



Planning Commission Meeting Minutes

A meeting of the Okanogan County Regional Planning Commission was held on Monday, January 24, 2011 at 7:00 pm. The meeting was held in the Commissioners' Hearing Room 123 5th Ave N. Okanogan, WA.

PLANNING COMMISSION MEMBERS present included: Chair Albert Roberts, Vice Chair Becki Andrist, Commission Member Mark Miller, Commission Member Phil Dart, Commission Member Tamara Porter, Commission Member Marlene Rawley, Commission Member Tina (Williams) Wood, and Commission Member Dave Schulz.

OKANOGAN COUNTY STAFF MEMBERS present included: Director of Planning Perry Huston, Natural Resource Senior Planner II Angela Hubbard, and Administrative Secretary Sharon McKenzie.

APPLICANTS OR THEIR REPRESENTATIVES: Dave Demyan, Clay Brown.

OTHERS IN ATTENDANCE: Peter James, Dan Beardslee, and Nancy Soriano

Chair Roberts called the meeting to order at 7:00 pm.

Approval of January 24, 2011 Agenda

Chair Albert Roberts requested training on appearance of fairness and conflict of interest be added to the agenda.

Commission Member Schulz moved to approve the January 24, 2011 Planning Commission Meeting Agenda as amended. Vice Chair Andrist seconded the motion. Motion passed.

Approval of December 20, 2010 Meeting Minutes

Vice Chair Andrist moved to approve the December 20, 2010 Planning Commission Meeting Minutes as amended. Commission Member Dart seconded the motion. Motion passed.

Training

Chair Roberts noted the purpose of the training is for the benefit of the new members on the Planning Commission as well as a refresher for the other members.

Director Huston presented handouts on appearance of fairness and conflict of interest. He explained the appearance of fairness doctrine as being much broader than conflict of interest. He explained conflict of interest is if the member stands to gain in some way. He said in a quasi judicial setting, it is black in white. He explained when there is a possible conflict of interest, the

member should physically leave the room. He explained timing is everything. Director Huston said expressing an opinion early in the hearing can be a conflict.

He said in a legislative process, it is different. He said if there is a question of appearance of fairness, the fix is for the member to remove his or herself from the discussion. He said it is up to the audience to challenge the appearance of fairness and if no one objects and tries to appeal later, they have no standing.

Commission Member Schulz reminded the members that casual discussion out of the hearing room may occur and be un-noticed. However, the conversation should be disclosed.

Huston explained Commission Member Schulz's reference is known as ex-parte contact which is the gathering of information prior to the hearing. He said the proper response should be "I can't talk about it" and the contact should be disclosed at the hearing. He noted introduction of material during the hearing process is a violation of appearance of fairness and ex-parte.

Commission Member Dart asked if the member drives to the property to inspect the property, is that gathering information outside the process?

Director Huston said it would be ex parte and should be disclosed. If there is no objection from the other Commission Members or the audience, the record is clean.

Director Huston explained the rule of necessity whereby if all members know land, history, etc., because everyone knows, the rule of necessity says assume everyone is prejudice or nobody is.

Public Hearing Item #1

- **Navajas Open Space Timber 2010-6 - Continuance**

Chair Roberts requested an update on the **Navajas Open Space Timber 2010-6 - continuance**. Natural Resource Planner II Angela Hubbard requested the Staff Report be placed into the record. Natural Resource Planner II Hubbard summarized the information she received regarding the conservation easement since the hearing on December 20, 2010. She discussed the final letter received from the Methow Conservancy which says the forest management plan does meet the requirements of the stewardship of the conservation easement. She reviewed the other documents received from the Assessor. She stated the forester was present to address questions.

Addressing Commission Member Schulz's questions, Director Huston explained a conservation easement has specific requirements. He said John Sunderland of the Methow Conservancy reviewed the forest management plan and said it applies to the stewardship plan. He noted forest management plans must be written to the code. He said in the future, it will be up to the landowner to contact the people who hold the conservation easement to get written documentation that the forest management plan and the stewardship plan are acceptable.

Chair Roberts asked Forester Demyan and Jason Paulsen of the Methow Conservancy to come forward to address the concerns of the Commission Members.

Forester Dave Demyan residing in Methow he noted the Navajas harvested the parcel in the 1990's. He explained the thinning process is to maximize the production of high value timber.

Mr. Paulsen stated the forest management plan was reviewed by their forest staff and attorney. He commented the conservancy staff was uncomfortable addressing the code because it is not their position to do so. He said the landowner can cut their trees and sell them as long as it is within the conservation plan which is looking for sustainability.

Director Huston said he reviewed the code which is part of Staff Report. The forest management plan is geared to the code and should speak to some sort of critical path. The conservancy plan is geared toward promoting a good healthy stand of timber and can maximize commercial harvest. Addressing the question of whether the Conservancy should sign the management plan, he said the issue has not been explored from the legal channel.

Chair Roberts opened the meeting to public testimony. There being no public testimony, he closed the meeting to public testimony.

Chair Roberts said he would entertain a motion.

Vice Chair Andrist moved to recommend approval of the **Navajas Open Space Timber 2010-6** to the Board of County Commissioners subject to the attached Findings of Fact, Conclusions of Law and the Conditions of Approval which should add item 5 – Letter from the Methow Conservancy. Commission Member Dart seconded the motion. Motion passed

Director Huston stated Staff will tidy nomenclature and harvest schedules in future reports.

Public Hearing Item #2

- **Weeks Open Space Timber 2010-11**

Chair Roberts requested the reading of the summary report on the **Weeks Open Space Timber 2010-11**. Natural Resource Planner II Angela Hubbard requested the Staff Report be placed into the record. Natural Resource Planner II Hubbard summarized the proposal stating the landowners are requesting a transfer from Designated Forest to Open Space Timber. She said the acreage will be 19 acres. She said Professional Forester Clay Brown wrote the Forest Management Plan and is present to answer questions.

Natural Resource Planner II Hubbard said the Washington Department of Transportation and Okanogan County Public Works had no comment. The Okanogan County Assessor's comment stated the property was 20 acres with one acre designated for a home site and showed the taxes assessed on the property. There were no other comments.

Clay Brown, Professional Forester, came forward to address questions regarding current photographs. He said he did not have current photos and explained how he uses the details in the aerial photos. He said there were 300 plus stems per acre average. He said it was a well forested site with access for normal machinery. Mr. Brown said the parcel had been harvested three times since the 1950's with the last commercial timber removed eight to ten years ago. He said this is a young stand of trees with plenty of moisture and good soil.

Chair Roberts opened the meeting to public testimony. There being no public testimony, he closed the meeting to public testimony.

Chair Roberts said he would entertain a motion.

Vice Chair Andrist moved to recommend approval of the **Weeks Open Space Timber 2010-11** to the Board of County Commissioners subject to the attached Findings of Fact, Conclusions of Law and the Conditions of Approval. Commission Member Dart seconded the motion. Motion passed.

Chair Roberts called a recess at 8:10 PM.

Chair Roberts reconvened the meeting at 8:23 PM

Public Hearing Item #3

- **Deliberations on the Okanogan County Critical Area Ordinance – Continuance**

Director Huston said Natural Resource Planner II Angie Hubbard prepared the materials requested by the Commission Members. He noted the current Critical Areas Ordinance (CAO) never adopted setbacks or map. He stated the CAO is required by the Growth Management Act (GMA) regardless of whether the County is GMA or not. Director Huston said the CAO deals with areas outside shorelines but in some cases the areas overlap with shorelines. He said there will be a review to make sure the CAO is consistent with Shoreline Management Program. He reminded the Commission Members they are directed by statute to protect the critical areas, not restore them. He updated the Commission Members on the Rucklehaus Center recommendation. He said the CAO must determine whether to regulate agriculture in the CAO or not. This item will be discussed later.

Natural Resource Planner II Angie Hubbard explained the process she applied in refining the definitions. She said she the definitions are consistent with the zone code and noted if the definition was in the WAC, she cited where the definition came from.

The results of the discussion between Natural Resource Planner II and the Commission Members were as follows:

- Line 75 – development. This came from the zoning ordinance.
- Line 91 – definition from the WAC.
- Line 112 - 114 – in current CAO. She said the definition should be reviewed for change. It was suggested changes should be considered when the Commission Members get further into the document and start discussing whether to regulate or not. The Commission Members asked to flag this item until regulation is discussed.
- Line 177-178 – She said this was amended to make allowances for future amendments in the Federal Manual. Planner II Hubbard explained she must follow the Federal Manual. She said she would bring the citation to the next meeting. Director Huston said any maps relied on for the information should be adopted. He said the Planning Commission should be specific on what map they wished to use. He noted if current information is not used, inconsistencies can develop. Director Huston said Staff will go through and find the things that can't be changed.
- Line 412 – no choice - wetlands. In the WAC

- Line 258 – the part deleted was more regulation and not definition.
- Line 277 – took definition from Shoreline Master Program.
- Line 284 - after the word shoreline through Line 288 comes out. This is regulation.
- Line 298 - updated to what we have now.
- Line 311 – added WAC and amended to include State and Federal register.
- Line 325 – took out portion that creates regulation.
- Line 332 – comes from DNR forest practice. Planner II Hubbard said water typing is not in the shorelines. This is the new system of water typing and will be applied to the code.
- Line 317 – strike “all”. Director Huston said he will research this item. He said this appears to be addressing reasonable use exceptions.
- Line 223 – 225 – definition for mitigation. Planner II Hubbard said this is in the current CAO. Direct Huston said to pull much of this out and put it in the regulation and adjust the definition accordingly.
- Line 45 – question on buffer and “required”. It does not say you have to have a buffer, but the maintenance area will be called a “buffer”.

Chair Roberts responded to the question of what is needed next:

- Definitions
- Maps
- Note inconsistencies in the body of document with other documents.
- Maps that can be read
- Layered maps of critical areas.

Director Huston noted the comment period for the CAO is still open and any verbal testimony should be noticed. He said Natural Resource Planner II Hubbard is working to walk other regulation over for consistency. He noted:

- flood management should be walked over into the CAO
- the existing code into critical area,
- Minimum Requirement District should be in flood management plan.

He said the Planning Commission will guide Staff accordingly and as they make decisions on the CAO, they must be sure and explain why. He said Staff will bring map layers in for review at the February and March meetings for discussion prior to testimony. He suggested the May meeting as a more realistic date for public testimony.

Addressing the question of the status of the Comprehensive Plan, he said the hearing schedule is under review. Director Huston noted there would be four hearings and then per statute, the Comp Plan will come back to the Planning Commission for one hearing.

Vice Chair Andrist made the motion to continue deliberations on the Critical Areas Ordinance which will not be open to public comment, at the next regularly scheduled meeting on February 28, 2011. Planning Commission Member Dart seconded the motion. Motion passed.

Commission Member (Williams) Wood moved to adjourn the meeting. Vice Chair Andrist seconded the motion. Motion passed.

Chair Roberts adjourned the meeting at 10:00 p.m.

Summary of Motions

Commission Member Schulz moved to approve the January 24, 2011 Planning Commission Meeting Agenda as amended. Vice Chair Andrist seconded the motion. Motion passed.

Vice Chair Andrist moved to approve the December 20, 2010 Planning Commission Meeting Minutes as amended. Commission Member Dart seconded the motion. Motion passed.

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Prepared by Sharon McKenzie
Administrative Secretary