

Board of Okanogan County Commissioners

April 30, 2018

Jim DeTro - JD (BOCC)
Chris Branch - CB (BOCC)
Andy Hover - AH (BOCC)
Perry Huston - PH (Director of Planning and Development, Administrative Officer.)
Angie Hubbard - AHub (Planning Department staff)
Lalena Johns - LJ (County Clerk)

These notes have been taken by one of several volunteer citizen note takers and published on the website of Okanogan County Watch (countywatch.org.) The notes have been taken as close to verbatim as possible, with any writer's comments or explanations in italics. During this particular meeting, due to references to maps and projected information, some sections have been summarized. For officially approved minutes of Board of Commissioner meetings, normally published at a later date, see www.okanogancounty.org.

Summaries

Okanogan County Shorelines Master Program maps: A list is presented accounting for acreage in each area that was changed from the Riverine designation to Rural designation. BOCC looked around, and there was a lot of public property in the areas that had been Riverine, so they are not of huge concern as to acreage of the designation change from Riverine to Rural. PH - States they have made decisions on the mainstream rivers, and now we are focusing on the tributaries. BOCC is reviewing the materials that were sent to WDOE on March 20th. PH reminds BOCC that the direction they are moving is to reduce the environmental impact. AH is concerned about the rights of landowners to build under the various designations /changes when properties have unusual circumstances, such as oddly shaped lots, etc. This gives rise to a discussion as to Conditional Use permits vs. Variances and the definitions and requirements for a Variance from the regulations, including "reasonable use." The current goal is to have a map that can be sent to WDOE (Lennard Jordan) with the proposed changes in designations now being considered by the commissioners. After much discussion, it is determined that the rights of landowners on pre-existing lots, in regards to environmental impact of these shorelines regulations, is the area of greatest concern. A need for further research in at least one area is identified. Hover needs to further consider all this and promises to be ready to make a decision regarding what is sent to Lennard by next Monday (May 7.) *Note taker observes that Director Huston will be absent on that date, but it is expected that Angie Hubbard will fill in for him in answering BOCC questions at that time.*

Okanogan County Comprehensive Plan Maps: Map review focuses on Comp Plan maps, Resource designations in particular. Discussion begins with Agricultural lands, specifically farm land, prime soils and tax classification. Private and State lands are required to follow County statutes, Federal lands are not. Map that is being used at this meeting does not include State lands. National Park Service request to have County maps in regards to Grizzly issue is discussed. AH prefers every inch of land in the county be

designated by the County under a Comp Plan Resource Designation. Branch prefers a section of the Comp Plan that addresses specifically what the county wants and expect from State and Federal lands. Melanie Rowland from audience suggests the word “classification” rather than “designation” could be used for Federal lands to avoid confusion or controversy. BOCC is inclined to consider this wording. BOCC decides to also proceed with zoning of State lands, provided that support for this zoning is included somewhere under Comp Plan.

WSAC (Washington State Association of Counties) Briefing & Litigation Program: WASAC is considering litigation against the State of Washington as perhaps the only way to gain recognition of the problem of unfunded mandates in the state. Future actions will include: intervening in cases brought against the state by counties; coordinating with groups of counties bringing actions against the state; seeking AG opinions on issues; and raising issues as a plaintiff. WSAC will give one more opportunity for the legislature to step up to their responsibility on Indigent Defense, with a reminder that WSAC intends to litigate on this issue if appropriate action is not taken.

1:30 - Administrative report

PH leads the Administrative update that was canceled according to the published agenda for this week:

*Fairgrounds - this past week, much accomplished on maintenance, etc. All happy.

As you look at numbers and compare, Josh’s different approach to garbage you could look at these numbers to determine actual rate for garbage disposal.

*AH - Some second opinions are mentioned. Steel prices will probably go up, so if we through with the surplus on paperwork, you could look into recycling these.

*PH - The numbers were high, but now we have a different approach in order to analyze.

*All - lighting replaced, other things. Looking for answers as to change in prices. Hydraulics, and so forth.

“Other item” - haven’t heard from Josh nor heard from BLM. We were successful in finding the other documents re the RCO and will send down to day.

*Remaining item: PH asking to convene for Tonasket EMS. A motion is passed. A brief discussion relating to one item regarding Tonasket EMS. BOCC adjourns as Tonasket EMS.

Director Huston’s schedule of several absences for training or personal leave away from office is briefly reviewed. This include a training session for personnel involved with Planning (in Chelan) and a week’s leave, as he is needing a break.

1:40 PH - Planning Update

Okanogan County Shorelines Master Program map

Discussion

PH - BOCC has previewed the maps with the eye towards the review. Goal is now to document a specific decision. Angie has loaded the maps and we can see the actual acreages for the tributaries in question.

Note: Summarization is needed because the meeting consists largely of pointing to projected maps; in addition a county computer system malfunction last Friday caused difficulty with some of the material. BOCC is taking up previous discussions re Shorelines designation changes from Riverine to Rural and from Rural to Conservancy . A handout is available containing the amount of acreage changed from Riverine to Rural, but it reflects no updates.

Inclusion of Lakes

PH - Regarding inclusion of lakes, there was momentum around the discussion that the designations had a “nexus” to habitat that the lakes do not have. We made decisions on the mainstems. Now we are drilling in on the specific question as to the tributaries. The proposal is to change Rural to Conservancy designation. I talked with Lennard (DOE staff in charge of Shorelines.) They are waiting for your response on the last step.

Note: Answers to BOCC questions supplied by Angie Hubbard and PH.

AH - Concerns raised to me were Beaver Creek, Twisp River, and Gold Creek, I believe.

PH - Chewuch - something was changed there.

AH - Going to Chewuch. Are we covered under “floodplains?”

Answer: Channel migration zone and 100 year flood plain - they do go up the Chewuch (*notetaker: probably a reference to Critical Areas Ordinance*)

AH - Channel migration does not go up Chewuch, but flood plain does.

AH - With the 100 year flood plain.....no building in 100 year flood plain in MRD (*Methow Review District, which is upper section of Methow Valley north of Gold Creek.*) Builder would have to show no floodplain is there in order to build.

CB - Which regulation precludes Flood Plain building?

PH - 17A - (*County Zone Code.*)

CB - Any other activity besides home building?

AHHub - Does not have this on her map.

CB - Can you build a gazebo? Answer: Yes.

Removal of vegetation in re change of Shorelines designations, Chewuch area in particular

Melanie Rowland (from audience) - You are discussing structures and flood plain? How about retention of vegetation? Because that’s another thing that the Riverine designation would give. I don’t know if the Flood Plain....

AH - I am looking at this because these are regulations affecting people’s property. I am looking at what the limitations are on construction - and if we applied this backed up by scientific information. Trying to figure out how it will affect people who are building.

CB - Does this include fill? Damage prevention ordinance is about that. Zoning is to keep people from causing themselves grief.

PH : Zone Code - Relates to human application. We have no filling and grading ordinance, etc. You have to be out of the 100 - year floodplain. There are differences between Conservancy and Rural.

AH - The difference is the amount that can be removed.

(Unclear to note taker as to where the difference between fill and removal of material/vegetation is being addressed.)

AH - Satellite view? Looking for confluence and the Methow.

Then SMP - How much vegetation can be removed and how. Access Corridors.

AH - Question is: *(Trying to figure out where they are on projected map.)*

AHub: Server glitch on Friday may have affected the records on maps.

AH: *(finds the Chewuch spot on map)* Northcott Road that goes into this swale. Interesting that when they did the whole review... how right there is it that it is only one side of river and not the other?

PH - Amount of development that is already there on the one side affects the designation. Reminds BOCC that the direction we are going is to reduce the environmental impact.

AH - Another question. Asks if there is a measuring tool on the computer. Wanted to measure the distance from road to stream (bank of river.) Still on Northcott road.

(Comment from staff that this is all that was sent to DOE on March 20th)

Melanie Rowland (audience) - Natural is 200 ft setback, most protective.

AHub - Red on map represents Riverine that went to Rural.

Lots of cross-conversations. There is discussion re large lots on left bank going south in this area of the Chewuch. It Includes Heckendorn (?) - USFS fish and wildlife own big chunk, along with some bigger lots.

CN - Right bank *(going south)* where it was rural in the first place, a lot of development.

AH - Was already Rural, never Riverine? Would have to go back and research.

AH - Asks Angie to scroll down.

Discussions about what was ever Riverine or not.

CB - Change is that Impact Analysis included these kinds of changes. Not being able to see the landscape is tough.

AH - In the 4 tributaries I've had people ask about.....

PH - We had some glitches in the system last week.

Angie Hubbard leaving in order to retrieve some data or whatever is available that had been affected by the glitches.

Impact upon landowners of changes in Shorelines designations, Variances, and Conditional Uses - regarding reasonable use/takings, etc.

AH - Re the Chewuch reduction of 75 feet to (50? 15?) feet - it is a lot of ground on a narrow lot. In that portion of the Chewuch there are not a lot of flat places to develop there. I am trying to weigh what effect this is going to actually have on people and on.....(*regarding right to build on their property*)

CB - You'd have to look at the factors that were considered in the Cumulative Impact Analysis and also had to do with the condition of the shoreline.

AH - Channel Migration Zone is important. There are a lot of oxbows there too. So Lennard is just waiting to see the new map?

PH - He said if you want to make changes, send him a new (*map? plan?*) Current Rural to Conservancy (*designation*) would be one thing.

Melanie Rowland (*audience*) - Reminds AH that in the current version of the SMP, there is a provision to provide for a change for an individual parcel owner if they want to. If they put any areas back into Riverine, there is still some flexibility for the owner.

AH - If a person just can't build on their lots, they can apply for variance.

CB - Relative to not being developed at all, a reasonable use.

PH - Re the reasonable use exception: Asks Melanie did it go into Conditional Use permit or Variance?

Melanie Rowland: She thinks a variance, but not positive.

PH - Variance process is in our current SMP.

CB - The Variance process is a little uncertain. Not just a reasonable use. Some of the ordinance kiosks ou about if you do to meet criteria. Conditional use permit might be better. Variance doesn't permit the change just because it's reasonable.

Melanie Rowland - There is a provision in the SMP that might be relevant other than the Variance. That somehow there is a separate process. Not sure.

AH - Before I could make a decision, I'd need to see....Keeping people from constructing houses in a manner that can be washed away and they blame the county is important - but also a reasonable use and these houses are already constructed...if we did something to totally prevent them from building on the lot.....

CB - the reasonable use clause was to prevent takings. Variance criteria are not necessarily created to do so.

PH - DOE thought the Variance process was mostly directed toward the already nonconforming structures for things like remodeling/expansion as long as you ...the Variance process had the opportunity that if the area was scored in a certain way, your parcel did not necessarily have those characteristics, then you are deprived....

AH - 3 things coming into play - Shading and trees along the river. important for people to use their property so they can gain happiness, etc. Also a set aspect that the county needs to look at when we give permits out. If the river will chew into your lawn....a battle ensues. That is what's going on here. There is value in following the scientific method that was put out, especially on the 4 main tributaries. A provision for people to use their property

PH - There will be but...Zone Code is designed to deal with a very specific thing and specific parcel in which they aren't allowed to do what everyone else can do. If you can demonstrate that for some reason specific to your property...cliff banks etc ..actually not ALL parcels are (*physcially*) developable.

Melanie Rowland - It may not be possible to build on some properties.

AH - I am talking about physical criteria.

CB - Reads 6 criteria that have to be showed for a variance, including reasonable use, hardship specifically related to property and unique conditions, design compatible with other uses in that area and will not cause adverse impacts, minimum necessary to afford relief, and no detrimental effect. These criteria, when applied, sometimes can be very difficult to me. It demonstrates how hard it is to get a variance.

Melanie Rowland - Sounds like you concerns are met by (these?) criteria.

AH - Public interest is servedthat includes environment.

Melanie - Not aware of variances that met all the criteria. Not aware that it has been in practice - a significant issue.

Role of Ecology in re final decision-making on variances

CB - Ecology has the decision-making on Variances. The harm that might result to landowner is difficult to determine.

AH - 150 ft from OHW (Ordinary High Water Mark) - everything in red (*on map*) would change from 75 ft to 150- ft. Bright red was changed from Riverine to Rural. in old map, some went to conservancy and some went to Rural..

AH - Concern I have is making sure that someone has the ability on an odd-shaped parcel can still build.

CB - If someone asks for a Variance, you make a finding, and it goes to hearing and a local decision is made..... but Ecology is the final decision - maker. (To Angie) if you are going through a variance in SMP, it has to be processed that way. What you are looking at is the value of the Riverine Environment.

PH - passes out a piece of paper. AH reads from it. Audience cant see it. All BOCC looking at paper. (*Apparently has to do with regulations and provisions for Variances*)

(Back and forth, broken conversations regarding handout)

CB - So the interests serviced by the Shoreline, they include in its...*(reads from it...says it is not necessarily private ownership.but it includes.....)*

AH - Purpose of a Variance is to grant relief..... *(too rapid to record)* any standards where there are extraordinary or unique circumstances that would place unnecessary hardships. Uses can be varied. You can go to from a house to a commercial business...*(?)*

PH - If you are in an area in which there are only certain uses allowed, you cannot get a Variance for a forbidden use. It has to be specific to the lot, not the person who owns it. A "preference on where I can put my house" is not included. But it is included if there is no other place to put it. You would have to demonstrate something specific and peculiar to your lot.

CB - A lot entirely in the flood plain?

PH - They just don't get to build it.

AH - Could they add fill?

AH - Says it is not allowed.

CB - Are you allowed a Variance from one code? *(?)*

pH - This can apply. Similar criteria.

AH - Bring to listen and think ...I think we are all on the same page re someone else being able to build on their property.

CB - What I see being limited the most is on these larger lots, and there is a lot of room to do a lot of stuff.

AH - Can't just perch yourself right on the river, and the river changes.....

CB - Let's take that wooded lot there (on map.) In those areas, you would subdivide so you would have upland on every lot...Otherwise, there no place to build. If you subdivided *(otherwise?)*, there would be no place to build. On the other side of the river....it is stacked up. Even if they were Riverine, or Conservancy - there is buildable land.....*(cut off by AH)*

AH - Asks if the riverbank is the bank. *(Unclear as to question or answer.)*

CB - People worry about being in a designated area which might prevent them from doing certain things.

PH - In this case, the rule is that they can expand the footprint providing that they do not increase nonconformability. Couldn't go to the river.....would need to demonstrate you couldn't go the other way with expansions.

CB - If there is another option.....by and large, it dictates how the lots can be created when you do subdivisions.

AH asks CB if there are enough options to get people to have variances.

CB - It doesn't allow people to do everything they want to do, but there are enough avenues to allow them to build, although not necessarily the way they want it.

Decision deferred to next Monday

AH - So looking at this, can we hold off on this decision until next Monday?

PH - Lennard gave no deadline.

CB - This is one thing that affected the 50-ft setback, especially on Lake Osoyoos. They could (*develop?*) when they were already in the set back, some were really small lots....

AH - It's exponential to me. The closer you can get to water, the more difference it makes. My own property big strip of conversation easement 100 ft or so wide....Is that enough area for the ecosystem to exist in there? As you get further way, it becomes less and less that there is an impact.

JD - Depends upon where you are.

AH - I would be ready. Will be ready to make a decision on this on Monday.

DT - That's progress.

PH - Any additional info you want?

PH - I recognize on one hand we are discussing impact from what is now on Lennard's desk vs what we are talking about. If you look at current Master Program to what we now have, that is also an issue.

AH - How about existing lots?

PH - Included. I'm out taking it in pieces (?) Rural was 75, then went to 50 for rural

AH - You are saying hurry up?? (*laughter.*)

PH - Look at totality of the regulation. Look at all the regulations .. these all go into decision on whether one can build and cannot.

CB - Eliminating the subdivision in rural environment actually created an opportunity to subdivide in the shorelines, the others lend themselves.....

AH - I think subdivisions will become less and less. I am more concerned with existing lots that people want to build on.

CB - Pre-existing lots are the area of concern. I look at them and many of those lots...the system they used to do the impact analysis....

PH - Holds up chart - does not indicate the number of parcels. Gives acres of impact, but not how many parcels.

Do you need the number of parcels.

AH - don't need - no matter how many parcels, it's till an impact to someone.

SMP/Okanogan Valley

Melanie Rowland (audience) - Are you looking only at the Methow and not the Okanogan? There were some that had previously been Riverine and left out.. Is there a reason for not distinguishing...or making them consistent with Methow.

AH - Talks about Similkameen? 1400 and some acres. Push it out to Monday discussion.

CB - Effect upon Sinlahekin of shorelines..... Where is mouth of Sinlahekin? (Discussion as to whether it flows into Similkameen.)

DT - I can show direct continuity of Blue lake to the river.

CB - Which part of the Sinlahekin is within Shorelines?

PH - We need to isolate that.

Lennard copy of SMPOverlapping ocnversations. JD - that river sometimes river runs both ways.

PH - Moral to the story - Siimilkameen has some Rural that was Riverine. In Sinlahekin (*puts map on Sinlahekin*) already Conservancy.

AH - Why does it say 572 acres that.....

A Hub - probably a mapping error..

AH - Look also at Toats Coulee

AH - All the yellow flips to red (*on map*), it goes from 75-150 feet.

AHub - says it's all wetlands and flood plain.

CB - - Zoom into the series of lotsLong strips that give everyone access to the creek while giving them 10 acres.

AH - When we sent this, (?) was looking at all the areas on the chart there was a cumulative impact analysis done, (the original one)let's push it off until Monday.

PH - You essentially need the same information.

ah - I just want to go over it.

CB - did you ask for the total acreage.....? Is this chart compelling or not (apparently referring to handout with the number of acres affected by change from Riverine to Rural)

Consensus - Chart is not necessary.

AH - Good info, but not the info I need to move forward.

Comprehensive Plan Maps.

PH - Asks Angie Hubbard to project the 3 maps they are working on.

Resource designations.

PH - You zeroed in and asked why it had gone to Resource instead of something else (?), so here is a smorgasbord of mapping options.

Starting with prime soils and tax classification?

NRCS Soils - Farm Land. No federal land in the mix. Correct?

AHu - Yes. Private land - including state lands because they have to follow Zone codes, Feds do not.

PH - Question - How do you wish to designate Federal Land? Can walk the Resource land where appropriate. I still think every inch of land should bear some label of designation.

AH - Points out purple shaded areas (?) on map. Shows soils of statewide significance. On federal land, there is a lot.

PH - Probably private land within federal boundaries.

PH Correct - They did not show do the survey on federal land, so none of it will show up.

AH - Points out an area in the Methow that is purple. What is that piece? *Asks Angie to zoom in.*

Confusion as to whether state land is included on this map It is determined that it is not on this map.

AHub - This map does not include the state parcels. So if we had this populated where the state parcels are populated, there would be brown and green.....

AH - My idea is that every inch should be designated as something.

CB - So it is designated as state land..... I want a better reason.

Agencies requesting County Maps and info

AH - Right now, the state owns a lot of conservation easements that are now on it. I would like to see them stay in agriculture. Going back to the grizzly bear letter....the letter we got from the US Park service asks us specifically how the (??) introduction interacts with our Comprehensive Plan.

PH - A more fundamental suggestion - right now, any agency complies with our zone code. We cannot zone in areas not covered with the Comp Plan. I suggest having a Comp Plan designation over State plan. then we can put our zoning overlay on top of State land.

AH - More fundamental point. US Fish and Wildlife asked the county to comment on how the Grizzly Reintroduction is affected by the Comp Plan. If we say there are first area, we can specifically say there

are agricultural properties that can be affected by (*bears, grizzlies*) when they are asking for our comments. They want to know specifically how they impact our Comp Plan. We say we understand it is deferral (?) properties, but they are good for

CB - My suggestion - Would say that we have certain types of land adjacent (*if?*) they to have it designated - I have a feeling that is not going to be really relevant to National Park Service land.

To Perry's point about state land....say most of the state land is DNR... it's a pre existing nonconforming use.... We point out that we have agricultural land that is within the area of the grizzly...this is how it impacts. What is designation and what is not, under GMA. We need to make a better connection - isn't a separate action of the Comp Plan between us and N. Park Service and DNR.

CB- For coordination, we should put in our plan what we want them to do and not do, rather than designate. Take a section of the comp Plan and talk about Federal and State lands and spell it out. When they ask about Comp Plan and they ask questions, we say,,these things.

Coordination, Zoning of State and Federal Lands

PH - State required to coordinate with us. Feds aren't . Different body of regulation. State lands directly governed. They are a land owner. They have to follow our laws.

JD - NPS (National Park Service?) lands?

PH - Fed ownership is a different discussion.

JT - They act like a sovereign nation.

PH - I think the State land discussion is different from the Federal. You might get same result, but your discussion of State land has a different matrix; unless you want to have a different zone, they are governed by our laws. We need to zone the State land.

CB - Are you saying we need to zone the State lands? So are we going to zone the State and (?)

PH - They are already zoned in current ordinance. But we cannot zone in an area that has no Comp Plan. If the worry is that we are padding our Resource designation.....

CB - Why don't we go forward and include the State lands. As we progress, see what that means according to our zoning. Look at what the State says about it.

PH: that's ok - we are drafting.

Goes to map - purple color with prime soil designation. None is on fed land on this map.

{h - Zoning on the reservation . Minimum requirement list, which supports agriculture.

CB - Soils of state-wide significance - need definition.

CB Let's progress with that idea. I may (?) the value along the way. So far, I haven't seen any value.....

AH - So we will progress with designating State lands right now...I agree. So how about Federal land? Let's say that we come to an agreement on not designating it, tell me what the pros and cons are.

PH /JD - How much time will it take PH for letter C on the agenda? From 3:30 on it's WASAC.

PH - I can respond. Why is the pro side other than the notion of coordination and consistency? We come up with a new designation. We can do it. If you stick with your language it's not an issue.

AH or CB - Can you provide mw with the info from another county where they have designated the whole county. What did you get out of it?

Designation of State/Federal Lands in Comp Plan

Melanie Rowland (audience) - If you use some word there other than "designation," just to show the nature of the land interacting, etc. you could call it "classification" rather than designation. "Classified" as to resource value to show how it coordinates with the county.

CB - We should have a section in the Comp Plan that speaks to federal land and what we want out of it.

AH - That right there, I could actually live with.

To CB - if you are worried about designation because you think someone will see it as ...if we have to regulate somehow..I understand that. If you could use some other term, in the process...these lands of federal jurisdiction would be "classified" as this. At least then, in the Comp Plan, under coordination, I can point to the page that says we don't have jurisdiction, but that page shows you have.(x,y,z?)

PH - You already have a section in Comp Plan ...if we get into that and create an appendix to that designation..which is an evaluation of Federal land and the value we perceive...something that talks about the value to our economy (resource recreation, etc) and it speaks specifically to this map attachment. Could be a valid reason for the coordination section.

CB - We should say what it means is that we are 88% public lands, etc. what does it mean. are things on the land positive? A detriment? We should put in something on PILT (Payment in lieu of taxes.) Put it in the Comp Plan. In the Comp Plan it refers to PILT. We have something to argue about. If National Parks wants to see it....they want to see a connection, but not with a bunch of nuances.

PH - I have an idea. Next Monday I am at a conference...etc.

(Conversation changes direction)

AH - We need to do the RFP for the well....and the.....

PH - Specific monetary proposal. And the letter to the Park Service about the Grizzly.

AH (?) You sent back the letter we sent in April of 2017.

PH - I started one; they are apparently looking for some kind of citation or reference. They also said they had never received the letter that was sent in April 2017. I will check.

AH asks PH to track down the letter.

3:30 - WSAC (Washington State Association of Counties) Briefing & Litigation Program - Discussion of consideration of WSAC litigation against the State of Washington

(Note- very rapid, difficult to record accurately)

Eric Johnson - Thanks for time to give an update on litigation and (?) program. Every (month?) for last 10 years, the (?) and steering committee have gathered and talk about holes in strategies about legislative agendas. For last several years, there has been a concern about legislative and executive branch making our jobs more difficult. We administer a lot of spaces as the agent of (?the state?) A number of discussions over a period of time. A lot of discussion about civil disobedience GMA is a polar discussion - we have not received grants for the last 3 biennia. As in the 90's - the momentum no longer exists. How about civil disobedience? We are just not going to do it.

Your county is a poster child . Round trips *(to legislature?)* No resources to perform that function. Enough is enough. A lapse in the act of a function we perform on the part of the state. Huge costs across the 39 counties. Members of WSAC directed the board to indulge a budget that would include litigation. A debt of about \$400,000 to (?) on the list as to why this is coming our way. You are not providing resources - many unfunded mandates.

That \$400,000 was authorized. We have collected 50% of it and the other 2 jurisdictions have theirs in the mail. We will have it all by end of April.

The board and officers have tried to be thoughtful as to how to do this. Strategies for legal activities, etc.

Not just about us as the plaintiff. There maybe other strategies. Pres and exec board took under advisement to compare a work group of 20 individuals, bonding commissioners, prosecuting attorneys, cvii deputies, elected officials. Subcommittees also. We have heard documentation on other association type groups as to what they have accomplished - for example, the McCleary group. Decided in 2004 they would litigate, went to court in 2007 and got the ruling in 2012. Got the remedy, but it was not the remedy they expected.

Will have a constitutional argument to decide whether indigent dense is ____ and it costs the counties over 3 Million.

Heard from a variety of groups, including Farm Bureau and WEC (Washington Environmental Council.) Interesting dialogue . Association of Wa business - they do not litigate a lot but when they do, it is on rulemaking. We are at the cusp of bringing to board of directors a proposal to look at how we interrelate communication, advocacy, activities of litigation to see that we integrate all this into our resources. Then we talk in the legislature; we should be ready to litigate if necessary.

We work very hard to be within the county family. Litigation can be very contentious. Could affect all facets of the counties. At the same time, we feel the responsibility to hold the legislature accountable. The drop box issue...inability to hold themselves accountable to the statutes. A lot of our members are not excited about ligating...we can spend a lot of \$\$ on this. At the same time, we have the same viewpoint doing something over he over again is foolish. We need a game changer. Whether we are successful or not,we hope to win in the public perception to convict legislators to step up to their duties.

Next week - Chris Branch will be there.....

Questions? Background? How did we get here? Then, will talk about process going forward, what is proposed for 2018-19 action plan.

AH - It is obvious county businesses are getting hit really hard. You can't increase and don't want to increase property taxes and put a burden on people of the county, but our (?) is 1 million (?) That would ...Glad you are coming to an agreement that enough is enough. We are being required to pay for the mandates of the state. I commend WSAC in getting together to do this.

CB - It's really an act of frustration. Even with the unfunded mandates, you have a legislative issue to see if we can raise our taxes to make up for it, but they will not even allow that. AND in conversations with legislators, a few of them actually suggest this option (us suing them.) A number of legislators have said the only thing they are going to respond to is a lawsuit.

AH - The ballot box thing is ridiculous. Everyone has a mailbox they can go to, and we still need ballot boxes. For us, we understand legislature was elected to make state policy. But you also have to pay for the decisions you make. Drop boxes - you have the responsibility to pay for it. They should be accountable for the decisions they are making. They are not even apologetic about the unfunded mandates. We appreciate them but also want to hold them accountable. They do not see the edge of risk that you are operating on. We have 13 counties of 24 hour (enforcement) ...give me chills. On the edge of risk.

JD - The attorney general wrote about the lack of security at our courthouse. Pointed out the issues, but no money to do it.

This is the angling challenge...the major (?) is the Supreme Court casebook standard rules. Almost 60% increase in the cost of indigent defense. Limitation on case loads of attorneys. Separate from the unfunded mandate statutes, which was for laws passed by the legislature. Massachusetts is a strong one where any local gov't can file to the state auditor. Is this an unfunded mandate, and do we have to do it?

AH - lack of thought that goes in. What has the cannabis liquor and control board taken in? We have 39 counties...you can trace it back to increased drug use. Pay for indigent defense and all of a sudden we can pay for courthouse facility....You can tie the pieces all together.

WSAC recommends:

- 1) We give one more opportunity for legislature to step up to their responsibility on indigent defense. We will ask them one more time with the reminder that we plan to litigate. We will be working on a litigation component if they do not supply a significant amount to cover it.
- 2) Funding for public health. Looking for resources with the nexus that no matter where you live, it should not matter who has access to good public health. Same thing with justice. Illustrated recently - Grant County decided not to go for a death penalty because of cost. 100 misdemeanors in King county were dropped. In virtually every other jurisdiction they would be prosecuted. Getting rid of death sentence - biggest argument for this was that although counties do not have the funds to uniformly apply this - people's civil rights are related to the ability to pay. It's justice by geography. Not every county has the ability to pay for the services. When you ask us to deliver state services based upon unequal services, it is not ok. Uniformly it's about assuring that your citizens have equal access to the services required by State of Washington. The members are really saying..listen, legislature it is time to take this up as legislative advocates or we will take you to court.

We will continue to fight the unfunded mandates. Won't go over ballot boxes again.

We will be communicating with you . Will do editorial boards around why we might litigate. Governments suing governments is not a popular idea, but what we are seeing so far is that the members are willing to do this.

Question: What do the editorial boards do?

We were talking about the fiscal plights of counties' health care, labor, retirement not keeping up - last year, before McCleary ... We come and bring presentations. They will ask for our support. at the legislatures to fund the fiscal fight. This is the largest budget in the state's history.

AH - Would like to have something like this in his district. Thinks people in his district will call legislators.

Components of the litigation stream:

- 1) Will be intervening in cases brought by counties. Will be coordinating with a group of counties - example: counties suing on the liquor and cannabis control (Clark and Kittitas.)
- 2) Seeking AG opinions on issues. Might mean some free legal counsel, although it may be risky because it is only one opinion.
- 3) Resources on new causes of action - Raising issues as a plaintiff.

Future issues/plans

*There are a lot of people who were not excited about (ballot) drop boxes, so we have decided to proceed on the unfunded nature of this. CW 43 - proves for reimbursement for programs.

*Interesting constitutional question out of Bill 2887 - required Spokane county to become an elected 5-district commission. We feel it is a violation of the constitution. The voters had rejected this. While it only affects Spokane county, it is not appropriate that the citizens don't have the right to determine what kind of structure they want. This has the potential to be big .

*Indigent defense - one more session to act, then litigation.

How do we make sure we can communicate effectively about litigation? You are spending \$400,000 of citizen resources and citizens deserve to know what is going on. We have admin activities around communication to figure this out. How to get the officers around to the people. This litigation topic will not be subject to executive sessions. We do want to be transparent: open and honest with legislature and clear with the people. Not hiding behind executive sessions.

* Next week, legal steering committee. We think this is the right decision to make on behalf of our citizens.

*

End of presentation.

Thanks to him for coming.

AH - Repeats the invitation to give help on getting people to identify with this ...if you don't want property taxes to go up, etc.; understanding county gov't. Asking legislature to prioritize their spending according to what is constitutionally required. There are many that are not constitutionally required that are being funded.

JD - some very unhappy people are because of McCleary and our taxes going up.... and not so sure we will get many guarantees. I am not proud of it, but we are becoming a county where homeless housing is the norm. You put it up, they come. Where they have a legal system for migrants to come in and then they come. We spend money, provide a program, and then we will have a \$13 or 14 million project right down here that would be tax exempt. Yet, the people in there have the same vote as a tax payer.

McCleary - Levy swap and property tax - this will have an ability at the county level to raise taxes. 67% is the property tax. But ..we start messing around with property taxes it has a different effect upon counties. When you such the \$\$ out of property tax - it is the structure having a profoundly negative impact upon county governments....why do property taxes means so much more to counties than to cities and states?

AH - Another thing that should be looked at - sale tax revenue and the land of Amazon; we are seeing all of our local shops dry up because of 2-day shipping. etc. for them, ..Legislature did place Amazon is a voluntary remitter. REI and others have to pay it. Generally because of tip code ,can collect. Amazon is voluntary. E-Bay cannot. They should be paying city, state, etc. Next time you check on your Amazon purchase, check and see what the rate is and report for your county. Issue for our state is compliance, not remittance.

JD (?) US Supreme Ct - North or South Dakota is testing state program .

End of discussion: Note taker leaves 4:20