

**SULTAN PLANNING BOARD
AGENDA ITEM COVER SHEET**

ITEM NO: D-2

DATE: January 19, 2009

SUBJECT: Planning Board Roles and Functions

CONTACT PERSON: Robert Martin, Community Development Director

ISSUE: Review and discussion of Planning Board roles, functions, and procedures.

BACKGROUND:

For the last few months, the Board has discussed and searched for specifics on its role and responsibilities. The Board held a special workshop meeting on this topic on December 1, 2009, and had it as an agenda item on its last regular meeting on January 5, 2010. The Board has expressed an interest in further definition of the roles of the Board, Council, staff, and the public in the planning process at this joint meeting with the City Council.

Board members have conducted their own research that will be the basis for this discussion. SMC 2.17 (Attachment A) and pertinent sections of the Revised Code of Washington (RCW) 35A-63 are provided for reference.

DISCUSSION:

The Board is seeking guidance from the Council as to how it should proceed to define its role and responsibilities.

ALTERNATIVES:

The following are provided as discussion topics. They are not meant to constrain discussion, but to provide a launching point for discussion.

1. Adopt Rules and Procedures
 - a. Meeting Procedure
 - b. Role of Chair
 - c. Chair vote or not vote
 - d. Regular and Workshop Meetings
2. Enhanced Interaction between Board and Council
3. Review/Revision of SMC 2.17
4. Prioritization of Work Task List
5. Effect of Council Direction/Referral
6. Other

ATTACHMENTS:

Attachment A: SMC Chapter 2.17
Attachment B: Excerpts from RCW 35A.63
Attachment C: Various sample procedure documents provided by Board Members

Attachment A.

SULTAN MUNICIPAL CODE CHAPTER 2.17

Chapter 2.17 DEPARTMENT OF COMMUNITY DEVELOPMENT

Sections:

- [2.17.010](#) Department created.
- [2.17.020](#) Designation of department of community development as planning agency.
- [2.17.030](#) Position established.
- [2.17.040](#) Appointment.
- [2.17.050](#) Powers and duties of director.
- [2.17.060](#) Salary.
- [2.17.070](#) Senior planner and staff.
- [2.17.080](#) Planning board.
- [2.17.090](#) Appointments to planning board.
- [2.17.100](#) Terms of appointments to the planning board.
- [2.17.110](#) Vacancy.
- [2.17.120](#) Removal from membership on the planning board.
- [2.17.130](#) Meetings of the planning board.
- [2.17.140](#) Quorum for meeting of the planning board.
- [2.17.150](#) Rules and regulations.
- [2.17.160](#) Powers and duties.

2.17.010 Department created.

There is created a separate administrative department in and for the city of Sultan entitled the department of community development, to consolidate all planning, environmental and permitting functions into a single department under the supervision of a director of community development. (Ord. 904-06 § 1)

2.17.020 Designation of department of community development as planning agency.

The department of community development is hereby designated as the planning agency for the city of Sultan to perform all duties, directly or indirectly, by contract or agreement, required of a planning agency as imposed by law. Where provisions in the Revised Code of Washington or the city's municipal code reference a "planning agency" and/or "planning commission," from and after the effective date of the ordinance codified in this section, such references shall refer to the department of community development. (Ord. 924-06 § 1; Ord. 904-06 § 1)

2.17.030 Position established.

There is established the position of director of the department of community development in and for the city of Sultan. (Ord. 904-06 § 1)

2.17.040 Appointment.

The mayor shall have the power of appointment and removal of the director of the department of community development. Such appointment and removal shall be subject to confirmation by a majority vote of the city council. (Ord. 904-06 § 1)

2.17.050 Powers and duties of director.

The powers, duties and responsibilities of the director of the department of community development, except where the director may act in a quasi-judicial manner, shall be subject to the direction, authority and supervision of the city administrator, and shall include, without limitation, the following:

- A. Perform, or cause to be performed for the city, all duties as imposed under the Sultan Municipal Code on the city planner or/and zoning official;
- B. Issue administrative determinations under the city's unified development code;
- C. Serve as the city's designated official under the State Environmental Policy Act (SEPA);
- D. Perform directly or by designee all duties imposed on officials of the city of Sultan under SMC Titles 15, 16, 17, 21 and 22;
- E. Appoint and supervise the performance of a senior planner, and such permit technicians as authorized by the city's annual budget;
- F. Except where he/she acts in a quasi-judicial capacity, supervise the performance of the city's building official and the city's code enforcement officer;
- G. Participate in and prepare an annual budget for the department of community development; and
- H. Cause to be performed the duties of the department of community development as established by this chapter. (Ord. 904-06 § 1)

2.17.060 Salary.

The director of the department of community development shall receive a salary in such amount as the city council may from time to time establish by ordinance for a permanent hire, and such amount as the mayor may negotiate and the council approve by resolution for an interim appointment. (Ord. 904-06 § 1)

2.17.070 Senior planner and staff.

A senior planner and staff as authorized by the city's budget may be appointed by the director of the department of community development. (Ord. 904-06 § 1)

2.17.080 Planning board.

There is hereby established a planning board consisting of five members. (Ord. 924-06 § 2)

2.17.090 Appointments to planning board.

All members of the planning board shall be appointed by the mayor and confirmed by the city council. Appointments shall be made in a nondiscriminatory manner, without regard to age, race, sex or political affiliation. (Ord. 924-06 § 3)

2.17.100 Terms of appointments to the planning board.

Two of the initial appointments to the planning board shall be for a one-year appointment. Three of the initial appointments to the planning board shall be for a two-year appointment. All subsequent appointments to the planning board shall be for a term of two years, unless the appointment is to fill the balance of an existing term, in which event the term shall be the balance of the term. Members may be reappointed an unlimited number of terms. (Ord. 924-06 § 4)

2.17.110 Vacancy.

A member's position on the planning board shall be deemed vacant if a member resigns, or if a member misses four regular meetings of the planning board within a 12-month period. Absences may only be excused for substantial reasons, such as serious illness of the member, or immediate family, or death in the member's immediate family. (Ord. 924-06 § 5)

2.17.120 Removal from membership on the planning board.

A member of the planning board may be removed by the mayor for inefficiency, neglect of duty or malfeasance in office. If the mayor believes the required cause for removal exists, the mayor shall issue a notice of suspected cause and allow the member a public hearing before the mayor to demonstrate that cause for removal does not exist. Based upon the evidence presented in the public hearing, the mayor shall determine whether the member shall be removed. The mayor shall report any such removal to the city council. There shall be no right of appeal to the council. (Ord. 924-06 § 6)

2.17.130 Meetings of the planning board.

The planning board shall meet a minimum of once a month, and conduct such other meetings as required to complete the duties assigned to the planning board. The initial meeting of the planning board shall occur within 20 days of the effective date of the ordinance codified in this chapter. Notice of said meeting shall be issued by the director in accordance with the requirements of law. As a first item of business, the planning board shall designate the date and time for its regular monthly meeting. (Ord. 924-06 § 7)

2.17.140 Quorum for meeting of the planning board.

The presence of a minimum of three members shall constitute a quorum. Except to adjourn, no action may be taken in the absence of a quorum. Final action of the planning board in the form of a recommendation shall require the affirmative vote of a majority of the members present when a quorum has been established. (Ord. 924-06 § 8)

2.17.150 Rules and regulations.

The planning board may adopt rules and regulations for the conduct of its affairs. In the absence of any such rules and regulations, the planning board shall follow the most analogous rules used either by the city council for its meetings or by the city's hearing examiner. (Ord. 924-06 § 9)

2.17.160 Powers and duties.

A. In consultation with the director of community development, the planning board shall review and monitor the city's comprehensive plan and development regulations, both as defined in the Growth Management Act of the state of Washington, to establish a list of tasks to be undertaken to keep the city's comprehensive plan and development regulations up-to-date and in compliance with the Growth Management Act;

B. The planning board shall review the city's public participation notices and processes to establish a legally compliant public participation process for the city. The planning board shall report its recommendations on said notices and processes to the director of community development within 60 days of the effective date of the ordinance codified in this chapter. The director shall forward that report and his/her commentary, if any, to the city council within 20 days of receipt;

C. In consultation with the director of community development, the planning board shall implement a public participation process and conduct such public meetings and hearings as required to fulfill the city's public participation obligations under Chapter 36.70A RCW;

D. In conjunction with the director (of community development), the planning board shall develop Sultan's comprehensive plan and/or updates and amendments thereto, and revise development regulations that implement its comprehensive plan and make recommendation concerning the same to the director of community development and to the city council;

E. In conjunction with the director of community development, the planning board shall annually make a recommendation for training and assistance to the board and a budget request to the city council. (Ord. 924-06 § 10)

ATTACHMENT B

EXCERPTED SECTIONS OF

REVISED CODE OF WASHINGTON PERTAINING TO PLANNING AGENCY

RCW 35A.63.010

Definitions.

The following words or terms as used in this chapter shall have the meanings set forth below unless different meanings are clearly indicated by the context:

(1) "Chief administrative officer" means the mayor in code cities operating under the mayor-council and commission forms, the city manager in code cities operating under the council-manager forms, or such other officer as the charter of a charter code city designates as the chief administrative officer.

(2) "City" means an incorporated city or town.

(3) "Code city" is used where the application of this chapter is limited to a code city; where joint, regional, or cooperative action is intended, a code city may be included in the unrestricted terms "city" or "municipality".

(4) "Comprehensive plan" means the policies and proposals approved by the legislative body as set forth in RCW [35A.63.060](#) through [35A.63.072](#) of this chapter and containing, at least, the elements set forth in RCW [35A.63.061](#).

(5) "Legislative body" means a code city council, a code city commission, and, in cases involving regional or cooperative planning or action, the governing body of a municipality.

(6) "Municipality" includes any code city and, in cases of regional or cooperative planning or action, any city, town, township, county, or special district.

(7) "Ordinance" means a legislative enactment by the legislative body of a municipality; in this chapter "ordinance" is synonymous with the term "resolution" when "resolution" is used as representing a legislative enactment.

(8) "Planning agency" means any person, body, or organization designated by the legislative body to perform a planning function or portion thereof for a municipality, and includes, without limitation, any commission, committee, department, or board together with its staff members, employees, agents, and consultants.

(9) "Special district" means that portion of the state, county, or other political subdivision created under general law for rendering of one or more local public services or for administrative, educational, judicial, or political purposes.

RCW 35A.63.020

Planning agency — Creation — Powers and duties — Conflicts of interest.

By ordinance a code city may create a planning agency and provide for its membership, organization, and expenses. The planning agency shall serve in an advisory capacity to the chief administrative officer or the legislative body, or both, as may be provided by ordinance and shall have such other powers and duties as shall be provided by ordinance. If any person or persons on a planning agency concludes that he or she has a conflict of interest or an appearance of fairness problem with respect to a matter pending before the agency so that he or she cannot discharge his or her duties on such an agency, he or she shall disqualify himself or herself from participating in the deliberations and the decision-making process with respect to the matter. If this occurs, the appointing authority that appoints such a person may appoint a person to serve as an alternate on the agency to serve in his or her stead in regard to such a matter.

RCW 35A.63.030

Joint meetings and cooperative action.

Pursuant to the authorization of the legislative body, a code city planning agency may hold joint meetings with one or more city or county planning agencies (including city or county planning agencies in adjoining states) in any combination and may contract with another municipality for planning services. A code city may enter into cooperative arrangements with one or more municipalities and with any regional planning council organized under this chapter for jointly engaging a planning director and such other employees as may be required to operate a joint planning staff.

RCW 35A.63.030

Joint meetings and cooperative action.

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RCW 35A.63.050

Receipt and expenditure of funds.

Any code city or any regional planning commission that includes a code city, when authorized by the legislative bodies of the municipalities represented by the regional planning commission, may enter into an agreement with any department or agency of the government of the United States or the state of Washington, or its agencies or political subdivisions, or any other public or private agency, to arrange for the receipt and expenditure of funds for planning in the interest of furthering the planning program.

RCW 35A.63.060

Comprehensive plan — General.

Every code city, by ordinance, shall direct the planning agency to prepare a comprehensive plan for anticipating and influencing the orderly and coordinated development of land and building uses of the code city and its environs. The comprehensive plan may be prepared as a whole or in successive parts. The plan should integrate transportation and land use planning.

RCW 35A.63.061

Comprehensive plan — Required elements.

The comprehensive plan shall be in such form and of such scope as the code city's ordinance or charter may require. It may consist of a map or maps, diagrams, charts, reports and descriptive and explanatory text or other devices and materials to express, explain, or depict the elements of the plan; and it shall include a recommended plan, scheme, or design for each of the following elements:

(1) A land-use element that designates the proposed general distribution, general location, and extent of the uses of land. These uses may include, but are not limited to, agricultural, residential, commercial, industrial, recreational, educational, public, and other categories of public and private uses of land. The land-use element shall also include estimates of future population growth in, and statements of recommended standards of population density and building intensity for, the area covered by the comprehensive plan. The land use element shall also provide for protection of the quality and quantity of groundwater used for public water supplies and shall review drainage, flooding, and storm water run-off in the area and nearby jurisdictions and provide guidance for corrective actions to mitigate or cleanse those discharges that pollute Puget Sound or waters entering Puget Sound.

(2) A circulation element consisting of the general location, alignment, and extent of existing and proposed major thoroughfares, major transportation routes, and major terminal facilities, all of which shall be correlated with the land-use element of the comprehensive plan.

RCW 35A.63.062

Comprehensive plan — Optional elements.

The comprehensive plan may include also any or all of the following optional elements:

- (1) A conservation element for the conservation, development, and utilization of natural resources.
- (2) An open space, park, and recreation element.
- (3) A transportation element showing a comprehensive system of surface, air, and water transportation routes and facilities.
- (4) A public-use element showing general locations, designs, and arrangements of public buildings and uses.
- (5) A public utilities element showing general plans for public and franchised services and facilities.
- (6) A redevelopment or renewal element showing plans for the redevelopment or renewal of slum and blighted areas.
- (7) An urban design element for general organization of the physical parts of the urban landscape.
- (8) Other elements dealing with subjects that, in the opinion of the legislative body, relate to the development of the municipality, or are essential or desirable to coordinate public services and programs with such development.
- (9) A solar energy element for encouragement and protection of access to direct sunlight for solar energy systems.

RCW 35A.63.070

Comprehensive plan — Notice and hearing.

After preparing the comprehensive plan, or successive parts thereof, as the case may be, the planning agency shall hold at least one public hearing on the comprehensive plan or successive part. Notice of the time, place, and purpose of such public hearing shall be given as provided by ordinance and including at least one publication in a newspaper of general circulation delivered in the code city and in the official gazette, if any, of the code city, at least ten days prior to the date of the hearing. Continued hearings may be held at the discretion of the planning agency but no additional notices need be published.

RCW 35A.63.071

Comprehensive plan — Forwarding to legislative body.

Upon completion of the hearing or hearings on the comprehensive plan or successive parts thereof, the planning agency, after making such changes as it deems necessary following such hearing, shall transmit a copy of its recommendations for the comprehensive plan, or successive parts thereof, to the legislative body through the chief administrative officer, who shall acknowledge receipt thereof and direct the clerk to certify thereon the date of receipt.

RCW 35A.63.072

Comprehensive plan — Approval by legislative body.

Within sixty days from its receipt of the recommendation for the comprehensive plan, as above set forth, the legislative body at a public meeting shall consider the same. The legislative body within such period as it may by ordinance provide, shall vote to approve or disapprove or to modify and approve, as modified, the comprehensive

plan or to refer it back to the planning agency for further proceedings, in which case the legislative body shall specify the time within which the planning agency shall report back to the legislative body its findings and recommendations on the matters referred to it. The final form and content of the comprehensive plan shall be determined by the legislative body. An affirmative vote of not less than a majority of total members of the legislative body shall be required for adoption of a resolution to approve the plan or its parts. The comprehensive plan, or its successive parts, as approved by the legislative body, shall be filed with an appropriate official of the code city and shall be available for public i

RCW 35A.63.073

Comprehensive plan — Amendments and modifications.

All amendments, modifications, or alterations in the comprehensive plan or any part thereof shall be processed in the same manner as set forth in RCW [35A.63.070](#) through [35A.63.072](#).

RCW 35A.63.080

Comprehensive plan — Effect.

From the date of approval by the legislative body the comprehensive plan, its parts and modifications thereof, shall serve as a basic source of reference for future legislative and administrative action: PROVIDED, That the comprehensive plan shall not be construed as a regulation of property rights or land uses: PROVIDED, FURTHER, That no procedural irregularity or informality in the consideration, hearing, and development of the comprehensive plan or a part thereof, or any of its elements, shall affect the validity of any zoning ordinance or amendment thereto enacted by the code city after the approval of the comprehensive plan.

The comprehensive plan shall be consulted as a preliminary to the establishment, improvement, abandonment, or vacation of any street, park, public way, public building, or public structure, and no dedication of any street or other area for public use shall be accepted by the legislative body until the location, character, extent, and effect thereof shall have been considered by the planning agency with reference to the comprehensive plan. The legislative body shall specify the time within which the planning agency shall report and make a recommendation with respect thereto. Recommendations of the planning agency shall be advisory only.

RCW 35A.63.100

Municipal authority.

After approval of the comprehensive plan, as set forth above, the legislative body, in developing the municipality and in regulating the use of land, may implement or give effect to the comprehensive plan or parts thereof by ordinance or other action to such extent as the legislative body deems necessary or appropriate. Such ordinances or other action may provide for:

(1) Adoption of an official map and regulations relating thereto designating locations and requirements for one or more of the following: Streets, parks, public buildings, and other public facilities, and protecting such sites against encroachment by buildings and other physical structures.

(2) Dividing the municipality, or portions thereof, into appropriate zones within which specific standards, requirements, and conditions may be provided for regulating the use of public and private land, buildings, and structures, and the location, height, bulk, number of stories, and size of buildings and structures, size of yards, courts, open spaces, density of population, ratio of land area to the area of buildings and structures, setbacks, area required for off-street parking, protection of access to direct sunlight for solar energy systems, and such other standards, requirements, regulations, and procedures as are appropriately related thereto. The ordinance encompassing the matters of this subsection is hereinafter called the "zoning ordinance". No zoning ordinance, or amendment thereto, shall be enacted by the legislative body without at least one public hearing, notice of which shall be given as set forth in RCW [35A.63.070](#). Such hearing may be held before the planning agency or the board of adjustment or such other body as the legislative body shall designate.

(3) Adoption of design standards, requirements, regulations, and procedures for the subdivision of land into two or more parcels, including, but not limited to, the approval of plats, dedications, acquisitions, improvements, and reservation of sites for public use.

(4) Scheduling public improvements on the basis of recommended priorities over a period of years, subject to periodic review.

(5) Such other matters as may be otherwise authorized by law or as the legislative body deems necessary or appropriate to effectuate the goals and objectives of the comprehensive plan or parts thereof and the purposes of this chapter.

RCW 35A.63.120

Administration and enforcement.

In order to carry into effect the purposes of this chapter, administrative and enforcement responsibilities, other than those set forth in RCW [35A.63.110](#), may be assigned by ordinance to such departments, boards, officials, employees, or agents as the legislative body deems appropriate.

RCW 35A.63.140

Duties and responsibilities imposed by other acts.

Any duties and responsibilities which by other statutes are imposed upon a planning commission may, in a code city, be performed by a planning agency, as provided in this chapter.

RCW 35A.63.150

Public hearings.

The legislative body may provide by ordinance for such additional public hearings and notice thereof as it deems to be appropriate in connection with any action contemplated under this chapter.

RCW 35A.63.152

Public notice — Identification of affected property.

Any notice made under chapter [35A.63](#) RCW that identifies affected property may identify this affected property without using a legal description of the property including, but not limited to, identification by an address, written description, vicinity sketch, or other reasonable means.

RCW 35A.63.160

Construction — 1967 ex.s. c 119.

This title is intended to implement and preserve to code cities all powers authorized by Article XI, section 11 of the Constitution of the state of Washington and the provision of this title shall not limit any code city from exercising its constitutionally granted power to plan for and to make and enforce within its limits all such local police, sanitary, and other regulations in the manner that its charter or ordinances may provide.

RCW 35A.63.170

Hearing examiner system — Adoption authorized — Alternative — Functions — Procedures.

(1) As an alternative to those provisions of this chapter relating to powers or duties of the planning commission to hear and report on any proposal to amend a zoning ordinance, the legislative body of a city may adopt a hearing examiner system under which a hearing examiner or hearing examiners may hear and decide applications for amending the zoning ordinance when the amendment which is applied for is not of general applicability. In addition, the legislative body may vest in a hearing examiner the power to hear and decide those issues it believes should be reviewed and decided by a hearing examiner, including but not limited to:

(a) Applications for conditional uses, variances, subdivisions, shoreline permits, or any other class of applications for or pertaining to development of land or land use;

(b) Appeals of administrative decisions or determinations; and

(c) Appeals of administrative decisions or determinations pursuant to chapter [43.21C](#) RCW.

The legislative body shall prescribe procedures to be followed by a hearing examiner. If the legislative authority vests in a hearing examiner the authority to hear and decide variances, then the provisions of RCW [35A.63.110](#) shall not apply to the city.

(2) Each city legislative body electing to use a hearing examiner pursuant to this section shall by ordinance specify the legal effect of the decisions made by the examiner. The legal effect of such decisions may vary for the different classes of applications decided by the examiner but shall include one of the following:

(a) The decision may be given the effect of a recommendation to the legislative body;

(b) The decision may be given the effect of an administrative decision appealable within a specified time limit to the legislative body; or

(c) Except in the case of a rezone, the decision may be given the effect of a final decision of the legislative body.

(3) Each final decision of a hearing examiner shall be in writing and shall include findings and conclusions, based on the record, to support the decision. Such findings and conclusions shall also set forth the manner in which the decision would carry out and conform to the city's comprehensive plan and the city's development regulations. Each final decision of a hearing examiner, unless a longer period is mutually agreed to in writing by the applicant and the hearing examiner, shall be rendered within ten working days following conclusion of all testimony and hearings.

RCW 35A.63.220

Moratoria, interim zoning controls — Public hearing — Limitation on length.

A legislative body that adopts a moratorium or interim zoning ordinance, without holding a public hearing on the proposed moratorium or interim zoning ordinance, shall hold a public hearing on the adopted moratorium or interim zoning ordinance within at least sixty days of its adoption, whether or not the legislative body received a recommendation on the matter from the planning agency. If the legislative body does not adopt findings of fact justifying its action before this hearing, then the legislative body shall do so immediately after this public hearing. A moratorium or interim zoning ordinance adopted under this section may be effective for not longer than six months, but may be effective for up to one year if a work plan is developed for related studies providing for such a longer period. A moratorium of [or] interim zoning ordinance may be renewed for one or more six-month periods if a subsequent public hearing is held and findings of fact are made prior to each renewal.