

BOARD OF OKANOGAN COUNTY COMMISSIONERS
09/18/2017

In Attendance at Meeting:

Jim DeTro- JD (BOCC)

Andy Hover - AH (BOCC)

Chris Branch – CB (BOCC)

Lalena Johns - LJ (County Clerk)

Perry Huston - PH (Admininstrator & Planning Director)

Angie Hubbard – AHu (Planning Department)

Dan – (Building Department)

David Gecas – DG (Deputy Assistant Prosecutor)

Salley Bull – SB (Audience, Member of Planning Commission)

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.

Summary of significant discussions

Update – Planning

Champerly Shores Eastlake Sewer Connection

There was a lengthy discussion between the commissioners and PH about a request to delay the the Champerly Shores subdivision sewer connection, how the system might be funded and when the connection fee would be paid. Evidently, both the city and county are involved. The commissioners agreed to a delay in payment of the connection fee that is tied to a defined point in time that the note taker was not able to capture, due to the rapidity of the discussion.

Ordinance – Nightly Rentals

PH has completed an ordinance and environmental checklist that will be published in a public notice on September 27th. Following the public comment period, PH anticipates sending these to the Planning Commission. The ordinance will allow pre-existing operations in the Methow to continue. The proposed annual permit will become an annual license, and Public Health will require documentation of the permit issued by the Building Department prior to issuing their annual permit.

OCC 20 Update

PH mentions a number of things of interest, possibly relating to revisions to county codes. He referred to inserting Title 20, in its entirety. He anticipates getting that to the commissioners next week. AH inquired about the procedure for re-adoption. The Yakama Nation has multiple appeals, apparently of approval of building permits/exempt wells, all of which are located in the Methow Valley. PH noted that he has processed 2 permit applications involving uses that are not eligible for exempt wells, requiring that their water use be interruptible. He expressed doubt as to whether the county or the Department of Ecology

should make the determination on the use of wells for these purposes. PH is delaying processing permit applications from within closed basins while he tries to engage with the Yakama Nation about their concerns. A template is being developed for tracking the water use associated with existing exempt wells in the Methow. Once complete, it will be evaluated for applicability to the Okanogan. CB expresses the need to get together with everyone involved in the Hirst lawsuit. PH notes the possible liability associated with determining water availability.

Critical Areas Ordinance (CAO)

The CAO is due to be revised in 2018. The commissioners and PH had a lengthy discussion about whether to revise the 2012 draft of the CAO or to start with the 1994 version, which is still in effect. There was also a lengthy discussion of the need to bring consistency to the various documents that regulate land use – the Comprehensive Plan, CAO, SMP and zone code. CB stresses the need to make the Comp Plan the over-arching document and suggests that it be revised by the end of the year and before the CAO is revised. The commissioners decide to work with the 1994 version for developing the 2018 CAO.

Update - Planning

Marijuana Advisory Committee

PH – I have 8 names. Try to set up meeting for next Tuesday, go over the ground rules. They need to do what they need to do, but want to fast track, due to timing of public notice. Follow through on last discussion. Get the work session (*inaudible*). Have got the maps done. Went ahead, pulled off the secondary properties. Want to look at the primary properties. Create a notification list (*too rapid*). Hoping it won't take very many meetings to come up with something to propose.

CB – Follow up with newspapers.

SB – Wasn't a published notice. An article that will come out today. Does it go all the way to Zoesel Dam, or just to the state park?

CB – Map is in consideration now.

PH – List of names sent to me was used to generate map. Current map goes all the way down to the dam.

CB – Current map just goes to Veteran's Park

Voluntary Stewardship Program Budget Update

PH – (*too rapid to record*) Contract will come to you for approval. Have sat down with Craig to come up with preliminary contract, through 2017. Won't have enough in Professional Services budget to cover this year. May need to increase my spending authority. Will get that back through contract (*with the State?*). Have to tear into salary and benefits lines, see if there is enough. Would have to do a public hearing to expand my spending.

Champerly Shores Eastlake Sewer Connection

PH – Request is to expand timeline to connect to sewer. Council is inclined to let them do that. Question is when they will pay their connection fees.

CB – If they are inclined to delay it, the city (*too rapid*)

PH – City wanted to hear your predisposition. Challenge has always been that unlike water system, as of now, they can't necessarily come up with the cash to do it. Will need to borrow. Another option would be to create a sewer improvement district, do a revenue bond. Another option would be for the utility itself to do a revenue bond.

CB – You are talking about the construction side?

PH – Yes.

AH – The connection fee would be for the connection alone (*correct*). Planning should have come into play. When does it get paid off?

CB – With 30 year payoff, does it ever go away?

AH – I would like to see it paid off as quickly as possible, without creating undue hardship.

CB – Connection fee, now. Agree with you 100%. Suggested that possibly the city take the connection fee and monthly payment.

AH – What kind of extension are they asking for?

PH – Think it was 2 years.

SB – At the meeting, I think it was only one year.

PH – City is on the same page, wanting to collect as quickly as possible. Should pay the fees up front. In terms of capitalization, banks don't want to lend. Bond outfits are used to that. Is that something the commissioners wish to take on? Utilities – figure out the cost, add it to the bill.

AH – Make sure I understand where the revenue needs to go. Service the city collects. Hard construction costs and connection fee. We need a connection fee. The city needs the service fee.

PH – They charge a collection fee, too. Theoretically, we are paying our portion of the loan through the collection fee.

AH – Heard you say we want all connection fees up front. Someone with a lot would have to pay a connection fee and half of a monthly bill until they connect.

CB – Here is what they are asking – ‘Our request is in light of the circumstances above’... City and County defer charging connection fees for a year and defer monthly fees until they connect.

PH – Lawrence sent followup email, didn't make it clear. May need to drill in, find out if they are having any success with a financing package.

CB – Delaying connection fee... Did a subdivision where city made an agreement to defer fee until they sold their first lot.

PH (*goes to flip chart*). Revenue Bond. Permit fees, taxes, construction costs, contingency, final project fees. Working with Treasurer, you put out revenue bond. Source for payment is from billing (e.g. attached to monthly utility bill). All this lines up so Champerly Shores folks don't pay anything, up front. Revenue bonds usually pay a pretty good interest, tax-free.

CB – Negative side of this for property owners – they may a pretty high rate (*correct*). If they get their own funding, lowers costs.

PH – What do you want me to say to the city? Are you willing to give them an extension?

AH – Only for a year?

CB – Think it is worth doing. We could spend a year talking about it.

PH – If they do get this done in a year (*lists possible delays*). Size will have a bearing on it. If the project gets bigger, will need an environmental review (*greater than 8" pipe?*).

AH – What I don't like, somebody knew that this day was going to come.

JD – At one point they wanted to lump sum it. People were more affluent. Then other people moved it.

CB – Email implied that this will be a 2018 project.

PH – You are willing to grant them an extension?

CB – Question I have for Mr. Lawrence... (*too rapid*)

PH – Would the commissioners be inclined... There will have to be a permit at the time they withdraw(?)
Do you want to tie the connection fee to that? Defining a point in time. (*commissioners agree*) Okay.

Long Plat Alteration

(*brief & too rapid to record*)

WDFW Roundtable – Pateros

PH – Tomorrow night.

AH – I want to go. Interested in fishing income in the Methow – based around steelhead. Like to see how they come up with their season.

JD – I usually go. CB – do you want to go?

CB – Yes

(*related discussion*)

Ordinance – Nightly Rentals

PH – Completed ordinance and environmental check list. Ready to go out for public notice on the 27th. Reason I chose to do environmental checklist – will allow the 16 pre-existing operations in the Methow to continue. If it goes through the public comment period relatively smoothly, I'll send it to the Planning Commission. (*too rapid*). Permitting scheme was largely left intact in (*one year*). Didn't set an amortization schedule. Owners brought suit arguing that they were legal, non-conforming. What you adopted last July created the amortization period, will bring everyone into compliance by 2020. Other piece is that in your code, requires an annual permit. Didn't belong in the zone code. Walked that over to (?), made it a license. Currently, no County-issued business licenses. Ancillary note – another code section requiring an annual review is nightly campgrounds. Might yard that out.

AH – Don't think we should have things in the zone code that shouldn't be in there.

CB - (*rapid, inaudible*)

PH – they have their annual requirement – public health, UBI number. Just walked all that over. Public health now will require a permit from Building before they issue their permit.

CB – Is nightly rental the only one requiring an annual permit?

PH – Annual license is a requirement throughout County. Licensing requirements change, businesses come into compliance, as compared to zone codes, where there is a question of vesting.

CB – Where is that rule, requiring sprinklers in overnight rentals?

Dan – Code requires sprinklers, but Board decided that if they are rented less than 6 months a year they are not considered nightly rentals.

(*due to mediated agreement with Veranda Beach?*)

SMP

The Department of Ecology has the draft SMP and is reviewing the recent changes.

PH – Checked with Lennard Jordan. He has received draft but hasn't had time to look at it. First glance will be to check on the changes they required. Then get back with discussion of other changes.

OCC 20 Update

PH – Number of things of interest. Have started going through and yarding out, line out and insert Title 20, in its entirety. Hoping to get that to you next week.

AH – When you present that, what is the procedure for adoption/re-adoption?

PH - When we started before (?), then with Hirst, all that got shoved aside. Suggest a more leisurely pace this time. Permit exempt wells, as those issues start to gel, might be worth running through planning commission before showing it to you. There was some pushback (*about environmental review?*) Suggest I route it to you, make sure you understand and then ship it to Planning Commission. In terms of water, you have 3 administrative appeals, 1 LUPA (*Land Use Petition Act*), all from the YN.

AH – On the LUPA,

PH – Appeal is against Hearing Examiner's decision, but he is your agent. The landowner is not named in the suit. 2 reviews, I am preparing staff review.

AH – Where are they?

PH – One is on Wolf Creek... closed basins. All in the Methow. One is outside boundaries of closed basin. Decision is that it is in hydraulic continuity. The other one, the well does not exist. I conditioned it such that they have to go to Ecology. The appeal is that this was not conditioned. Think that might be a mixup on their end. Dave has been trying to hook up with Ecology, find out how the maps were made.

Have a number of applications on my desk – triage – you might get some pushback from that (*PH is processing them out of order – setting aside closed basin applications*).

Have come up with water rights list (*too rapid*)

CB – Do you know of any other places the Yakamas are appealing?

PH – (*too rapid*)

AH – Anyone know maximum carrying capacity of Methow River for spring chinook? (*discussion of effects of fish passage blockage at Chief Joseph dam*)

CB – Tribes would have an estimate of that.

PH – Still need to drill in with Ecology is usage outside of single domestic and stock water. Two permits coming up. Event Center – issued a permit with SEPA. It is interruptible. Is that something the County can do, or does Ecology have to? One could argue that it counts against what has been appropriated. Methow Trails wants to put restroom on property in Mazama. Community system on an exempt well. Conditioned it as interruptible. We will see where that goes.

AH – Is that coming off one of the wells for Mazama?

PH – Yes. Cannabis operations – can they use exempt well? (*Different in WRIA's 48 & 49*). Can't approve in 49. Only way we can in 48 is if it is interruptible.

AH – What makes the difference between the 2?

PH – If we make determination that there is an impact on instream flows in 49, exempt wells can only be used for single domestic or stock water (*too rapid*). What is new in your Title 20 world, Dan?

Dan – Nothing new in my world.

PH – Two planners working on permit packets, then they come to me. Did 6 over weekend, have 14 on my desk. 8(?) in closed basins. I am dragging my feet on them. Sent out letter inviting discussions with YN. Try to get attorney is to set up a process, try to get to a process that they are more comfortable with.

PH – Template for working down 48.

AH – need to cross-reference with Aspect.

PH – Mapping – parcels, well logs, potential for subdivision. Next step is to tear into well logs. Setting up to try to use a tracking system, debiting against the 2 cfs. Has made good progress. Want to look at that with you in the next couple of weeks. See if we can apply it to 49. Think that is what I have to offer on Title 20, unless you have questions.

Tonasket EMS

PH – Lifeline came back with some language changes – consistent with what we have been talking about. We are very close.

WATV Ordinance

PH – From my perspective, have the language. Some disagreement with County Engineer. He is gone this week. That is your agenda for this week.

CB – Sooner or later we should get together with everyone involved in the Hirst lawsuit.

PH – (*too rapid*) Different world now. Making a determination that water is physically available. Have to believe that there will be some level of liability.

2:55 p.m. AH asks for a few minutes with legal counsel to discuss pending litigation. Discussion returns to historical salmon numbers. DG arrives and the commissioners go into executive session.

3:20 Critical Areas Ordinance (CAO)

AHu hands out materials on Major Changes to the CAO. Attached with notes to ROC.

PH – Recap. 2012 draft came out of Planning Commission. Last instructions were to adopt that. Decided not to do that. Forge ahead under the banner of 2018. SM suggests same approach. Public announcement, pre-scoping input to see where we need to drill in.

AH – Need a continuity check. Have some outside person or agency. Consistency with zone code, comp plan, SMP. Could have a subdivision code. Look at it for consistency.

PH – In house we have tried to do that with CAO & SMP. Enough separation between that effort and zone code that we haven't done that. How we do that, I don't know about hiring a consultant. It is something we need to do. Chicken and egg. Have the zone code, make everything consistent with that. What is the linchpin. In zone code, you can't build in the 100 year floodplain but in SMP we debate endlessly about setbacks.

CB – Purpose of ordinances are different. Flood damage prevention is different from objectives of SMP.

PH – You will recall (JD), four years ago we hired attorneys for review of (?). That was before we had the current zone code.

CB – My perspective is that consistency is something that should be done in-house. When working on comp plan, go over to zoning and check. See if it is doing what we want it to do.

PH – Some consistency in the discussion. Why we did what we did. (uses example of lot size). Pieces have never flowed smoothly from one to the other. Have we tried to? Yes. Have we succeeded? No.

AH – Where does CAO interface with SMP? Are there any places where they could contradict each other? Might be hard. I don't understand the intricacies of the interface, but that is where I think we need to start.

CB – (Gives examples of multiple overlap)

PH sketches on flip chart. River – SMP – wetland – CAO.

PH – SMP sets up veg. mgt area & setback. CAO takes an entirely different approach. Can meet SMP requirements but have a very difficult time meeting CAO. New SMP does a better job of incorporating CAO.

AHu – We have Critical Areas provisions in our SMP.

AH – How does Shorelines regulate steep slopes

(rapid discussion)

AHu – Under Geologically Hazardous Areas.

CB – All uses in SMP, you are required to address. You had to have that in mind when you do your CAO.

AH – If I am within 200 ft of major water body, I can go to the SMP and the zone code and have a pretty good idea...

AHu (too rapid)

AH – If our critical area extends outside the 200 ft.

AHu – We chose to keep (*SMP jurisdiction at legal minimum*).

AH – (*example of wetland at 205 ft from river*)

AHu – That would bump you back.

PH – Still in critical area.

(*AH sketches out the example of a flip chart. Wetland off the lot would preclude building due to buffer. Many nuances are discussed.*)

AH – That is why I want to make sure that we have consistency.

AHu – Wetlands sections are the same. Channel migration may have inconsistencies.

CB – Curious why wetland buffers were not included in SMP.

PH – There was a real desire to stick with 200 ft. So, how do you want to start this thing? Put out the 2012 draft for comment? Bag it and start over?

CB – Comp plan doesn't reference the need for (?)

PH – There was a work list of different things that should be considered.

CB – It makes sense to me that in comments, that (in the comp plan?) there is a policy that references what constitutes critical areas and why they matter.

AH – (*reads from legislation*) Shall protect the quantity and quality of public water supplies.

PH – Your attorney believes that includes all public uses, not just municipal water systems (too rapid)

CB – Makes sense to define parameters of discussion.

AH – Is a domestic well a public water supply?

PH – That is a semantic question

(*more discussion*)

CB – Do we have a responsibility to make sure that the public has clean, potable water?

AH – (*reads from legislation*)

PH – Requirement to protect water is a foundation of the Growth Management Act. GMA requires identification of (?).

CB – CAO did not originally require protection. Legislature extended that. Question was, why designate something without protecting it?

AH – You asked how we should go about this. Revise 2012 or scrap it? I'd like to ask some people who are smarter than me about it. Why would you scrap it?

CB – I got some opinions that 2012 version might not be something you would want to hold on to, from resource protection standpoint.

PH – 2012 version went through the Planning Commission. People unhappy on both side. One most important to people was the lack of protection for critical aquifer recharge areas. What we did with CAO, we took another look at it (*in SMP?*). Time has gone on, everything has gone stale. More information available now. I will probably issue a DS.

CB – Can use comments of participants. It is a review of protection, as it is set forth in the ordinance. Use Best Available Science. That is the question of the day. Is that what you want to do?

AH – Obviously you have a template in the 2012 version. I don't see why we don't (fix that).

PH – Got feedback that 2012 is worse than the old one. If commissioners are comfortable with the 2012 draft as the preferred version, I can issue a DS and begin to draft an EIS, to do dual duty.

AH – When was the previous CAO adopted?

AHu – 1994.

AH – Maybe we should go back to 1994 – the one that is on the books.

CB – That works for me. That is what the 2012 is built on, right? (*correct*) Go back, get Best Available Science in there.

PH – Can put out public notice that we are considering revisions to 1994. I won't issue a threshold determination. Need to come up with a draft of revisions. See what congress thinks about that.

CB – That is what I am concerned about – what are they going to think we are doing?

AH – If we are following the 1994 CAO...

CB – If we are following the ESA...

PH – Starting with a clean record (*using 1994*). Some advantage to that.

CB – Asked attorney to look at a few articles. Some of the advice was not to get too detailed in the Comp Plan. Lay out your intent. Otherwise it gets too convoluted

PH – Okay. Solicit public input for revision. Some of the things we did, listed on this sheet. We have recommended...

CB – (*question about Item 5b on sheet – Channel Migration Zone*)

AHu – Mixture of geologically hazardous areas and frequently flooded areas.

PH – Any other marching orders? I will withdraw the DNS I issued back then.

CB – One thing to think about before you get into the nitty-gritty of the CAO, get the parameters established in the Comp Plan. Otherwise the Planning Commission doesn't know what you want from the document.

(*PH goes to sketch the hierarchy of documents on flip chart*)

Comp Plan – water quantity and quality, so okay to talk about critical aquifer recharge areas

Geologic hazard areas

AH – We know we are going to talk about the Comp Plan. We can address CAO first if we know what the over-arching...

CB – Those challenging views, eventually through politics. Have a discussion among leaders in the community about why you would even care?

AH – If we wait, it could be a long time.

CB – To me, it is a vicious circle.

AH – (*too rapid*) There are going to be things in the Comp Plan that don't have a bearing (*too rapid*)

PH – In a perfect world, no (*too rapid*)

AH – For instance, transportation network, that doesn't fall into the CAO.

CB – Not necessarily. In planning effort, you do what you can to minimize problems. All part of a comprehensive plan. Consistency is needed. If I make decisions, I am going to make sure that all these things jibe.

AH – I've always told you my thoughts on process. We should do a Comp Plan by 2018. What do you propose?

CB – I propose we have a Comp Plan by the end of the year.

PH – Anything is possible. We have a draft. We could have in to the Planning Commission by November.

CB – Propose that we be real pragmatic about how we look at it. Think if we take it subject by subject. Look at different areas, ask why we would want to do that? Might look at it (*CAO*). I want the public to understand why we want to do that. Use the science we do have, take a relatively cautious approach. Do we care about clean water? I think you guys want that. Say that. Show the intent.

AH – Should we put CAO on hold?

CB – No (*too rapid, gives example of water quality*). What do we don't know? If we don't know, be cautious. Don't want to be onerous. (*too rapid*) Can see us sliding back and forth between Comp Plan and CAO.

PH – How about we do this? Comment period for comp plan (*too rapid*). If you can't agree with the Comp Plan, you are not going to be able to agree on CAO. See what comes in in the first round of the Comp Plan stuff, pre-scoping scoping. In terms of your question about consistency....

AH – This is kind of addressing that...

PH – Don't think there is value of bringing in a consultant. (*agreement*) Go through CAO. Look through all the other documents.

AH – CB's thoughts about how the documents fit together...

PH – They are linear (*too rapid, gives examples of relationship between Comp Plan and zone code – water availability, transportation*).

CB – (*describes conversation with a conservative county commissioner about planning*)

PH – In court, it has a lot of weight if you have talked about it, show that you have considered it. Some people are afraid to talk about it. Then when you adopt your zone code...

CB – (*too rapid*)

PH – I believe I have direction. Anything else? (*No*)

4:45 End of Planning Update. Note taker leaves.