

SULTAN CITY COUNCIL AGENDA ITEM COVER SHEET

ITEM NO: D-2

DATE: June 30, 2009

SUBJECT: 2011 Comprehensive Plan Update - Public Participation

CONTACT PERSON: Deborah Knight, City Administrator

ISSUE:

The issue before the city council and planning board is to review the public participation alternatives and provide direction to staff in preparing the 2011 Comprehensive Plan Update.

STAFF RECOMMENDATION:

Evaluate the public participation alternatives. Direct staff to work with the council and planning board to contact interested community members to serve on small groups. Under the staff proposal, three small groups will review the city's comprehensive plan goals and policies in 2009/2010. The groups will make recommendations to update the city's goals and policies to be consistent with regional and countywide planning policies.

SUMMARY:

Generally, jurisdictions update their comprehensive plans and development regulations on a regular basis to reflect local needs, new data, and current laws. The seven-year Growth Management Act (GMA) update requires a deliberate and comprehensive review of existing conditions, laws, plans, and regulations.

Three basic actions required

RCW 36.70A.130 clarifies action counties and cities planning under the GMA need to take during the seven-year update process. Local governments must:

1. Establish a public participation program that identifies procedures and schedules for the review, evaluation, and possible revision process.
2. Review Puget Sound Regional Council multi-county planning policies and Snohomish County county-wide planning policies and analyze whether there is a need for revisions.
3. Take legislative action to update the comprehensive plan.

It is important that each of these actions be explicitly affirmed by the city council as having been accomplished in accordance with RCW 36.70A.130, both to comply with the statute and to set time and subject matter limits for possible challenges.

Note: The regularly scheduled 7-year update discussed in this agenda item is not to be confused with the extensive revision work that was completed in September, 2008. That effort is properly characterized as revision of the 2004 Comprehensive Plan that was required to comply with orders from the Growth Management Hearing Board based on a series of cases brought against the city for gaps in the 2004 Plan. The last "official update" of the Plan was in 2004, making 2011 the next required update cycle.

Public participation

The GMA requires "early and often" public participation.¹ There are many ways to gather public input including surveys, town meetings, open houses, focus groups, neighborhood meetings, regular council and planning board meetings, and formal public comment opportunities (review of specific plan elements and charettes).

The city council and planning board approved public participation procedures (Attachment A) which outline Sultan's adopted steps for public involvement. Revision of the Comprehensive Plan is addressed by Procedure Level IV (SMC 16.134.050 of Attachment A).

The city council and planning board should evaluate the staff proposal to use a combination of outreachy efforts with a primary focus on gathering together small groups to review the goals and policies and recommend changes. This would be followed or supported by specific analysis of recommendations in 2010 and 2011.

Staff Recommendation

City staff recommend forming three small work groups to directly engage the community in updating the goals and policies of the comprehensive plan. Each group would have 2 council members, 2 planning board members and between five and seven appointed community members.

This approach requires a commitment on the part of the city council and planning board for extra meetings each month beginning in September 2009 and continuing through March 2010. Under the staff proposal public participation would be divided into four phases.

¹ The basic legal requirement for public participation says that every jurisdiction planning under the Growth Management Act (GMA) "shall establish and broadly disseminate to the public a public participation program identifying procedures providing for **early and continuous public participation** (emphasis added) in the development and amendment of comprehensive land use plans and development regulations implementing such plans." (RCW 36.70A.140)

Phase I (September 2009 and April 2010)

City staff propose forming three small groups comprised of council, planning board and community members in each group to update the city's goals and policies between September 2009 and April 2010.

A kick-off meeting would be held in September to review the city's vision and organize the groups. Each group will be assigned elements or chapters of the comprehensive plan to review, update and recommend further analysis. City staff will be assigned to each group to provide technical support.

Group 1 - Land Use, Housing and Economic Development

Group 2 - Environmental, Parks/Open space, and Shoreline

Group 3 - Transportation, Utilities and Capital Facilities

Each group will meet together twice each month between September 2009 and December 2009. The small groups would convene together in January 2010 for a public workshop to share progress and overlapping issues.

A second workshop could be held in April 2010 to finalize the goals and policies and identify areas of analysis and further study. After each public workshop, the city council and planning board could then decide how to proceed with finalizing the update by January 2011.

Phase II (April 2010 – December 2010)

Consultants and city staff would analyze recommended changes to the comprehensive plan for council and planning board deliberation.

Members of the small groups could stay involved in Phase II or new members could be appointed to participate in evaluating the technical analysis. Review and amendments to the development regulations would begin.

Focus groups, workshops, open houses, newsletters, and public notices would be used to keep members of the public engaged in during phase II.

Phase III (January 2011 – June 2011)

Final deliberations and policy decisions would take place. Formal public participation would begin through public hearings and comment periods. Final recommendations on development regulations would be completed.

Phase IV (June 2011-December 2011)

Final submittal to the Department of Commerce (formally Community, Trade and Economic Development – CTED) and formal public adoption.

ALTERNATIVES:

The City Council could choose to involve the public in the seven-year update in a number of different ways. The table below outlines several stand alone alternatives. The alternatives can be combined together to achieve the desired level of participation. City staff are seeking feedback and direction from council on the preferred alternative or combination of alternatives.

Public Participation Alternatives

Alternative	Description	Pros/Cons
Council Lead	Council takes the lead. Review and update is folded into council's work plan.	Quicker process and fewer additional meetings. Less likely to get public input while developing alternatives.
Planning Board Lead	City council assigns the planning board the task of reviewing and updating the comprehensive plan with recommendations to council.	Distances council from update early in the process. Adds work load to planning board and potentially delays other tasks.
Staff Lead	Council assigns city staff the responsibility to update the comprehensive plan with recommendations to planning board and council	No additional meetings. Distances council, planning board and public from update early in process. Staff would make recommendations and present alternatives at regular meetings.
Consultant	City hires a consultant to work with staff, council and planning board to review goals and policies	Most expensive option. Involves consultant early in the process. Could assist with evaluating impacts of proposed changes.
Small work groups	Citizens and stakeholder advisory groups work with staff and officials to develop the plan, based on GMA requirements.	Most intensive effort. Involves all key constituencies (including kids, senior citizens, various economic levels, etc.). Ensures a variety of viewpoints are considered. Informs and educates participants who can share information with others in the community.
Workshops and Roundtable Discussions	Informs citizens and stakeholders about planning issues and proposals, and creates an opportunity to exchange views.	Best used at appropriate stages of planning such as: visioning, creation of alternatives and framing issues. Hard to get people to attend and understand complicated issues.
Public Hearings	Formal opportunities for public to comment on recommendations. Public hearings are most appropriate immediately preceding plan adoption.	Public hearings alone are not effective as public participation tools, but in conjunction with a number of other processes may be helpful. Workshops and roundtable formats work best at the early stages.

FISCAL IMPACT:

The city council will need to deliberately budget for public participation. Workshops, newsletters and public outreach require funding to ensure information is conveyed in a way that will engage the community. The goal is to receive comment and feedback.

The city council should plan on four workshops/roundtable meetings in 2010 including consultant time at two meetings.

The city should plan on between two and four direct mail notification newsletters. Direct mail newsletters to every household typically cost between \$2,000 and \$3,000 depending on size and distribution. A decision to include households in the UGA or 98294 zip code will involve more people but will increase the cost.

City staff will provide a break down of costs for the comprehensive plan update at the council retreat in October.

RECOMMENDED ACTION:

Evaluate the public participation alternatives. Direct staff to work with the council and planning board to contact interested community members to serve on small groups. Under the staff proposal, three small groups will review the city's comprehensive plan goals and policies. The groups will make recommendations to update the city's goals and policies to be consistent with regional and countywide planning policies.

ATTACHMENTS

A – Public participation procedures

COUNCIL ACTION:

DATE:

CHAPTER 16.134**PUBLIC PARTICIPATION AND NOTICE PROCEDURES
FOR AMENDMENTS TO THE COMPREHENSIVE PLAN,
COMPREHENSIVE PLAN ELEMENTS, AND
DEVELOPMENT REGULATIONS****16.134.010 Purpose**

- A. This document provides the City of Sultan's Public Participation and Notice Procedures for legislative land use actions. It does not provide procedures for any site-specific quasi-judicial land use action.
- B. The public participation procedures established in this document are reasonably calculated to provide notice to property owners and other affected and interested individuals, tribes, government agencies, businesses, school districts, and organizations, of proposed amendments to comprehensive plans and development regulations as required and limited by RCW 36.70A.035 and RCW 36.70A.140.
- C. It is the intent and policy of the City of Sultan to provide its citizens with full opportunity to interact and participate in the process of guiding the future land use and development of the community. Further, it is the intent of the City to have processes and procedures that allow for effective and efficient management of actions at different levels of importance and interest to the public.
- D. To provide appropriate opportunity for meaningful public involvement and to provide for effective operations, this document differentiates between various processes and provides for levels of public participation, notice, and review and adoption procedures that are commensurate with the action being undertaken as described and provided for in RCW 36.70A.035.

16.134.020 Procedure Level I

- A. Applicability : Procedure Level I applies to circumstances under which no additional public review and comment period is provided. This procedure is as provided in RCW36.70A.035 (2)(b) (i),(ii),(iii),(iv), and (v).
- B. This procedure applies to amendments to a proposed change in the Comprehensive Plan or Development Regulations when the opportunity for public review and comment on the original proposed change has passed. The amendment to the proposed change will be acted on without further notice or public input if one or more of the following conditions pertain to the amendment.
 - 1. Actions where an environmental impact statement has been prepared under chapter 43.21 RCW for the pending resolution or ordinance and the proposed change in the pending ordinance or resolution is within the range of alternatives considered in the environmental impact statement;
 - 2. The proposed change is within the scope of the alternatives available for public comment when the original notice and proposed ordinance or resolution was released for public comment;

- 3. The proposed change only corrects typographical errors, corrects cross-references, make address or name changes, or clarifies language of a proposed ordinance or resolution without changing its effect;
- 4. The proposed change is to a resolution or ordinance making a capital budget decision as provided in RCW 36.70A.120; or
- 5. The proposed change is to a resolution or ordinance enacting a moratorium or interim control adopted under RCW 36.70A.390.
- C. STEP 1: No additional opportunity for public review is provided for actions meeting one or more of the 5 descriptions above.
- D. STEP 2: Make the proposed change in the ordinance or resolution under consideration and proceed with the procedure (Level II, III, or IV) that is applicable to the action under consideration.

16.134.030 Procedure Level II

- A. Applicability: Procedure Level II applies to amendments to a proposed change in the Comprehensive Plan or development regulation when the proposed change has already been provided public notice and public input, and the opportunity for input on the original proposed change has passed, and provisions of RCW 36.70a.035 (2)(a) apply to the amendment.
- B. This procedure applies to amendments to a proposed change in the Comprehensive Plan or Development Regulations when the opportunity for public review and comment on the original proposed change has passed and the proposed amendment does not meet the conditions of RCW36.70A.035 (2)(b) (i),(ii),(iii),(iv), and (v) as described in Procedure I above.
- C. STEP 1: Proposed Amendment is initiated by:
 - 1. City Council
 - 2. Planning Board
 - 3. City Staff
- D. STEP 2: Proposed amendment is mailed or e-mailed to State Department Community Trade and Economic Development (CTED) for 60-day review period. City advises CTED of the proposed Public Hearing schedule for Amendment.
- E. STEP 3: Public Hearing is scheduled before Planning Board (This can occur during or after CTED Review).
- F. STEP 4: Publish the Planning Board Public Hearing Date
 - 1. As provided in RCW 36.70A.140 and WAC 365-195-600, errors in exact compliance with these established program and procedures shall not render the comprehensive land use plan or development regulations invalid if the spirit of the program and procedures is observed.
 - 2. Publication and notice shall be provided as follows
 - a. Everett Herald not less than 10 days prior to hearing (WAC 365-195-600)
 - b. Post at City Hall & Post Office
 - c. Post on City Web Site, and other available sites of known interest
 - d. Post on Public Access Channel when available
 - e. Agenda e-mailed to parties of interest who have requested notification when e-mail address is available
 - f. Post on City Utility Bills when available subject to billing schedule

- G. STEP 5: Planning Board conducts a public hearing
- H. STEP 6: Planning Board recommendation on amendment and public input received at the hearing are forwarded to City Council.
- I. STEP 7: City Council considers Planning Board recommendation and public input received at Planning Board public hearing.
- J. STEP 8: First Reading of Ordinance on City Council Agenda/Meeting. (Public Comments are taken on Agenda items by City Council).
- K. First and Second Reading may be combined at Council option.
- L. STEP 9: Second Reading of Ordinance on City Council Agenda/Meeting (Public Comments are taken on Agenda items by City Council).
- M. STEP 10: If adopted, the Ordinance Amending the Regulation(s) is published, and Effective 5-days after Publication Date.
- N. STEP 11: Copies of Revised Regulation(s) are distributed to interested parties.

16.134.040 Procedure Level III

- A. Applicability: Procedure Level III applies to amendments to the Comprehensive Plan or existing development regulations that address only procedures, or administrative provisions without substantively changing the effect of the Comprehensive Plan or the development regulation as regards its implementation of the Comprehensive Plan (as described in RCW 36.70A.035(2)(b)(iii).
- B. Level III actions are changes that do not materially affect the types of uses allowed on the ground and do not materially alter the criteria, standards, or conditions under which those uses are reviewed and determined to be allowed or not allowed.
- C. Examples of Level III actions
 - 1. Changes in required application information
 - 2. Changes in application procedures
 - 3. Adjustment of notice periods or application review periods
 - 4. Changes in application processing procedures
 - 5. Changes in bonding requirements
 - 6. Changes in public dedications and similar language or depictions required on plats and other developer documents
 - 7. Procedural changes mandated by State Statute
 - 8. Changes in appeal procedures
 - 9. Changes in notice procedures or time lines
 - 10. Similar standards or procedures that do not make a substantive change in the effect of the Comprehensive Plan or the effect of the development regulation.
- D. STEP 1: Proposed Amendment is initiated by:
 - 1. City Staff
 - 2. City Council
 - 3. Planning Board
 - 4. Member of the Public
- E. STEP 2: Proposed amendment is mailed or e-mailed to State Department Community Trade and Economic Development (CTED) for their 60-day review period. City advises CTED of the proposed Public Hearing schedule for Amendment.

- F. STEP 3: A Public Hearing is scheduled before Planning Board (This can occur *during or after* CTED Review).
- G. STEP 4: Publish the Planning Board Public Hearing Date
 - 1. As provided in RCW 36.70A.140 and WAC 365-195-600, errors in exact compliance with these established program and procedures shall not render the comprehensive land use plan or development regulations invalid if the spirit of the program and procedures is observed.
 - 2. Publication and notice shall be provided as follows
 - a. Everett Herald not less than 7 days prior to hearing (WAC 365-195-600)
 - b. Post at City Hall & Post Office
 - c. Post on City Web Site, and other available sites of known interest
 - d. Post on Public Access Channel when available
 - e. Agenda e-mailed to parties of interest who have requested notification when e-mail address is available
 - f. Post on City Utility Bills when available subject to billing schedule
- H. STEP 5: Public Hearing conducted before the Planning Board
- I. STEP 6: Planning Board recommendation on amendment and public input received at the hearing are forwarded to City Council.
- J. STEP 7: City Council considers Planning Board recommendation and public input received at Planning Board public hearing.
- K. STEP 8: First Reading of Ordinance on City Council Agenda/Meeting. (Public Comments are taken on Agenda items by City Council).
- L. First and Second Reading may be combined at Council option.
- M. STEP 9: Second Reading of Ordinance on City Council Agenda/Meeting (Public Comments are taken on Agenda items by City Council).
- N. STEP 10: If adopted, the Ordinance Amending the Regulation(s) is published, and Effective 5-days after Publication Date.
- O. STEP 11: Copies of Revised Regulation(s) distributed to interested parties.

16.134.050 Procedure Level IV

- A. Applicability: Procedure Level IV applies to:
 - 1. Adoption of amendments to the Comprehensive Plan and its elements as provided in RCW 36.70A.035 (1)
 - 2. Adoption of new development regulations or substantive amendment of existing development regulations as provided in RCW 36.70A.035 (1).
- B. STEP 1: Proposed Amendment is initiated by:
 - 1. City Staff
 - 2. City Council
 - 3. Planning Board
 - 4. Member of the Public
- C. STEP 2: Prepare Public Information Binders for Public Review at City Hall, Reception Area, and the Sultan Branch of the Sno-Isle Regional Library. Update Binders as additional information becomes available throughout the review process.

- D. STEP 3: SEPA Checklist on proposed Amendment(s) is prepared by Staff/ Applicant and mailed to the applicable reviewing agencies for 14-day comment period. Mailing includes:
 - 1. Determination (by SEPA Official)
 - 2. Checklist
 - 3. Proposed Amendment(s)
 - 4. Examples of reviewing agencies are
 - a. Department of Ecology
 - b. Corps of Engineers
 - c. Department of Fisheries
 - d. Snohomish County
 - e. Washington State Department of Transportation
 - f. Tulalip Tribes
 - g. Department of Community Trade and Economic Development (CTED)
- E. STEP 4: SEPA Determination including comment period is
 - 1. Published in the Everett Herald not less than 10 days prior to hearing (WAC 365-195-600)
 - 2. Posted at City Hall (required by SMC).
 - 3. Posted at the Post Office (required by SMC).
 - 4. Posted on City Web Site, and other available sites of known interest when available.
 - 5. E-mailed to Parties of Interest who have requested a notice when e-mail address is available.
 - 6. Posted in the Public Information Binder on Public Review and Public Document and Notice Table in City Hall Reception Area.
- F. STEP 5: Proposed amendment is mailed or e-mailed to State Department Community Trade and Economic Development (CTED) for their 60-day review period. City advises CTED of the proposed Public Hearing schedule for Amendment.
- G. STEP 6: Public Hearing is scheduled before Planning Board (This can occur during or after CTED Review).
- H. STEP 7: Publish the Planning Board Public Hearing Date:
 - 1. As provided in RCW 36.70A.140 and WAC 365-195-600, errors in exact compliance with these established program and procedures shall not render the comprehensive land use plan or development regulations invalid if the spirit of the program and procedures is observed.
 - 2. Publication and notice shall be provided as follows
 - a. Everett Herald not less than 10 days prior to hearing (WAC 365-195-600)
 - b. Post at City Hall & Post Office (required by S.M.C.).
 - c. Post on City Web Site, and other available sites of known interest when available.
 - d. Post on Public Access Channel when available.
 - e. Agenda e-mailed to parties of interest who have requested notification when e-mail address is available.
 - f. Post on City Utility Bills when available subject to billing schedule.
- I. STEP 8: Public Hearing conducted before the Planning Board
- J. STEP 9: Planning Board Recommendation on Amendment forwarded to City

- Council. Document includes a statement as to whether or not the Planning Board recommends that the Council hold a second public hearing.
- K. STEP 10: Upon receipt of the recommendation from the Planning Board the Council, by motion, determines whether to hold a second public hearing on the proposal.
- L. If Council decides to hold a second public hearing, proceed to STEP 11.)
- M. If Council decides to proceed without a second public hearing, and take action based on review of the Planning Board's record, proceed to STEP 13.
- N. STEP 11: Publish the City Council Public Hearing date:
 - 1. As provided in RCW 36.70A.140 and WAC 365-195-600, errors in exact compliance with these established program and procedures shall not render the comprehensive land use plan or development regulations invalid if the spirit of the program and procedures is observed.
 - 2. Publication and notice shall be provided as follows
 - a. Everett Herald (Not less than 10 days prior to hearing WAC 365-195-600) .
 - b. Post at City Hall & Post Office (required by S.M.C.).
 - c. Post on City Web Site, and other available sites of known interest when available.
 - d. Post on Public Access Channel when available.
 - e. Agenda e-mailed to parties of interest who have requested notification when e-mail address is available.
 - f. Post on City Utility Bills when available subject to billing schedule.
- O. STEP 13: City Council conducts Second Public Hearing and considers Planning Board Recommendation. Proceed to STEP 14.
- P. STEP 13: City Council considers Planning Board record including staff report, all public input (written and verbal testimony), and Planning Board findings and recommendation and acts on the proposal. Proceed to STEP 14.
- Q. STEP 14: First Reading of Ordinance on City Council Agenda/Meeting. (Public Comments are taken on Agenda items by City Council).
- R. First and Second Reading may be combined at Council Option.
- S. STEP 15: Second Reading of Ordinance on City Council Agenda/Meeting (Public Comments are taken on Agenda items by City Council).
- T. STEP 16: If adopted, the Ordinance Amending the Regulation(s) is published, and effective 5-days after publication date.
- U. STEP 17: Copies of Revised Regulation(s) distributed to interested parties.

16.134.060 Unintentional procedural errors

As provided in RCW 36.70A.140 and WAC 365-195-600, errors in exact compliance with these established program and procedures shall not render the comprehensive land use plan or development regulations invalid if the spirit of the program and procedures is observed.

16.134.070 Definitions

- A. **COMPREHENSIVE PLAN** : The Comprehensive Plan of the City of Sultan as provided for in RCW 36.70A
- B. **COMPREHENSIVE PLAN ELEMENT**: Any amendment to a portion of the Comprehensive Plan including Appendicies and supporting documents that are adopted by reference.

- C. **DEVELOPMENT REGULATIONS:** Ordinances and Codes adopted by the City Council that implement the Comprehensive Plan through land use regulations that establish uses or standards for development of land uses.
- D. **DOCKET- COMPREHENSIVE PLAN:** The schedule for consideration of amendments to the Comprehensive Plan or Comprehensive Plan Elements. The docket operates on an annual basis under the following schedule:
 - 1. Applications for the Comprehensive Plan Docket must be submitted by April 1 of each year for consideration in that year.
 - 2. The Planning Board will transmit initial recommendations to the Council by July 30 of each year. The recommendations will consist of findings on the policy issues and the Board's recommendation on inclusion of the particular proposal on the Council's adopted version of the Docket for the year.
 - 3. By October 1, the council will commit to adding the proposal to the Docket for further staff work and Planning Board action.
 - 4. Note: The once-per-year Annual Docket Process does not apply to amendments to Development Regulations that implement the Comprehensive Plan.
- E. **LEGISLATIVE LAND USE ACTIONS;** Actions taken by the City Council that apply to the entire community such as: amendment of the text of the Unified Development Code, or; actions that apply to significant geographic portions of the community such as amendment of the Official Zoning Map that affects neighborhoods or larger areas.
- F. **QUASI-JUDICIAL LAND USE ACTIONS:** Actions taken by the Hearing Examiner that apply to a single property or a small number of specific properties such as a conditional use or a change of zone on one or a few properties in a group.