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MINUTES
KITSAP COUNTY PLANNING COMMISSION
Administration Building - Commissioner's Chambers
December 4, 2007, 9:00 am

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These minutes are intended to provide a summary of the meeting flow and content and should not be relied upon for specific statements from individuals at the meeting.

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The Kitsap County Planning Commission met on the above-stated date at the Kitsap County Administration Building – Commissioner's Chambers located at 619 Division Street, Port Orchard, WA 98366.

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Members present: Chair John Taylor, Fred Depee, Linda Paralez, Michael Gustavson, Tom Nevins, Lou Foritano, Jim Sommerhauser and Dean Jenniges. Not Present: Vice Chair Lary Coppola.

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Staff present: Eric Baker, Scott Diener, Bryan Garcia, Jonathan Pavy, Angie Silva, James Weaver and Planning Commission Secretary Amanda Walston.

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9:04:14

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A. Call Meeting to Order, Introductions

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B. Director's Update, Larry Keeton, Director, DCD

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(Agenda item B deferred.)

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C. Work Study: 2007 Phase II Code Development: Eric Baker, Special Projects Manager, Office of the Board of County Commissioners

45

9:05:32

Baker: *Reason for coming before the Planning Commission is to discuss Code Development. We will produce a new draft, which will be out later this month or early January.*

Foritano, Depee: *Will the Summary Table be updated and redistributed?*

Baker: *Yes, it will reflect changes and additions and you will receive a copy at least one to two weeks prior to my next appearance before you.*

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9:06:50

Gustavson: *Has a string of questions and comments:*

Title 16, Item 1 regarding expiration of short plats: In reviewing Noble Manor vs. Pierce County, vested rights do not divest under RCW 58.17.170 after five years.

Item 3, “requiring notarized signatures on the face of a map to eliminate need for recording,” what does a notary have to do with this?

Baker: *Previously you had to record both the application and the actual plat, there are several changes throughout the code, such as this one, that aim to reduce the amount of paperwork that needs to be notarized and recorded.*

9:08:54

Gustavson: *Item 4, “develop a list of pre-approved available road names,” we should have that already available.*

Item 7 talks about “innocent purchaser process,” we need to review case law to make sure we match Supreme Court decisions.

Item 8, “develop code language to require road connectivity between plats and subdivisions,” (Agrees this is important.)

Item 11, what is being resolved by this amendment?

Item 18, again mentions innocent purchaser

Item 48, dedication for public acquisition – how is this working and what circumstances has it been used for, are any?

Baker: *It has not been used often; other avenues can provide the same results.*

9:11:11

Gustavson: *We need to clarify that, we can’t just drift along*

Title 17, Item 2 also refers to road connectivity

Item 53, determining when an establishment is a tavern, a nightclub or restaurant serving alcohol and food or just alcohol – why do we care?

Item 54, asks the same question, define if it is a drive-in or restaurant

Baker: *For the record, the document Commissioner Gustavson is reading from is not the internal draft sent out by my office, but from documents emailed to the Planning Commission by Buck and Gordon in June of 2007.*

Jenniges: *Will this innocent purchaser rule eliminate the buyer beware concept?*

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1 **Baker:** *The intent is to protect people who purchase property and, through no*
2 *fault of their own, are given erroneous information by county or have no way of*
3 *knowing that restrictions and conditions existed, making said property unusable.*

4
5 **(Discussion continues regarding what qualifies an individual as an**
6 **innocent purchaser, the definition and expectations of due diligence on the**
7 **part of the County.)**

8
9 **9:16:04**

10
11 **Gustavson:** *Item 65, also addresses the high turnover restaurant issue.*
12 *Item 68, junk motor vehicle issue, this should be cleaned up a little*
13 *Item 70, “dogs and cats breeding, hobby farm rules,” what about keeping*
14 *animals to keep the vegetation down?*
15 *Item 71,” Landscaping definition includes patios and decks and paving”*
16 *Item 77, “high water mark property line,” I live on the water front and there*
17 *is no separating property line, it goes all the way out to the water.*

18
19 **Baker:** *This is not a big issue now, with shoreline buffers and setbacks, but the*
20 *idea is that setbacks should be based on an imaginary line that is all the way out*
21 *into the water which creates a significant amount of un-buildable land.*

22
23 **9:18:00**

24
25 **Gustavson:** *My issue is with the term property line, since no line exists.*
26 *Item 85, “non-conforming use and structure,” the wording is difficult.*
27 *Item 91, “amend definition to distinguish between businesses that are*
28 *primarily pharmacies or retail sales.” I can’t think of a single case in this*
29 *county where an establishment is only a pharmacy.*

30
31 **Baker:** *Some areas looking for small pharmacies, but want to avoid a Rite-Aid.*

32
33 **Gustavson:** *Is it even worth spending time on it?*
34 *Item 131, “gun ranges,” we have to nail this one down.*
35 *Item 150, “the Board of County Commissioners remanded the ADU*
36 *language back to the Planning Commission back in December 2003.”*
37 *Item 154, deals with “view blockage waivers.”*

38
39 **Baker:** *Previous code changes addressed shoreline view blockage waivers.*

40
41 **9:20:37**

42
43 **Gustavson:** *Title 21, Item 61, “RCW requires 300 feet, does County want*
44 *to change,” what is the issue here?*

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1 **Baker:** *For notification around subject properties, RCW uses 300 feet; we use*
2 *400 feet because we want to include more people, especially for rural projects.*

3
4 **Gustavson:** *Item 65, addresses short plats after five years of vesting.*
5 *Item 76, “add provision describing imposition of impact fees, respond to*
6 *the James decision,” what decision and RCW are they referring to?*

7
8 **9:22:03**

9
10 **Gustavson:** *Item 79 “add vesting provision that describes what details*
11 *and use are vested upon application.” Noble manor is listed as a*
12 *generous example, but I don’t know why. It’s a short plat and that’s it.*

13
14 **Taylor:** *I also want to see sewer connectivity in addition to the roads. We*
15 *have the same problems for sewer with cul-de-sacs, large plats and*
16 *neighborhoods.*

17
18 **Baker:** *Connectivity will be covered in the commercial draft.*

19
20 **9:23:44**

21
22 **Gustavson:** *I would like to discuss the proposal of an additional goal to*
23 *the Growth Management Act relating to global warming. It will*
24 *tremendously impact County planning efforts.*

25
26 **Nevins:** *Agrees it will have a large impact, but we should put it aside for*
27 *now. I would like to see the legal decisions and information used*
28 *regarding accessory dwelling units in the rural areas.*

29
30 **Baker:** *We will provide that list of decisions as well as various related nuances.*

31
32 **9:25:01**

33
34 **Foritano:** *To what extent will the county attempt to find and factor in Best*
35 *Available Science, when it appears to be optional at this point? (Would like*
36 *to see the Board of County Commissioners stay on top of this issue to*
37 *avoid a crisis that might occur if we wait.)*

38
39 **Baker:** *Best Available Science is basically the formal best practices criteria,*
40 *previously called standard practices. We will be glad to look into and discuss it.*

41
42 **Nevins:** *Would like a briefing on what is considered “science.” I know we*
43 *have misconceptions on what is significant, what is tested, what is real.*
44
45
46

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1 **9:27:52**

2
3 **Jenniges:** *The desire to maintain natural vegetation in some of the*
4 *outlying platting is just keeping huckleberries and salal which does nothing*
5 *but hide rodents; I believe most people could do better.*

6
7 **9:30:13**

8
9 **Taylor:** *Questions time management plan, how long this project will take.*

10
11 **Baker:** *The first component of this process was supposed to be done by this*
12 *year, but has now been pushed to early next year. The beginning part of next*
13 *year I will appear before you quite a bit, the latter part of the year, expect to see*
14 *Scott Diener and Staff with their items.*

15
16 **9:31:30**

17
18 **Gustavson:** *How will we see the existing and proposed wording changes?*

19
20 **Baker:** *We plan to provide the proposed text in strikethrough format, but we could*
21 *also show tabular format if preferred.*

22
23 **9:32:40**

24
25 **Depee:** *Would like to see the large lots process revised. We've had 30*
26 *years of successful rulings on how to do short plats; we should adapt the*
27 *short plat process and apply it to large plats as well.*

28
29 **Baker:** *You will see something in the end of the 2008 or the beginning of 2009.*
30 *Right now our large lot language is from 1971 and has been abolished by other*
31 *jurisdictions and we are revising it. We are looking at whether short plats are*
32 *written from a different master.*

33
34 **9:35:18**

35
36 **Baker:** *I will take these comments and we will be prepared to have these*
37 *discussions in early 2008.*

38
39 **Taylor:** *(Clarifies the next meeting on January 8th is a special meeting with*
40 *the Board of County Commissioners.)*

41
42 **9:36:16**

43
44 **Sommerhauser:** *I am concerned that Planning Commissioners are*
45 *expressing things that should be coming from the podium, not the dais.*

Kitsap County Planning Commission – December 4, 2007

1 **Sommerhauser:** *Our job is to be the eyes and ears of the public and*
2 *present to the Board of County Commissioners, not to advocate for any*
3 *particular interest, even our own.*

4
5 **9:38:07**
6

7 **Foritano:** *Isn't our job to advocate for the public interest?*

8
9 **Taylor:** *Yes, and because of our experience we are able to keep an eye*
10 *out for issues we have seen happen in the past. I bring this perspective to*
11 *the planning commission and view it as an asset.*

12
13 **9:40:03**
14

15 **Depee:** *Much of the public does not understand how these processes*
16 *work or apply to their circumstances. I have people come to me and ask*
17 *me to fix things, look at things and make changes happen. I see this as*
18 *an opportunity to expose and raise these issues to staff. I see myself as*
19 *an advocate to people first and my opinion second*

20
21 **9:42:00**
22

23 **Baker:** *There are two facets for the Planning Commission. When you are*
24 *directly making decisions on a proposal or specific cases brought forth, you are*
25 *being formally asked to deliberate and make a recommendation. When you*
26 *participate in work studies, you are working with staff and the commissioners in*
27 *an effort to understand issues and facilitate open, productive discussion.*

28
29 **(Discussion continues regarding how the perception of bias can be present**
30 **even if the intent or actions of the Commission is not compromised.)**
31

32 **9:48:40**
33

34 *(Scott Diener distributes copies of critical legal decisions going back to August.*
35 *Also introduces Bryan Garcia, a volunteer and Jonathan Pavy, temporary help for*
36 *Policy and Planning. James Weaver thanks the Commission for its work.)*
37

38 **9:55:09**
39

40 **D. Discussion: Agenda Items for Joint PC BoCC Meeting**

41
42 **Diener:** *The agenda for discussion with the Board of County Commissioners*
43 *already contains a few items from you, including: view shed protection and best*
44 *available science, the role of the Planning Commission, a review the Pierce*
45 *County Planning Commission model, sewer provisioning, and how to mesh the*
46 *planning commission's needs and requests into staff's workload.*

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1 **Diener:** *The Planning Commission is the eyes and ears of the public and their*
2 *idea of what and how the county should handle issues. The Board of County*
3 *Commissioners ultimately gives DCD and Staff its workload, so it is important*
4 *that we all communicate.*

5
6 *Please submit any ideas for agenda items by December 25, so we can prepare*
7 *an actual agenda and submit for legal noticing. (Asks for any additional items to*
8 *discuss today.)*

9
10 **9:57:40**

11
12 **Foritano:** *Questions if the processes that the Planning Commission goes*
13 *through and the processes that the Board of County Commissioners goes*
14 *through aren't redundant and should be streamlined. Can we do a*
15 *common public hearing?*

16
17 **Diener, Taylor:** *Yes; those kinds of combined meetings have been utilized in the*
18 *past; we can champion that to the Board as something we'd like to see more of.*

19
20 **9:59:22**

21
22 **Jenniges:** *Isn't your schedule driven by what laws and orders come down*
23 *from the state? When laws come through, the Board of Commissioners,*
24 *in turn, imposes the timeline to staff.*

25
26 **Diener:** *There are a number of Growth Management Act compliance issues we*
27 *routinely have to take care of. I wouldn't say the board determines its work plan*
28 *through the state, but it does make sure it is consistent with the Growth*
29 *Management Act and that we can accomplish it in the time allowed.*

30
31 **10:00:47**

32
33 **Gustavson:** *There is a common public feeling that the Planning*
34 *Commission recommendations don't matter so they don't bother attending*
35 *our meetings and go straight to the County Commissioners meetings.*

36
37 **Diener:** *The County Commissioners have to have their own public hearing.*

38
39 **(Discussion that there is no law that requires issues brought before the**
40 **County Commissioners to first go through the Planning Commission to**
41 **create "standing." Standing can be developed before the Board at the**
42 **Public Hearing.)**

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1 **10:03:11**

2
3 **Depee:** *The perception is that Planning Commission recommendations*
4 *don't hold much weight with the County Commissioners, but if they*
5 *expand our role in their decisions, it would be helpful and the community*
6 *would appreciate it. They do discuss our recommendations and consider*
7 *them in the work studies, but not when the public is present.*

8
9 **10:04:46**

10
11 **Gustavson:** *The County Commissioners should look at having a Planning*
12 *Commissioner available for clarification and discussion in public hearings.*

13
14 **10:06:27**

15
16 **Jenniges:** *Believes a big part of the problem exists when the Planning*
17 *Commission disagrees or finds against staff recommendation. If that is*
18 *the case, the Planning Commission recommendation never gets fully*
19 *explained which contributes to the public feeling that the Planning*
20 *Commission is merely a formality and has no meaningful input.*

21
22 **Sommerhauser:** *I would like to see notice to title linked to both the Critical*
23 *Areas Ordinance and possible expansion elsewhere.*

24
25 **Taylor, Diener:** *Confirm that as a directive by Larry Keeton, these kinds of legal*
26 *decision shall be provided to the Planning Commission as they become available*
27 *throughout the year.*

28
29 **10:08:48**

30
31 **E. 2007/De-Brief/Look Back**

32
33 **Diener:** *Reviews a list of 2007 accomplishments including: low impact*
34 *development and stormwater revisions, Critical Areas Ordinance, large onsite*
35 *septic systems regulation, general code update, Silverdale Design Standards,*
36 *open space current use assessments, training, updates on shoreline inventory,*
37 *Keyport Planning, Manchester Design Standards and Community Plan Update,*
38 *as well as Manchester site specific applications*

39
40 **10:10:29**

41
42 **Jenniges:** *Wants meeting materials delivered much sooner, especially*
43 *with the volume of information given. We also need to establish the*
44 *planning timelines a lot sooner. If you have hard deadlines, we can try to*
45 *coordinate and tackle them together instead of rushing through at the end.*

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1 **Sommerhauser:** *Agrees on receiving materials sooner. Items received at*
2 *the last minute do not allow for complete discussions. Also feels that*
3 *limiting public comment during public hearings to three minutes is getting*
4 *worse and doesn't allow public input the way it was intended.*

5
6 **10:14:37**
7

8 **Foritano:** *Doesn't feel we need more time, would rather spend less time*
9 *and manage it better. If you have a question, submit it to staff and fellow*
10 *Commissioners and discuss it at the next meeting.*

11
12 *The actual meetings should be for communicating with staff on present*
13 *issues and current agenda items.*

14
15 *Instead of stretching an issue, like Code Development, over six months,*
16 *why not schedule a weekend and spend two full days on getting it finished*
17 *and a decision made. Also prefers summaries instead of full legal*
18 *documents.*

19
20 **10:16:50**
21

22 **Taylor:** *Maybe we should consider an all-day Saturday meeting for Code*
23 *Development in order to catch up.*

24
25 **Depee:** *Feels that to be conscious of staff time, if a weekday is available,*
26 *we should do it then.*

27
28 *The three minute time limit in a public hearing is very controversial. Could*
29 *we look at a matrix that splits up the total allotted time available between*
30 *the total number of citizens wishing to speak?*

31
32 **10:18:49**
33

34 **Gustavson:** *For complex items, such as the Critical Areas Ordinance, we*
35 *should really allow the option to spend more time if needed.*

36
37 **10:19:40**
38

39 **Nevins:** *Prefers the full legal documents to summaries. For complicated*
40 *law cases, such as Best Available Science, that go back and forth over a*
41 *long period of time, it is helpful to be able to go back and read through*
42 *these in addition to the summaries provided by Staff.*

43
44 **10:22:00**
45

46 **(Discussion continues on full documentation versus summaries.)**

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1 10:24:36

2
3 (BREAK)

4
5 10:34:06

6
7 (RECONVENE)

8
9 *(Discussion about what Court documents are included in the packet provided. A*
10 *list of all the legal documents distributed with identifiers will be sent out to*
11 *Planning Commissioners.)*

12
13 10:37:45

14
15 **F. Discussion: Planning Commission Officers: Chair Taylor**

16
17 **Taylor:** *The first meeting in January is when we will elect our Chair, per*
18 *our by-laws. I'd like to discuss the process now and be prepared for the*
19 *January 8th meeting. I wanted you to know that I am willing to continue as*
20 *Chair of the Commission if you so decide.*

21
22 10:41:06

23
24 ***(Discussion continues regarding past election practices which have***
25 ***included rotation by seniority and also by district and whether they should***
26 ***be continued or move to nomination and secret ballot.)***

27
28 10:49:23

29
30 **Sommerhauser:** *Whatever procedure we decide to use needs to be put in*
31 *writing. (Questions which version of by-laws is most current and the*
32 *Planning Commissioners' term dates listed on the website.)*

33
34 10:52:10

35
36 **Diener:** *The 2007 version of the By-Laws is current, the website will be updated.*

37
38 ***(Discussion continues and it is determined that there will be a balloted vote***
39 ***for Chair and Vice Chair at that meeting.)***

40
41 10:56:18

42
43 **Diener:** *We proposed reviewing our Rules of Procedure 10 months ago, but due*
44 *to scheduling priorities, we have been unable to do. Will send a list of the current*
45 *Planning Commissioners and their terms will be sent to all members.*

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10:58:11

Diener: *The intent of the minutes is to provide a summary document for the Board of Commissioners to read. We will try to stay with a summary versus transcription format.*

Gustavson: *The minutes are public record and for the Growth Management Hearings Board, a hardcopy transcript is required. That is why the summary version doesn't work.*

10:59:06

Diener: *Minutes are different from transcripts and are meant to provide a summary of decisions and the flavor of the meeting.*

Gustavson: *Wants to see the proposed additional goal for Growth Management on the agenda for the Joint Meeting.*

11:01:45

Taylor: *I would like to publicly express appreciation to Dean Jenniges for his service to the Kitsap County Planning Commission, particularly for his attention to detail, his thoroughness, and the fact that he reads all the documents provided and always comes to the meetings prepared.*

A motion is made by Commissioner Depee and seconded by Commissioner Foritano to adjourn the meeting.

**The VOTE:
Unanimous**

The motion carries

Time of adjournment: 11:02:26

EXHIBITS

A. Legal Documents on Growth Management Hearings Board Decisions

MINUTES approved this _____ day of _____ 2007.

John Taylor, Chair

Amanda Walston, Planning Commission Secretary