



JEFFERSON COUNTY

PLANNING COMMISSION

621 Sheridan Street

Port Townsend, WA 98368

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Minutes for Wednesday, May 7, 2008

- A. Opening Business**
 - B. Public Hearing – Sign Ordinance**
- Adjournment**

A. Opening Business:

The meeting was called to order at the WSU Learning Center at 6:30 p.m. by Chair Peter Downey. Planning Commission members present were Peter Downey, Henry Werch, Bill Miller,

Tom Brotherton, Barbara Nightingale, Patricia Farmer, Tom Giske and Ashley Bullitt and Mike Whittaker.

The DCD staff present were Stacie Hoskins, Planning Manger and Karen Barrows, Assistant Planner.

Members of the public who signed the guest list were Dennis Schultz, Cammy Brown, Richard Grandy and Eleanor Sather.

Approval of minutes: None this meeting

Staff Updates:

Karen Barrows reported on the Housing Action Plan Network (HAPN) and that the BoCC adopted a resolution establishing HAPN rules of operation and appointed members to HAPN which had included Barbara Nightingale of the Planning Commission.

HAPN approved and sent a letter to Senators Murray and Cantwell in support of SHB 2523, the National Affordable Housing Trust Fund Act of 2007. The BoCC approved and sent a similar letter and the Port Townsend City Council is expected to consider a similar letter in the coming weeks.

HAPN sent a letter to the BoCC and Port Townsend City Council recommending that the two bodies adopt a joint resolution declaring a housing emergency in Jefferson County. The letter was presented to the BoCC and City Council at a joint workshop on May 1st.

HAPN has adopted guidelines by which the group will consider 'endorsing' specific affordable housing projects.

Karen Barrows reported on the Pleasant Harbor Master Planned Resort and the County will be issuing a Request for Qualifications (RFQ) next week as part of a process to identify and select a peer review consultant team to assist the County in reviewing and revising the Supplemental Environmental Impact Statement, Development Agreement and Development Ordinance.

Stacie Hoskins noted that the RFQ would be a different consulting firm to give a second opinion on all of the professional work. Statesman has engaged their own firm which is GeoEngineers and some other associated firms to do the work and they worked on the first FEIS. The County would like to have the peer review team be able, from the professional perspective, tell us if this is appropriate or are there other things they should be looking at from the project level. This would include a couple of two party agreements, one with the County and Statesman that they will pay for this and another with the County and the professional team that we engage.

Stacie Hoskins stated that this is all public record and we will incorporate their suggestions and recommendations. The peer review team will help us with scoping to help say that the team that Statesman has engaged; are there any gapes in the areas of expertise that should be addressed.

Karen Barrows reported on the Duckabush and Dosewallips Comprehensive Flood Hazard Management Plan and that the County has selected HDR as the project consultant and is in the process of negotiating a contract with the firm. The County is in the process of scheduling the first public meeting for the project and establishing an advisory committee to assist staff with plan development.

Karen Barrows reported on the Water Utility Coordinating Council (WUCC) meeting which will be held on May 8th from 1-4 p.m. at the Tri-area Community Center. Some items on the agenda will include updates of existing water service plans and areas, and a couple of amendments to water service areas proposed particularly by the City of Port Townsend and Pleasant Tides.

Karen Barrows reported that the Climate Action Committee (CAC) has been formed in response to a joint resolution adopted in January. This is a joint committee consisting of fifteen members including Commissioner Nightingale, citizen at large, representing marine interests. The first meeting will be held on May 28th from 3:30 to 5:30 p.m. at the Pope Marine Building. To find any information regarding the CAC go to the County website to find out what is available on line.

Karen Barrows reported on the UGA and that a general UGA population and capacity analysis was originally done by Mark Personius for the UGA, and introduced into the 2004 Comp Plan update. Currently, Eric Toews is assisting staff with developing a more detailed methodology to analyze population growth projections and UGA population holding capacity. Staff convenes at least once a week on this issue and the draft methodology is still under development.

Meanwhile, there are several other outstanding issues for the WWGMHB Final Decision and Order of February 8, 2008 that need to be worked on with the UGA committee. After committee assignments are made, feedback on scheduling UGA committee meetings are suggested; 1) meet two times per month, on the second and fourth weeks, not to exceed two hours per meeting; 2) does the committee desire daytime or evening meetings and 3) Wednesdays and Thursdays work best for the planner, Joel Peterson.

Commissioner Miller will take action to establish the time and when to meet.

Stacie Hoskins asked if for the record we could distinguish between the two "Toms" on the PC. Tom Giske stated that he could go by "Tommy". Commissioner Bullitt commented that both sound just alike.

Karen Barrows reported on the Adult Business Moratorium which is a six-month moratorium that was established on Monday, May 5th. A public meeting must be held with the BoCC in the next 60 days regarding the moratorium. Ryan Hunter is the staff lead on this project, but DCD will rely heavily on expertise of the PC to move this forward (that is, to "juggle"), while at the same time work on higher priority PC business.

Karen Barrows reported on the Comp Plan Amendment final docket recommendations from the PC and DCD that were forwarded to the BoCC to be addressed during the May 12th regular agenda. Because the recommendations from the PC and DCD differ, DCD will recommend that the BoCC hold a public hearing about the final docket.

Chair Downey asked what is staff recommendation and Stacie Hoskins responded that staff recommendation is to not include the side by side on this year's docket and hold off until 2009.

Chair Downey asked that someone from staff contact Bud Schindler to let him know if the BoCC will hold a public hearing as the side by side is important to him.

Karen Barrows noted that the Planning Clerk, Jeanie Orr, asked to remind the PC to make sure the public introduce themselves and that also the two "Toms" decide how to address themselves

for the record. Ms. Barrows stated that if the public were to listen to the tapes of a meeting they could not tell who was speaking. Tom Giske responded again by stating he could go by “Giske”.

Election of Officers

Peter Downey opened the floor for nominations for the position of Planning Commission Chair.

Moved by Commissioner Werch, seconded by Commissioner Giske to nominate Peter Downey as Chair.

Comments were made by several PC members that Peter Downey has been an excellent Chair under tough situations, is appreciated and gives fair time to everyone and follows rules.

Motion carried with eight in favor and one abstention. (8-0-1)

Chair Downey thanked the PC for the vote of confidence.

Chair Downey then opened the floor for nominations for the position of Vice Chair.

Moved by Commissioner Bullitt, seconded by Commissioner Brotherton to nominate Bill Miller as Vice Chair.

Commissioner Bullitt commented that Bill Miller is the most knowledgeable and fluent about the facts and issues and has cordial respectful relations with all members of the community. He makes a real effort to create bridges with all members. Commissioner Bullitt stated that he was an excellent Chair and handled the D’Amico case last year in Chimacum as there it was total chaos in the room and he brought it back to order.

Motion carried unanimously. (9-0-0)

Chair Downey noted that the terms begin immediately and continue for a year.

Committee Reports:

Commissioner Miller reported that he received three emails on the UGA and they will start meeting later this month. He stated we need to determine the size for the UGA and it looks like it’s going back to full size and they can build out in that time period.

Commissioner Brotherton reported that he had collected over 2000 pages of studies, most electronically to the committee members to split up and review. Commissioner Bullitt was surprised at how much information was collected and Commissioner Werch wanted to know the origin of one of the studies since it did not have a citation.

Chair Downey stated that he would like to see a couple of alternatives and different approaches. Commissioner Brotherton commented that he wants to show how property values are affected by Adult Businesses and wants to use these studies to gauge impacts and what have other jurisdictions have done to mitigate. Commissioner Bullitt asked if it was legal to charge them higher fees to pay for mitigation of this type. Commissioner Brotherton responded that we cannot band them but use zoning to control where they can locate and to be in licensing regulations to control the backgrounds of the entertainers, managers etc.

Chair Downey stated there isn't anything to report on Shoreline update yet. He did state that his name was put forward by John Austin to be put on the Puget Sound Partnership Straits Committee as a shellfish representative.

Stacie Hoskins noted that we anticipate releasing the draft SMP on May 23rd as it will also be posted on the County website and the PC will receive hard copies in their next packet. Ms. Hoskins commented that it will probably be early June before Michelle McConnell will make a presentation to the PC on the initial SMP draft.

Commissioner Nightingale reported on HAPN and stated there is supposed to be 1.5m to rural counties for affordable housing from SHB 2523. She commented on using the vacant lot next to DCD, with DCD having offices downstairs and people upstairs. As she heard from her first meeting, we are in a crisis, emergency situation with fears of losing Admiralty Apartments.

Chair Downey commented that even though we are in an emergency situation we need to do good planning and design and Commissioner Nightingale responded that they started to address that, but it's not the first thing they are looking at right now.

Commissioner Bullitt agreed with Chair Downey and not to build something that does not have a long life. Instead of setting up situation where poor people are segregated; things just fall apart as we need mixed use and mixed income in particular. We need the stronger people to hold up the weaker people in a situation like that.

Commissioner Whittaker commented on the stacked housing in Bremerton as a vision of affordable housing. If this is what it takes to get people in housing, maybe this is what we are looking at. Chair Downey commented that the low income housing projects in Chicago from the beginning and Commissioner Werch responded that not all housing in Chicago was high rise blight.

Commissioner Nightingale reported that a WRIA meeting will be held on May 13th and will report back at next meeting and Jefferson County has two water bodies on the 303 list which are Admiralty Inlet and an area at Port Townsend Bay.

B. Public Hearing – Sign Ordinance

Chair Downey opened the Public Hearing on the Sign Ordinance.

Karen Barrows did the staff report on MLA08-222 proposed amendment to JCC 18.30.150 which is development standards pertaining to signs. These provisions apply to the entire County except the City of Port Townsend. On October 13, 2006 Clallam County Superior Court Order 06-2-00894-7 enjoined or prevented Jefferson County from enforcing JCC 18.30.150(2)(f) which limits the size of political signs to 8 square feet. This case was decided, based on the U.S. Constitution 1st and 14th amendments concerning constitutionally protected free speech.

Using a provision of the Planning Enabling Act called a Board Initiated Control which is RCW 36.70.640 the BoCC decided it was in the public interest to amend the development standards in Chapter 18.30 pertaining to signs and made a motion to forward the issue for review to the PC back in February 2007. On April 18, 2007 the PC discussed this issue in a public meeting and voted unanimously to amend the code to exempt political signs from size limitations. Following legal review it was determined that a public hearing was necessary.

On April 23, 2008 staff submitted to the PC a recommendation to hold a public hearing, deliberate and make a recommendation, if possible. DCD staff also submitted a recommendation that the amendment to JCC 18.30.150 should consist only of exempting political signs for size limitations and that a separate subsection 18.30.150(2)(g) should be created for political signs that simply reads: Political Messages.

Chair Downey opened the Public Hearing to Public Testimony:

Ellie Sather from Brinnon commented about a neighbor who put up signs facing Whitney Gardens that directed customers to the neighbor's garden. When she realized this was happening the County told her that it was too late and that she had 30 days to respond. She fielded questions from the public and even directed people to their garden. The issue no longer exists but she asked "what would have stopped this from happening"?

Bob Pontius from Port Ludlow commented on political signs, and the courts affirmed political rights. We all have a right to say something and some people are not financially strong and need to be given credit for effort. Maybe it would be a plywood sign but it shouldn't impact our civil rights. Need to be tolerant of political signs and should be safe but should be left alone.

Richard Grandy from Quilcene commented that he likes the political signs across the street. What about real estate signs and what is its size boundary. Can a realtor put any size sign up and get a monetary gain? It's an off site sign on personal property. He stated he has personal property with commercial sign for personal business. Is there a conflict of interest?

Mike Belenski from Port Townsend (but in Jefferson County) commented that he went on line to find the packet on signs and saw it said "attachments" but they were not included. This is a meeting and he wanted to read the information before hand and asked that in the future all the information be on line. He asked what the definition of "political messages" is. Is there no size limitation on political signs? He stated the Sullivan wanted 16 square feet limitation and wanted a clarification on size limitations and it is unclear what you are proposing.

Mike Belenski commented that when you read the Collier injunction, Commissioners Johnson and Sullivan got 5k – 7.5k from the Democratic Party and sometimes others don't have as much money. Those with less use yard signs and if he was a candidate then he would object to size limits because it limits their rights.

Bob Pontius commented that 3 minutes is too short to make public comment when someone comes 100's of miles to speak. He thinks it shouldn't be limited to 3 minutes.

Chair Downey closed the Public Testimony for the Public Hearing.

Moved by Commissioner Werch, seconded by Commissioner Miller to accept staff's recommendation to exempt political signs from size limitations.

Commissioner Bullitt stated that good points were made about political meaning. Are we talking about signs for the electoral process and for candidates and issues that are on the ballot. She would like to see something about electoral because just saying "political" is big and vague.

Chair Downey differed from Commissioner Bullitt and free speech shouldn't be limited and exempting would include candidates expressing political opinion and Commissioner Bullitt stated as long as we are clear on the definition otherwise there is room for abuse.

Commissioner Miller stated that the Ordinance should be content neutral. There is no definition for billboard, temporary, pole or specialty signs and would like clarification.

Chair Downey stated for the record his point of view, anything that is a political statement and/or a political position is considered a political sign.

Commissioner Brotherton stated that he is against the motion. In looking at Collier vs. Tacoma, it has an interpretation of what we can and cannot do. It says government can regulate content neutral information and mentions time limitations on political signs. He gave a handout to the PC to read that shows what other Counties (Kitsap, King, Thurston and Mercer Island) are doing for political sign regulations. He stated we need to make findings of fact, conclusions of law and formulate a recommendation. Unlimited growth of signs can impact a County negatively and he stated that all signs located on private property and smaller than 32 square feet be exempt from permit requirements.

Commissioner Brotherton proposed a friendly amendment stating;

- 1) Revise Section 18.30.150(2)(f) to read: (2)(f) Non-commercial signs on private property measuring less than or equal to 32 square feet.
- 2) Revise subsection (2)(g) to read: (2)(g) Event based signs in a public right of way measuring less than or equal to 6 square feet, provided that such signs must be removed no more than 7 days following the event.
- 3) Revise subsection (2)(i) by deleting entirely.

Commissioner Werch noted that besides the content of Commissioner Brotherton's recommendation he was confused by the proposed line in, line out. Anything under 2) would refer to signs that are exempt. Commissioner Brotherton responded by stating yes.

Commissioner Werch stated he would prefer to see these things specified as what is allowed rather than what is prohibited. Discussion ensued between several PC members of what the above friendly amendment includes or doesn't include or could be changed and also real estate signs.

Commissioner Brotherton stated that in general, our Sign Ordinance, he believes, is the idiot child of all County Ordinances. It is small and does not cover all the things other Counties have by definitions and stated our Ordinance has no definitions.

Discussion continued with several PC members speaking at once and not clear on what was being talked about or any clarification on the above proposed friendly amendment.

Chair Downey asked Commissioner Werch is he accepts Commissioner Brotherton's friendly amendment and he responded by stating yes.

Commissioner Nightingale asked if the friendly amendment is to accept the revisions to section (2)(f) and (2)(g) and also the verbal deletion of (2)(i) and was told yes by several PC members at once. Commissioner Brotherton commented to also include the conclusions of law and findings of fact as discussion.

Commissioner Nightingale also stated that she can see why we need to revisit this but it raised questions in how it is proposed. Personal signs on private property displaying personal messages such as yard sales or no trespassing were left unanswered. Don't we want to limit the signs there as the first part seems to address and she has no problem with that. The second part is already

addressed in our code. Commissioner Brotherton's proposal included all signs; no special restrictions on political messages and all content neutral.

Commissioner Brotherton stated that all of 18.30.150 needs revision. Discussion ensued about commercial signs. Commissioner Nightingale stated that by taking the politics out of it, are we doing something other than what the court decision really addressed. Commissioner Brotherton stated no, that we are doing exactly what the court said and that we can't distinguish kinds of signs and that's in keeping with Collier. Commissioner Nightingale responded that is not how she read it and is not sure by making this change that we are not avoiding further court and unsure if we are keeping with the court decision.

Commissioner Werch commented that if we do not mention political signs at all, are we in affect saying, political signs are not subject to this regulation. We are not saying that, we are just not dealing with it. Commissioner Nightingale commented that it seems we are avoiding what the issue is and Commissioner Werch stated he does not want to see the regulation of the size of political signs in any way, shape or form.

Chair Downey stated that other than health and safety issues, the size is not an issue under 32 square feet and Commissioner Bullitt noted that if the sign is over 32 square feet they will have to get a permit anyway.

Commissioner Werch gave an example of a gas station that erected a huge American flag and ended up in court and won the right to fly it, on principle and free speech.

Chair Downey questioned that if the PC makes changes to the staff proposal does the PC have to come back for a new public hearing. Stacie Hoskins stated that the BoCC could adopt the PC recommendation without a public hearing if they choose to deviate from the PC recommendation that would have to hold their own public hearing. Chair Downey recommended the BoCC hold a public hearing on this as well.

Chair Downey called for the question and the motion as amended was to include the replacement of (2)(f) non-commercial signs on private property measuring less than or equal to 32 square feet and (2)(g) event based signs in a public right of way measuring less than or equal to 6 square feet; provided that such signs must be removed no more than 7 days following the event and revise subsection (2)(i) by deleting entirely.

Karen Barrows stated that the staff recommendation is to create a separate sub section (2)(g) that states: Political Messages.

Further discussion ensued between the PC members talking to each other regarding zoning and building permits, zoning, safety, and general sign comments and questions.

The above amended motion was carried with six in favor and three opposed. (6-3-0)

Chair Downey read the conclusions of law and findings of fact written up in the summary handout from Commissioner Brotherton.

Conclusion of Law:

1) Freedom of political speech is a highly protected constitutional right and all residents of Jefferson County are encouraged to exercise that right.

2) Jefferson County has a reasonable government interest in aesthetics and traffic safety and a duty to develop reasonable content-neutral regulations on the size, height, and spacing of temporary signs; and for the post-election removal of signs whose issue has been settled by an election.

Findings of Fact:

1) Unlimited growth of temporary signs negatively impacts resident's quality of life and detracts from commercial growth potential.

Chair Downey stated that the PC has a new Ordinance and the recommendation to go forward to the BoCC. They also recommend that the BoCC hold a public hearing.

Moved by Commissioner Miller, seconded by Commissioner Giske that the Chair sign this motion on its completion to submit to the BoCC at the earliest convenience.

Motion carried unanimously. (9-0-0)

Discussion continued regarding the need for a minority report and Commissioner Werch commented he would write up a report. Chair Downey stated he voted against the motion from a technical point of view and was not completely satisfied that this does not limit free speech and Commissioner Nightingale agreed.

Public Comment:

Bob Pontius commented on affordable housing and constitutional issues that eliminate exemptions puts restrictions on personal freedoms.

Commissioner Whittaker commented on buffers for mining and stressed the need to be addressed. He noted that some people would like it to go away and Chair Downey agreed but stated it should not go away as it is becoming more critical with the overlay proposed in Port Ludlow.

Stacie Hoskins commented that at the May 21 meeting the PC hold a workshop on mining and review the UDC Amendment proposals. Chair Downey suggested that the PC have the window of opportunity to get the UDC Amendments completed by the end of August. Chair Downey suggested that after the next meeting a committee be formed to go over different mining proposals and come forward with recommendations to the PC. Commissioner Whittaker will be Chair with Commissioners Brotherton and Giske on the committee also.

Commissioner Werch stated he would like to continue with the Bylaws committee to review and see if there are any issues. Other committee members are Commissioners Whittaker and Farmer. Chair Downey asked them to come back at the next meeting with a recommendation as an agenda item and stated that his opinion is that staff does not need to be at every single one of these things.

One of the Commissioners stated that an agenda item for the next meeting could be strategy of membership and Chair Downey commented that was a good idea. The agenda item would be Committee Overviews. Chair Downey stated we have a lot of new members and new committees and let's make sure we have our basis covered but he would like to meet with staff prior to the next meeting.

Chair Downey recommended that rather than meet with staff, the PC send the Chair their list of news items and he will review. Then Chair Downey restated and specifically requested that PC

email Jeanie Orr who will forward to him what the committees are, their purpose and who is on the committees.

Commissioner Bullitt commented that DCD is very understaffed, very highly stressed and the more committees the PC has, the more work it makes for staff. How much is this going to cost in terms of DCD time which is a critical element.

Adjournment:

The meeting was adjourned at 9:19 p.m.

Approval of Minutes:

These minutes were approved this _____ day of June, 2008.

Peter Downey, Chair

Jeanie Orr, Secretary