie and all of us.

RC - But it can't just be an open checkbook. I know there are things out of your control. We have to stay ahead of the game.

JD - We need everyone to come up with ideas about how to address the problem. It's an overall system problem.

RC - Money doesn't grow on trees.

(Lots of folks talking at once.)

3:15 - room breaks into several discussion groups among BOCC, Risk Manager, Prosecutor, BOCC-elects Branch/Hover, Sheriff, etc: problem-solving type discussions, need to anticipate need for a transfer before it comes to payroll freeze, etc .

3:30. Sheilah - basically, we ran out of time. What needs to happen is looking at the daily rate we are paying for the jail. Ours is cheap. Need to know from limited info Noah has told me, it takes (contracted?) people...etc. doesn't cover OT or jail replacement \$\$, etc.

Bits of scattered discussion - jail fees should have been raised a long time ago. Discussion of Douglas County. Frank tells Andy Hover (BOCC-elect) there will be a learning curve for new BOCC.

Sheilah asks what Frank's daily cost of doing business is. Andy Hover says Yes, it's a business. DeTro saying they (Douglas) county have been riding on our backs for a long time.

DeTro - Need to go to legislature. We can't bill for felons, and we are 80% felons. If we could bill for felons like we can for misdemeanors, we'd be fine.

If we could see the writing on the wall(Frank.) Conversation dwindles gradually.

Notetaker leaves around 4:00, when next item comes up to BOCC.