

January 6, 2009 PLANNING BOARD MEETING MINUTES

PLANNING BOARD MEMBERS PRESENT:

Frank Linth
Steve Harris
Paul McBride - Resigned
Keith Arndt
Robin Shaw

CITY STAFF:

Bob Martin, DCD
Deborah Knight: CA
Carole Feldmann, SECRETARY

CALL TO ORDER: Meeting called to Order at 7:02 PM

Pledge of Allegiance:

Roll Call: See Above

Resignation of Planning Board Member:

Mr. Paul McBride has tendered his resignation from the Planning Board as of December 30, 2008. The Mayor will appoint a new member from the applications recently received.

Changes to the Agenda:

Martin: Reminds everyone this is the first meeting of the year and the Election of Officer's needs to be done. Added as Agenda Item A-4.

PUBLIC COMMENTS:

Josie Fallgatter – Invited Planning Board Members and City Staff to the US2 Safety Coalition Fund Raiser this Saturday at 10 AM, Galaxy Theatres in Monroe they will be showing Donovan's Reef costs is \$7.00 donations will go to the US 2 Safety Coalition. The goal is to Fund a Lobbyist Position to Lobby for Funding in Olympia, WA for US 2 Highway Improvements. The Coalition is having a meeting Jan 14 2009 at 7 PM (meetings are usually the last Monday of the month) she invites everyone to start attending their meetings which are usually held at the Monroe Library.

Comments on the Agenda Item referencing the public participation policies for the Comprehensive Plan and Development Regulations. Would like to see the City include schedules for amendments to the Comp Plan, in 2000 the planning commission at the time came up with schedules where anyone could submit a proposal for amendment to the council. The timeline gave the city time to consider the proposal. It's a disservice to the citizen to not include time frames by which the city will consider them. You don't have to take action on them just considered them as outlined in RCW 36.70 A; it is a requirement of the GMA. Let the community know when the timeline is. The process disappeared on the way to the city council and by law Comp Plan amendments can only be done once a year.

Planning Board Member Comments: None

APPROVAL OF MINUTES: Approval of December 16, 2008 Planning Board Minutes.

Linth: Calls for approval of the Planning Board Meeting Minutes of December 16, 2008. Arndt moves for adoption as presented, 2nd by Shaw, all in favor, all ayes.

Growth Management Hearings Board / John Galt Decision Letters:

Martin: Submitted copies of the Hearing Examiners last 2 Annual Reports to Planning Board Members as requested at the previous meeting on Quasi Judicial Proceedings. John Galt

outlined in his letters of January 2006 and January 2007 an overview of his concerns with regard to the Quasi Judicial process and the Planned Unit Development Process in particular. His main recommendation to council was to follow the code even if the code is not well written and to amend it to accomplish their goals.

PUBLIC HEARINGS:

H-1: Planning Board Draft of Public Participation Policies for Comprehensive Plan and Development Regulations, and on; Amendment of Sultan Municipal Code Chapter 16.134 to become the new location for the Public Participation Policies for Comprehensive Plan and Development Regulation Amendment provisions.

Martin: Reviewed discussion of the Joint Meeting to update Public Participation Policies, a policy was adopted in 2000 and an update was done but never formally adopted by Ordinance, but the City has used the process never formally adopted. Due to the level of participation at that time from the public it was appropriate to hold two public hearings on each plan amendment or development standard change. The Public Hearing Policy Document now under review is the Planning Board Draft agreed upon at the meeting held on 12/16/08. This version made a change to Level 4, with a mandatory hearing at the Planning Board and an optional hearing at council. The 4 Levels of Procedure in summary outline the different Level requirements to Planning Board. Updates will be done to the Comp Plan in 2011; after tonight's hearing closes the Planning Board will consider the public comments and make a recommendation to City Council.

Arndt: Is it true the city's current budget and funding issues do not allow for any docketing or Comp Plan changes in 2009?

Knight: Every year we have a docket process which closes June 1, 2009; it is brought to council and then referred back to planning board. That will be done this year according to the new process. There may not be the need to contract outside the city for changes as a lot of things can be done in house. It's a situation that we will have to wait and see if docket changes are requested and if so can they be done in house with current staff or will there be the need to hire outside consultants.

Arndt: Each level 1 – 4 has the public participation procedures for the Comp Plan and Development Regulations, is the policy missing anything else it should apply to?

Martin: One thing that comes to mind is the Shoreline Master Program, but that has its own set of notification policies under the statute.

Arndt: Should it be mentioned in the Ordinance that it applies to the Comprehensive Plan and any appendices or reference documents?

Martin: That probably requires a legal opinion that I am not prepared to answer. There are documents adopted with the Comp Plan by reference. Development Regulations are the things that actually do action forcing on the ground, to implement the plan. I am uncertain at the moment how far down the chain those documents by reference are included in this requirement. A lot of documents are referred to in the plan without being adopted by reference. I suspect the documents adopted by reference go through the amendment process.

Arndt: Do we limit ourselves by listing only those 2 things or should we wait and get a legal opinion.

Martin: The statute limits us, but it may be worth getting a legal opinion. It includes documents adopted by reference but does include documents that are used as a basis for compilation or are referred to but not adopted by reference.

Arndt: You want the Ordinance to cover 99% of the public participation process, correct?

Knight: The question is do you want to require more than the state statute requires when you don't have to? Attachment B has the proposed amendments to the Comp Plan and Development Regulations. The policy question is what we are here to adopt, does the Comp Plan imply the additional documents require the same procedure for an amendment.

Linth: Don't we have another time on the agenda we can pursue this issue and can we get on to the Public Hearing? Floor is opened for comment(s) from the public.

Public Comments:

Josie Fallgatter: *(JG requested her previous comments be a part of this section also)* Appreciates the effort made with getting the public participation process in order. If Board Members are concerned about notifying the public then it will occur. The problem with the Ordinance is it was posted in too many places. The point of Public Participation is to notify the public of what you intend to do and what the impact of those actions are. Being concerned about it is the first step in doing that. The GMHB does not have jurisdiction over Water and Sewer Plans until you incorporate them into your Comprehensive Plan or until you create inconsistencies in the Comprehensive Plan. I would not try to nail down specifically which plan will hold public hearings for and where you will hold them, that will be clear when the time comes. The main issue is making the information available to the public, and letting them know when you will make changes. That is why I brought up the schedules as to when you will amend your Comprehensive Plan. D Knight mentioned July 1; if that is so then it should be in the ordinance so the public knows when that deadline is. With regard to the financial aspect of amending the plan; part of the past problem is accepting docket requests from the public and not taking in any fees. You may want to take a look at the fee; in the past it has been set at \$1,000.00, if it was a non project specific proposal that could be inadequate. If someone comes in for a rezone or plan amendment, then charge them for it, its fee based. Why should the City bare the costs for someone wanting a change to the Comprehensive Plan especially if it is site specific and that's what most of the proposals where.

Martin: (Regarding the question of Comprehensive Plan Reference Documents) In Procedure Level 4 the Title includes the Comprehensive Plan and substantive amendments to appendices or reference documents to the Comprehensive Plan. The more I have had to a moment to consider this, based on prior involvement's that is appropriate for documents that specifically adopted by reference, because in effect they are legally considered documents that are a part of the plan. For documents just referred to in the plan do not receive that same level of treatment.

Harris: Moves to close the Public Participation Portion of the Public Hearing, 2nd by Arndt, all in favor, all ayes.

ACTION ITEMS:

A-1: Recommendation to City Council on: Adoption of “Public Participation Policies and Notice Procedures for Amendments to the Comprehensive Plan, Comprehensive Plan Elements, and Development Regulations” and on: Amendment of Sultan Municipal Code Chapter 16.134 to become the Municipal Code location for the “Public Participation Policies and Notice Procedures for Amendments to the Comprehensive Plan, Comprehensive Plan Elements, and Development Regulations.

Martin: Recommendation on Planning Board draft, of Public Participation Policies for the Comprehensive Plan and Development Regulation Amendment to engage in discussion and decide if this is the recommendation you wish to make for Council. As D Knight stated someone giving testimony at the Planning Board does not need to also give it to council. Staff recommends you have the discussion for recommendation to City council.

Linth: The Planning Board is here to do a special job for City Council by making a recommendation to propose public hearing policies. We had previously discussed we would send through a recommendation at Level 4 to hold a 2nd hearing.

Arndt: General Rule of Planning Board Members should be conservative on that issue with regard to the 2nd Public Hearing, at Level 4. It's not required in State Law. Does the state law say we have to have the schedule in the Ordinance? Specific time frame is not required, I think it is redundant my proposal is to not include it.

Martin: The plan should only be amended once a year.

Harris: Agrees with Keith (Arndt), it's pretty cut and dry Comp Plan amendments are once a year, except in certain cases. Whatever the GMA requires and I think we are following that and I approve with what we have.

Martin: The easy way to do this is; we have a definition section in the document which is part of the Municipal Code. The Comp Plan Docket can be defined in the definition section, as the annual period for review of comprehensive plans which will open on date A and close on date B and be acted on and completed by the end of any calendar year.

Arndt; Does the staff have concern putting hard dates in?

Martin: It could be a protection for the City.

Harris: Unless the city initiates something else.

Martin: The City can list reason(s) why the docket would be opened.

Shaw: Agrees with the language in Level 4 on the Option of a 2nd Public Hearing at the City Council Level. She also likes putting the docket information in the definition section and listing the dates.

Linth: Point of Protocol; is it appropriate on Level 4 Step 9 that Planning Board will review and make a recommendations as to whether or not a 2nd public hearing is necessary. I think it is

improper for us to recommend what the Council doesn't do. It is proper for us to recommend to the Council. The language should be cleaned up to reflect that idea.

Arndt: I think it is a positive statement to recommend or not recommend to Council.

Harris: I agree with Keith Arndt.

Arndt: (I) move we recommend the draft of Adoption of "Public Participation Policies and Notice Procedures for Amendments to the Comprehensive Plan, Comprehensive Plan Elements, and Development Regulations" and on; Amendment of Sultan Municipal Code Chapter 16.134 to become the Municipal Code location for the "Public Participation Policies and Notice Procedures for Amendments to the Comprehensive Plan, Comprehensive Plan Elements, and Development Regulations. With the changes of additional definitions with what the docket specifies.

Harris: 2nd the motion; No change to step 9 on level 4. All in favor; ayes by Harris, Arndt, Shaw, opposed by Linth, for not changing the verbiage he recommended.

A-2: Set Public Hearing on Amendments to Shoreline Master Program, Chapter 7, "Administrative Procedures".

Martin: Removing the Council from the Quasi Judicial process, removing the Council as final arbitrator and transferring responsibility to the Hearing Examiner. Only 3 Shoreline Master Programs in the State have sufficiently interacted the critical area statutes and critical areas codes with administration of the shoreline statutes and SMP system. This document pre-addressed that issue, and did the right thing, throughout the document the critical area codes and shoreline master codes and master program statutory requirements are integrated and regardless of the pending legal issues in Anacortes our document blends together. That being said the Administrative Procedures Chapter 7 had some holes in it. So the necessary corrections have been made, and that is what you have before you this evening.

Arndt: *I move that we set a Public Hearing on the Amendments to Shoreline Master Program, Chapter 7, "Administrative Procedures" for January 20, 2009 to take public comments; 2nd by Harris, all in favor, all ayes.*

Martin: Because it's the Shoreline Master Plan it must be advertised to run 3 consecutive weeks.

Arndt: *I moved that we **rescind** the previous Motion and set the day of **February 3, 2009**, for setting a Public Hearing on Amendments to Shoreline Master Program, Chapter 7, "Administrative Procedures", 2nd by Shaw, all in favor, all ayes.*

Linth: *Motion to set a hearing 2nd, by Harris, all ayes.*

A-3: Set Public Hearing on Amendments to Sultan Municipal Code Chapter 17.08, Flood Damage Prevention.

Martin: FEMA and DOE who conduct periodic Community Assistance Visit, where they review the codes and our administration of those codes for support of Flood Management and mitigation of Flood Damage, one of the results of those visits is the communities rating for Flood

Insurance, which consists of 9 steps in how the community is doing, the higher the number the lower the insurance, Sultan's rating is 7. To maintain that it was recommended this past summer, after the visit the following things were outlined for us to complete to enhance the 7 level rating. The letter from Chuck Steele the Administrator for this program. The 3 page letter consists of changes the City needs to do to keep or exceed the 7 Level rating. There are no public involvement systems associated with this Agenda Item. Encourages Planning Board Members to discuss the recommendations and set January 20, 2009 as the Public Hearing date.

Arndt: Moves to set January 20, 2009 as a Public Hearing date on Sultan Municipal Code Chapter 17.08, Flood Damage Prevention., 2nd by Harris, all in favor, all ayes.

Linth: On the Field Inspection report cases it refers to 11 specific cases cited requesting documentation, what was used as the criteria?

Martin: Any structures being constructed or significantly modified in a flood plain are under the jurisdiction of this code. Need to provide initial input with the occupancy floor and it's elevation as related to the flood plain. After construction it then needs to be certified by a surveyor confirming the occupancy floor is above the flood plain and a certification to that effect for Certificate of Occupancy.

A-4 Election of Officers:

Arndt: Nominates Frank as Chairman, 2nd Harris, and Harris recommends Arndt co-chair 2nd by Shaw, all in favor, all ayes.

STAFF PRESENTATIONS and DISCUSSION BY BOARD:

D-1: Presentation and Discussion of FEMA Flood Re-study of Skykomish-Sultan River Flood Zone:

Knight: Gives an overview and update on the efforts to coordinate with Snohomish County, FEMA and the Public Utility District #1 (PUD) to understand the FEMA Flood Restudy and address Sultan's concerns. Also discusses with the Planning Board the information received from Snohomish County regarding the FEMA Flood Restudy. PB members are given numerous documents to review during this discussion pertaining to the issues. Snohomish County staff presented an update on the FEMA Flood Restudy of the Skykomish and Sultan Rivers to the City Council and Planning Board at the joint meeting on November 18, 2008. One of the primary concerns by FEMA under *Guidelines and Specifications for Flood Hazard* (Attachment A) not to include the storage provided by the Culmback Dam and Spada Lake when calculating the 100-year flood flows on the Sultan River. This decision will have a major impact on the Sultan community. From a long-term (10-20 years) perspective it is likely flood regulations will become restrictive to the point of choking off development in Sultan's historic business district. Now is the time to begin a conversation within the community about the long term viability of Sultan's historic business district. In the meantime, staff will continue to work with Snohomish County, PUD and FEMA to recognize the important flood storage provided by Spada Lake and reduce to the lowest level possible the flood insurance premiums paid by Sultan residents. The City will need to contract with a hydrologic consultant to review the restudy report and represent Sultan's interests in the future. This is an unfunded budget item and will need to be discussed with the City Council. Costs could be as high as \$15,000.

PUBLIC COMMENTS ON AGENDA ITEMS ONLY:

Josie Fallgatter: Thanks the Planning Board for cleaning up the public participation process in the Comp Plan.

This portion of the meeting concluded at 2130 hours. Secretary Excused

PLANNING BOARD EDUCATION & DEVELOPMENT:

E-1: American Planning Association (APA) slide show: "Introduction to the Planning Commission, Part Two."

Meeting adjourned at: 10:20 PM