

Board of Okanogan County Commissioners

Monday, Dec. 16, 2024 PM

JN—Jon Neal, BOCC, Chair, District 3

AH—Andy Hover, BOCC, District 1

CB—Chris Branch, BOCC, District 2

LJ—Lanie Johns, Clerk of the Board

PP—Pete Palmer, Director of Planning

SM—Stacey McMillan, Deputy Clerk of the Board

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Summary of significant discussions:

- The commissioners and Pete Palmer, Planning Director, discuss the zone code revision. At the end of a long discussion they decided that they will move forward with the changes in the text revision (the red-line document) which include the water use section, correction of typos, ministerial corrections and special uses for solar and wind power generation. Everything in the District Use Chart for the Methow Review District will revert back to what it was in the original code.
- Director Palmer will also prepare a prioritized list of topics to discuss in the next zone code revision (such as the dark skies initiative, ridgetop development and multi-family dwellings) and the commissioners will commit themselves to completing this second revision.
- In the BOCC meeting on Tuesday, Dec. 17, the commissioners hope to set Dec. 23 as the date to vote on the zone code revision.
- Meeting adjourned at 3:20

-1:49:20—AH has not returned from lunch yet. LJ explains how she's changed the Search and Rescue (SAR) resolution slightly. It's a part-time position and includes the hourly rate. JN and CH exchange ideas about their computers. CB was hoping to retire without having to change his password one last time. AH arrives.

-1:44:30—PP—I thought I was the one late. I'm Pete Palmer, Planning Director. We're here for our second work session following the Zone Code hearing. I did some research.

PP—First, having our documents available in other languages. I talked to Esther (Milner, Chief Civil Deputy Prosecutor) this morning. She was in the car, but we did some research about Title VI. The executive order that was mentioned during the public hearing 13166—it pertains to beneficiaries to government funded programs. Doesn't necessarily pertain to land use or things like we're doing. If you'd like to figure out a way to put out the information in Spanish, let me know.

AH—I think it would be a good thing to do.

JN—But we have to see what kind of expense it would be.

PP—I was also asked about was to try to find out when the penalties for misdemeanors had gone into the land use code. I went back to Ordinance 79-8, Section 36—Penalties. It lists 36.1 as a misdemeanor with a maximum penalty of 90 days in jail, or a fine of \$500.

Board of Okanogan County Commissioners

Monday, Dec. 16, 2024 PM

AH—It's been there through a lot of commissioners' review.

CB—And I've heard from various people that the zoning code has no teeth.

PP—We'd talked about timelines. We have scheduled Dec. 23 to try to pass the ordinance for this. Speaking with legal counsel, they're strongly urging us to stick with the timeline. We've already asked the Yakama Nation several times for forgiveness and they're dragging along. Moving forward, when we started this revision, it was focused on the stipulation order and aligning our zoning code with the newly adopted Comprehensive Plan. Going through that with the consultant resulted in some changes to the District Use Chart (DUC) and some changes in the section that addresses solar and wind energy. What was done to the rest of the code, excepting what was done to the temporary use section was all focused on the stipulation order. They asked me to remind the Board to stick to the stipulation issue. Then we can turn around and address the things that keep coming up—enforcement, multi-family housing, and other things.

PP—CB received an email about zoning reform. I did a lot of research about it this weekend. I'd like to look at it for our next revision. I think they have a lot of tools to offer—technical assistance to do a big revision of the zone code where we look at enforcement, multi-housing and where we want it placed, our sub-units, lighting and glare and ridgetops—all the things that keep coming up. We don't want to put them off, but we want to do more research to see what it will entail. We want to make sure we do it right when we begin on it. So, I'm throwing out the reminder what the purpose of the zone code change is this time, and why we're keeping a list of important items we need to revisit in the future.

PP—That brings me to multi-family dwellings. I looked at Chelan, Kittitas and Douglas Counties. They're all worded a little differently from each other, but it's mostly that they're defined as dwellings situated on one lot that have the capability to house two or more families. Examples—townhouses, duplex, triplex, apartment houses.

AH—Are they conditional use permits (CUPs)?

PP—It depends on what zone designation they were in their county's code.

AH—And ours was going to be a CUP across the board?

CB—That wasn't what my intent was—across the board.

AH—I didn't think so.

CB—Each needs to be consideration of what district they're in. It came up a bit in the context of the relationship with the cities and towns infrastructure, too.

AH—Can I ask something. I think ours is across the board.

PP—It's not. The only change in multi-family housing was in Rural 1, 5 and 20 where it went from a permitted use to a conditional use.

AH—That's pretty across the board. That's almost every lot in the Okanogan Valley and the southern Methow Valley.

PP—It already existed as a CUP in Agricultural Residential, the Methow Review District (MRD), Rural Residential and Low-density Residential.

AH—All of those are in the Methow.

CB—Those districts don't exist anywhere else?

PP—Agricultural Residential...

AH—That might be in Oroville. But it's the only one.

CB—What I meant was if you made duplexes and triplexes allowed outright, that they be in the area of the city infrastructure.

PP—One is in Oroville, and one is in the Barnholt Loop.

1:34:34—AH—I know we don't want to lose sight of what we're trying to do, but at the same time... You said we're trying to make this match our Comp. Plan. The other day I made the statement that in the MRDs I thought it'd be good to have CUPs for the changes that were asked for. But then I thought about

Board of Okanogan County Commissioners

Monday, Dec. 16, 2024 PM

it. It's actually a big change to what has been going on there for years and years. That makes a difference in the characteristics of the MRD. I'm torn. It increases the potential for environmental harm. I'm not always about that, but also, where are we going to face legal challenges? I don't have the list right in front of me, but it's in the industrial whatever.

AH reads the uses in the DUC.

Auto repair—I could go both ways. Maybe a guy wants to open up a shop next to his house.

Auto wrecking—We've got enough auto wrecking going on that aren't permitted to begin doing conditional use.

Bank—neither here nor there.

Electric Vehicle Charging Stations—Everybody seems to like those, but what if they want one under a power line right on the side of the road. It's a change. The comments say you're taking something that hasn't been allowed and making it a conditional use.

Petroleum Service Station—I don't necessarily see this shouldn't be done, but I see it as a challenge.

PP—I don't live in the Methow, but my personal opinion is that I don't want to touch the Methow anymore that we have to. Allow for the subunit committees to be put together, revisit the boundaries of the subunits and maybe do the zone changes to include the lower Methow. Even if we had only one committee for the whole MRD, then we don't get spread too thinly trying to track everybody. Let the people who live there and know what's out there and let them plan it, instead of people who don't live there make the changes that will change the lives of the people who do live there. That's just me, personally.

AH—Let's put a bookmark on that, and go over to the multi-family section over here (in the Okanogan Valley). I've worked on a farm since I was a kid. Trying to find labor that will come back every year. Just like any other business, you want to retain your employees because it's a burden to train new guys all the time. Ranchers can't pay a lot of money. (Orchards are a little different.) But you still need foremen and others that you want to keep year-round. Housing will help that. If I need a CUP, what would be the conditions?

PP—Probably mostly around water and sewer. Legal source of water and engineered septic system or enough space for drain fields. The conditional use is so we can give the other agencies an opportunity to comment on that. We're not experts on water or sewer, or if your access can support the traffic. If you're along the river, the Historic Preservation Office.

AH—One house doesn't trigger Historic Preservation?

PP—Single building permit doesn't trigger anything but Planning, Building and the Health Departments.

AH—Legal availability of water isn't conditional, it's mandatory. At the Board of Public Health's meeting yesterday, I asked Mike about cisterns. He started talking about legal availability, etc. and I said that's not our purview, that's the county's. But to get a Building permit, the Health Department has to sign off on the on-site systems.

PP—And the water quality, that it test's clean.

AH—There are already conditions on that, no matter what I do.

PP—When we do a site analysis for a permitted use, it goes through our department. We review it. If it triggers the Health Department or Building Department, they get copies. Then once it's approved, it goes to Building for their permit. We don't get involved in the different departments. It's not until it goes beyond a single-family dwelling that it gets blown up a little. Public Health looks at potable water, not whether it's a legal use of water. But when they hook multiple homes, it triggers more. It's like what we're in with the Stenisis' (?) now. Every property is a new situation. What we're trying to do is catch some of the ones that are in areas to cause environmental concerns. They may not necessarily be triggered by critical areas.

AH—I appreciate that, but I don't agree with it. That means all the zones along the river—R1s, you'd want to make sure they're environmental sound. But R2Os are usually uplands. The water aspect, we

Board of Okanogan County Commissioners

Monday, Dec. 16, 2024 PM

have to do, legally bound to check for legally available water through Washington Administrative Code (WAC) 137-548, 137-549, Hirst decision, Rosin (?) decision. All of those things have to be in the zone code. But some of these other things, I'm unsure of.

PP—The other thing with a CUP is that it allows us to make sure that when people are investing their life savings into a dream or a vision (similar to what happened with the meat packing plant up north) we want to make sure they don't build something and then find out they can't get the state permit.

AH—Anything that requires a state permit, I'd expect us to have a CUP. Anything that's apartment building size I'd expect us to have a CUP.

PP—That's where we're getting crossed. Apartment building falls under the multi-family dwelling. If you put it in a residential area, you have to be sure you have enough parking.

AH—But I'm worried that all of these conditional uses... You know how hard it is to get planners. It takes a while to get a permit because you've got a lot of stuff to do.

PP—It's not always on the department. Nine times out of ten, when someone asks us about the timeline of an application, it falls back on the applicant. They have to get the right documents to us or meet conditions of their approval. That's what happened with the gravel pit. It took them a while to get the state permits—noxious weeds, habitat.

AH—I yield my time.

JN—I just looked to see if there's a more concise definition, but they're all the same.

CB—If anyone says it's one dwelling...what if I want to make five little dwellings? For me, we have a zoning code. We're looking to make changes that will take a lot of thought. We're dropping the ridgetop and dark sky because they need to be worked on. We'd be doing well if we committed to review them and show intent to carry through. We're not dropping them because we don't like them. We need to show commitment on the part of the commissioners to carry forward. The comments came from the Methow, and I can see why they said them.

CB—I sent the article about reforming zoning codes because a lot of them need reforming. Laise faire zoning doesn't seem like a fiscally responsible way to zone.

CB—I'd like to be able to move on to the things that need a lot of work. We're asking the public—a mix of people—to be a part of that. We tried it before. We had workshops in the Methow, and people came to agreements and then it was all trashed—after (*inaudible*) sitting in this seat.

CB—What we're considering now is recommendations from the Planning Commission? True?

PP—True.

CB—I don't want to get lost where we are.

PP—True. Those were the three matrixes that were sent—the DUC, the revisions and the recommendations for the (*inaudible*) revisions.

AH—I'm going to ask the question. The Planning Commission sent us the recommendation to change all of these commercial uses in the MRD to CUPs. They were not allowed at all, and the recommendation was to change them to conditional uses. Do you agree with that?

CB—I don't agree with that.

PP—But I want to remind you that during the first revision and public hearing, everybody agreed with that. Then we went through the second hearing and there were no changes made to that. And now here we are.

CB—Everybody agreed to moving all the prohibited uses to CUPs. Everybody agreed with that.

PP—Everybody meaning the Planning Commission and the BOCC in the first revision. It moved forward through the second review, which got us to where we are now.

CB—Thanks for the reminder, but I don't agree with it today. Sorry. I hope that doesn't drag things out.

AH—I appreciate you saying that. I don't agree with it, either, and there are some things on the other side that I don't agree with. What I'm curious about—if we both said we don't agree with it, is that a big enough change so it has to go back through comment?

Board of Okanogan County Commissioners

Monday, Dec. 16, 2024 PM

CB—I don't have to agree with it, but I would make a motion to move the zone code forward the way it's been presented. I don't have to agree with it to make the motion just to see where the hell we are.

JN—Right now, none of us agree with portions of it.

CB—And I don't see us getting over that because of the complexity. If we're talking about doing that in the Methow, I don't see that it's going to be supported to allow things that weren't allowed for many years.

PP—What I was told by the legal review group, if we're making changes that are less restrictive (like if we're going to throw out all of the changes to the DUC and go forward with what it is in the original code), it would be basically less restrictive than what we're proposing, and wouldn't be looked at as a significant change. I'd want to bring that back in front of them again, but that's how they explained it to me and EM when we talked to them the last time. When we were going back to what the original code said and making it less restrictive.

-1:10:28—AH—We've done a lot of work on this through the year. The only thing we have to get done now is the water thing. It's not whether we like it or not. It's—that's the law so that's what we're going to do. There are several court cases that have imposed the responsibility of legally available water on the county. We've got WACs and RCWs that we have to follow. Some of the other stuff though the whole process—comments I've heard through the public process. Our due diligence is to take in the comments people give us and to say—where does this put us. I know the water portion has to get passed. Some of the other stuff we have questions on.

AH—I did some thinking about the MRD. Are these changes really in keeping with the MRD. There are some retail establishments outside of the cities, and I find them very weird. Are there things that would be OK to be a conditional use. Somethings I don't want out there. I don't think anybody wants them out there.

CB—We were talking comprehensively about the whole code, and we're now focused on the Methow Valley. In the CUP process, if it's not well accepted to have these uses in the area, you put people making those proposals in a really tough situation.

AH—Because they're trying to make that proposal.

CB—And there will be people opposed to it, and there will be contested land use hearing. If I see that coming, why would I try to create that situation for people who want to do business. Then you find out you're not such a business-friendly county. You had an opportunity to do it by CUP and the people didn't want it and opposed it.

AH—The Subarea Planning Unit for Unit A did a pretty good job of telling us what fits in the parameters of the More Completely Planned Area (MCPA).

CB—the Comp Plan division fits it. It's been done before.

AH—The other thing I was looking at... (AH shares his screen showing the zones)...

AH—Pete, this is not a reflection on the Planning Department. We asked you to do something and you did it. It's gone through several reviews, and we finally got to the point where we had our public hearing. The hearing the Planning Commission had should have just made a recommendation to us and then we'd go through it. But it wasn't. We need to learn from that. I appreciate all the hard work that's going into this.

PP—We're going to get through this, and if it takes more time...

AH—We're on a timeline about water. I'm OK with the water portion of it.

PP—I was looking at the matrix of the changes in the text code and looking at my staff report going forward—taking out the lighting and ridgetops, that leaves us to the ministerial changes, some typos, the water availability, and the special uses. That's it in the text portion of the zone code and people are OK with that. What people have issues with is the DUC. Do we want to spend a lot of time on that, or revert them all back to what there were, and move this forward with the water availability, the typos corrected,

Board of Okanogan County Commissioners

Monday, Dec. 16, 2024 PM

the special use section? Get it passed and then revisit the DUC, and we'll have more time to spend with the uses? Also revisit the ridgetop and lights? I've got a list going with important things to look at in the next revision.

AH—By the way, the new, interactive map is awesome. When we talk about just looking at the DUC, I think we should hone in differently. (Shows all the R1s.) Does that need to be all R1? Over here is R5. So, if it only affects 1s and 5s, that's a giant chunk of the Okanogan Valley.

AH—I think we need to look more holistically. Print out a map of the R5s and talk about should they come down to R2s or R1s.

CB—I say go to each city and town and look at their urban growth area. Pull the zoning into consistency with what they've got.

AH—I heard that. One side had a lot of comments—They said we should get a committee together. We have a committee already—the Planning Commission. But I think maybe we should put more out to have more public meetings here. We could get a ton of people if we say we're thinking about changing the R5s.

PP—That was one thing I took away from the hearing—I would look at little areas and take it piece by piece. Not have a big document, a big crowd and not have it blow up like it did.

AH—There's a lot of stuff like the MRD changes to CUP—that we commissioners need to look at and sift through. I glossed over that. I can educate myself, but I've got a lot of stuff to educate myself on. Sometimes I miss something and that was one of them. The time it really stuck me was when the people in the Methow said they were really worried about going to conditional use.

AH—I think we should go with the recommendations you have and leave the DUC the way it is. We're in peril of destroying this county as a rural county. I was thinking about it—you don't see a lot of apartment buildings being built in Omak or Okanogan. If a developer can't figure out how to do it in Omak... There's a few newer ones, I guess. And I'm not talking about low-income housing.

CB—Because the people who move here don't want to live in apartments.

AH—#1, it'll keep the MRD intact until we can address the things in there.

CB—But there needs to be a commitment. We don't just want to talk about it and never go back to it. In the Methow, dark skies and ridgetop stuff is important. But some said it's not ready.

AH—I had conversations with three couples who said they'd done all the work and now they were worried they wouldn't be able to build.

AH—In the coming year, the Planning Department and the BOCC should talk about this. There are a couple of places where I can see people being denied a building permit. When that's in place, people may feel better about it.

AH—What's the government's reason not to allow ridgetop development?

PP—Not creating slide areas or unstable slopes.

CB—Why do that? Preserve the landscape. The Methow's landscape is different than the landscape over here. People really like to look at it. I went for a ride once and people showed me nice views and said they'd done a lot of work to keep it that way. The attraction of the Methow Valley is an economic value, too. People wonder if we're going to regulate ugly, but there's a lot of value there.

AH—When you're retired, we can finally take a drive, and I'd love to show you what I see. Ridgetop development? Is that on the skyline or on a lower ridge?

CB—Somethings need to be actually looked at.

AH—And I'd like to take you up there at night. The light pollution...

AH—We have stopped subdivision in the Methow, all the way down to a mile of the mouth. There can be no more lots created. Now we only deal with lots created in the past.

CB—What if we say we have so many lots and can't have any more, and what if people consolidated lots that shouldn't have been subdivided at all?

Board of Okanogan County Commissioners

Monday, Dec. 16, 2024 PM

AH—That'd be awesome. I was talking with Community Action. There was a house bill about tax exemptions. I don't know what incentives we can use as commissioners. One problem is the lots all have different owners, so much harder to consolidate. If I could offer incentives, I'd do it.

CB—In the Tunk with 700 lots, one guy has actually consolidated several parcels. Commit to consolidation how?

JN—There has to be a reason for them to do it. You can consolidate parcels for a development.

AH—Planned developments are hard to do. But you can give them a density bonus. I believe in Planned Developments. They leave open space open.

CB—We've already got planned developments. Maybe it could be like a conservation easement.

AH—Would then there be more growth allowed outside of the consolidation?

CB—If you consolidate a lot of parcels, you have a land bank.

CB—Land rich and cash poor and they want to subdivide. Some developer does it for them and gets a lot of the money. You need to decide what it means to maintain agricultural. And how can we provide options that don't involve development of their land.

AH—That's the hard part. Conservation easements can be tailored to each individual piece. You can say I need two houses, and this road, and you can sell the conservation easement with that development allowed. Most ranchers or farmers didn't buy their ranch. Most have ranches for generations. They've been stewards of the land for generations. Now, my grandpa had a dump so maybe that's not good stewardship.

AH—But the world has caught up with you and there's so much development going on. You get trapped. You've been a steward for so long. Farming income goes down. Labor prices go up. Sometimes you can't even cut out a piece of property for your heir to come back and manage the land. That's wrong.

CB—That's another area. That's why I talk about the possibility of consolidating your parcels. But you have to realize what the effect of the whole thing is.

AH—What incentive could the government offer?

CB—What do you want? We can take it from there. Could you transfer development rights so somebody can develop in another place? We're brainstorming.

AH—I thought Pete's statement about what we could do was good. I'd be comfortable with that—put in the water, do the few administrative things...

CB—Did we do anything with cut and fill? That's not been included with this proposal? There's some value in that.

CB—Certain things have been proposed. What I'd like to see in the adoption is findings of facts and to do the things in a prioritized way.

AH—We all need to write down our priorities. The dark skies...

CB—The commitment will be to engage.

AH—I'd get county money to write a pamphlet to give to people getting a building permit—how to conserve water, lighting, etc.

CB—I'm not saying how you do it, but just to commit to work with people in the Methow and come to a decision.

AH—In just the little bit of understanding about dark skies, there are some things that can be good. Timers on lights, for example. But there was no education from people who do this for a living. They didn't come here and explain it to us.

AH—I don't build on the ridgetop, but I have a lot of glass in the front of my house, and I like to party. And motion detection lights and timers can work.

CB—But your point is there's a lot of work to be done—what can be done, what will it cost, etc.

AH—I'd like the county to get some information out to people. Underground sprinklers, for example.

Board of Okanogan County Commissioners

Monday, Dec. 16, 2024 PM

CB—There are a lot of people who move here from the city to get away from all that. And the lights were something to get away from. But others move here to do whatever they want. If people could just be good neighbors, that would solve a lot, but some people don't know how.

AH—We live within a framework of laws. The Constitution guarantees us freedom, but we don't have the right to impose on other people's freedoms.

CB—And times change, and the Constitution has changed, too.

AH—We have to have the bounds that we could live within.

CB—If we could do whatever we want, there'd be 5-year-old kids driving around.

JN—Mine did.

JN—We may just need to take care of the stipulation order and then move on with the rest of it.

CB—We need to have a game plan or people will feel pissed if we don't do anything else.

JN—Well, I think the penalties caused the most problems, even though they've been in the code since the beginning of time. And the next one was the church one.

CB—The intent is not off. I added to the definition of churches. Saying it doesn't include people gathering in their own home.

AH—I'd say it should be controlled by how much traffic you'll attract. If you'll attract over a certain number, then you'll need a CUP.

CB—SEPA's threshold will sometimes do that. Parking lot size. But the definition should exclude reference to people's houses. Another thing that's come up with churches...

AH—Let's just make our list of priorities. Some will be simple administrative things, and Pete can do the easily.

CB—Sometimes churches do activities on their land—homeless camps and other things that will affect your neighbors.

AH—We can cross that bridge when we come to it.

CB—Hearings examiners would know that.

AH—Churches can affect the neighborhood, but so can my Super Bowl party. What are the conditions that we can put on a church. Parking lot will be an impervious surface.

CB—Maybe just with setbacks. (CB tells of a situation where a church wanted to add a ramp into the church for access, but a neighbor objected.)

-18:40—AH—Pete, can we go over your recommendations one more time, so we're all square what we're looking at.

PP—Looking forward, the matrix with the text revision changes (the red-line document), everything would move forward in there, which is the water use section, correction of typos, ministerial corrections and the special uses (solar and wind). Everything in the DUC would revert back to what was in the original code. After the second round of comments and review, they were in my staff report.

CB—Is the required updates in 2027 are mostly related to the Critical Areas?

PP—Yes.

CB—And we're way behind on those updates.

PP—Yes. We started talking to the Department of Ecology to find funding to help with Critical Areas and Floodplains revisions which are next on the list.

JN—Special provisions? Is it getting removed.

PP—I was going to leave it in. There was no objection. The PUDs are the main ones affected, and they support it.

PP—The water availability, the corrections and the special uses would all stay in. The proposed changes to the DUC would come out.

AH—If we make that decision, then there are other things that we're committed to looking at in the near future.

Board of Okanogan County Commissioners

Monday, Dec. 16, 2024 PM

CB—And some of those things are in the Comp. Plan. We want to do the changes, but you can't do it in a responsible way just overnight.

PP—I've been keeping a list of the priorities you're looking at. I can make a list of what I hear, and you can add what you'd like. I could have it back by tomorrow. The next meeting would be on the 23rd.

PP—My next question is do you want to stick to the 23rd date?

AH—Some people think it's two days before Christmas, so we're trying to pull the wool over their eyes. But we're not.

PP—So can I get 5-10 minutes on the agenda tomorrow for you guys to see the list and to direct me to move forward with what we just discussed. And part of the motion would be that you're committing to those other topics.

AH—How about 11:30?

PP—Fine.

AH—Pete, thank you for going through all that stuff and getting it organized. We're a bunch of cats and you're herding us along.

PP—Sometimes that's the task. PP leaves.

-10:06—LJ brings up several details that need to be taken care of.

Commissioners adjourn for the day at 3:20.