

Kitsap County Planning Commission Minutes – July 21, 2020

KITSAP COUNTY PLANNING COMMISSION

Zoom Webinar –

<https://us02web.zoom.us/j/85323673577>

OR Dial In: (253) 215-8782 Webinar ID: 846 4532 3256 Password: 344627

July 21, 2020 @ 5:30 pm

These minutes are intended to provide a summary of meeting decisions and, except for motions made, should not be relied upon for specific statements from individuals at the meeting. If the reader would like to hear specific discussion, they should visit Kitsap County's Website at <http://www.kitsapgov.com/dcd/pc/default.htm> and listen to the audio file (to assist in locating information, time-stamps are provided below).

Members present: Mike Eliason (Chair), Joe Phillips (Vice Chair), Alan Beam, Amy Maule, Richard Shattuck, Jim Svensson

Members absent: Ed Galliway, Kim Allen, Aaron Murphy

Staff present: Angie Silva, Shawn Alire, Scott Diener, Dave Tucker, Dave Ward, Jeff Rimack, Liz Williams, Amanda Walston (Clerk)

5:30 pm

A. Introductions

B. Virtual Meeting Protocol

C. Adoption of Agenda

- **MOTION:** Joe Phillips moves to adopt the agenda as presented
- **SECOND:** Richard Shattuck
- **VOTE: 5 in Favor; 0 opposed; 1 abstention – Motion carries**

D. Adoption of Minutes

- 06/16/20 Minutes
- Chair Eliason requests the following corrections: page 2, line 20 – replace 'some' citizens; page 6 line 36 – Mr. Gurnee 'notes'; page 9 line 16 – 'reference'; page 10 line 8 – 'but,' line 11 – 'permitted in,' line 23 – 'notes.'
- **MOTION:** Joe Phillips moves to adopt the minutes as amended
- **SECOND:** Amy Maule
- **VOTE: 5 in Favor; 0 opposed; 1 abstention – Motion carries**
- 07/07/20 Minutes

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1 • Chair Eliason requests the following corrections: List Mr. Svensson absent;
2 page 5 line 10 – remove ‘represents.’

3 • **MOTION:** Mr. Phillips moves to adopt the minutes as amended

4 • **SECOND:** Alan Beam

5 • **VOTE: 5 in Favor; 0 opposed 1 abstention – Motion**
6 **carries 5:37**

7 **E. General Public Comment**

8 • **Chair Eliason opens the floor** to speakers wishing to provide testimony on
9 subjects or items not listed on tonight’s agenda; will limit speaking time to 3
10 minutes.

11 • Chair Eliason calls again for speakers, seeing and hearing none, **closes the floor**
12 **to speakers.**

13 **5:39**

14 **F. Announcements**

15 • Chair Eliason calls for announcements from the Planning Commission (PC) or
16 Department of Community Development (DCD) Staff.

17 • Chair Eliason provided response to Mr. Palmer, copied the rest of the PC,
18 regarding general public comment, questions or procedural; testimony
19 provided is free for the speaker, but staff is not compelled to respond.

20 • Chair Eliason provided response to Mr. Beam copied the rest of the PC;
21 regarding response, comments, orientation, personal email accounts used for
22 commenting as a Planning Commissioner is considered public record and must
23 be retained according to Public Disclosure Request (PDR) laws and
24 requirements; agenda setting meeting content and purpose; Zoom meetings.

25 • Mr. Beam notes he was advised to attend Board of County Commissioners
26 (BoCC) meetings regarding the Hirst Water decision impacts, however they are
27 held during the day and the agenda changes often; believes the topic
28 significantly impacts land use, and would like a briefing; notes local decision
29 requires unanimous agreement on local monitoring controls or reverts back to
30 Department of Ecology (DOE) requirements.

31 • Angie Silva, DCD Assistant Director, notes the Director’s perspective,
32 as interpreted, relating to the Watershed Regulation (Hirst)
33 committee set up by statute, chaired by DOE for Kitsap and adjoining
34 areas for WRIA15 watershed, is that part of the mission is to develop
35 consensus and plan moving forward. How that will impact Kitsap is
36 unknown, but they are working on a draft; BoCC will decide how to
37 move forward through policy.

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- 1 • Ms. Silva confirms Mr. Beam’s comment that if 100% consensus is
2 absent, DOE becomes the decision and rule maker, through its own
3 public policy and participation process.
- 4 • Ms. Silva notes DCD cannot speak for Kitsap on this issue, as many
5 other players including tribes, water purveyors, city jurisdictions and
6 others are involved as an advisory vote. Once a draft is available from
7 the BoCC regarding fees or policy, it will be communicated to the
8 Department and the PC.
- 9 • Mr. Beam believes the topic is important and requests a briefing. Ms.
10 Silva notes the request, also states the BoCC is directing this effort.

11 **5:55 pm**

12 **G. Deliberations: Stormwater Design Manual (SDM) Update – Angie Silva, DCD** 13 **Assistant Director and Dave Tucker, Public Works (PW) Assistant Director**

- 14 • Ms. Silva introduces additional PW Staff: Michele Filley – Program Supervisor,
15 Michelle Perdue – Program Manager; DCD Staff: Scott Diener – Development
16 Service & Engineering (DSE) Program Manager, Shawn Alire – DSE Program
17 Supervisor, and Project Consultant: Robin Kirschbaum.
- 18 • Ms. Silva presents a brief overview of the proposed SDM Update, including
19 project timeline to date as well as materials provided for tonight’s meeting,
20 including the Executive Summary, Staff Report, Corrections/Errata
21 Memorandum, Updated Public Comment Response Matrix, Title 12 Redline
22 Changes, Summary of Changes, SDM Volume 1 & 2 and Figures Redline
23 Changes, and Draft FoF.
- 24 • No appeals were received or filed on the SEPA Determination. Staff
25 recommends approval.
- 26 • Ms. Silva reviews process of an overall (main) motion to adopt one document,
27 such as Title 12, then further amend items by section as needed, voting on the
28 each amendment and the overall motion to adopt as amended at the end; calls
29 for any PC questions.
- 30 • **(MAIN) MOTION:** Mr. Shattuck moves to recommend approval, of proposed
31 Title 12 changes, as presented by staff and amended by the PC.
- 32 • **SECOND:** Mr. Phillips
- 33 • **QUESTION:** Mr. Shattuck notes it has been established by staff and the public,
34 that Kitsap goes well beyond what is required by DOE, by applying National
35 Pollutant Discharge Elimination System (NPDES) measures to the entire county
36 under the Water As A Resource policy; hopes these efforts are recognized.
- 37 • Ms. Silva defers to Mr. Tucker, who notes the Water As Resource and
38 NPDES Permit process have both changed and been updated, under

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1 the SDM, since its adoption in 2008 and reaffirmation in 2016, as the
2 DOE manual and permit process have changed; there is a point where
3 we can't go back and undo what has already been done or adopted
4 and do less.

- 5 • Affordable housing reports have shown many things that are missing,
6 and recognizes the number of available units needed by 2036 and a
7 significant lag between the identified number needed and what cities
8 and counties generally approve which is closer to 500 units per year;
9 some suggestions have been made, such as upzoning or a new
10 general permit for wastewater treatment plants, but seeking reform
11 through public process and policy and focus at the legislative level is
12 where the biggest impact may be.

13 **6:05:00 pm**

- 14 • Mr. Beam disagrees that once we have done something, we can't take
15 it back; asks how big the difference is and if it is worth arguing about?
16 He takes issue with the SDM going to areas outside the census and
17 permit areas, believes it has great impact.
- 18 • Ms. Silva notes the SDM is applied consistent with the current
19 adopted Water as a Resource policy, which is in addition to the DOE
20 NPDES items; in order to modify, the BoCC must rescind their policy
21 and the Comprehensive Plan would have to be modified. Many
22 comments have been received over time asking Kitsap to adopt the
23 DOE manual as is, but BoCC policy requires the additional measures.
- 24 • Ms. Silva notes an option to communicate directly with the BoCC is
25 through the minority report. Members voting against adoption of a
26 particular amendment may write, sign and attach a statement of their
27 opinions or disagreement with the recommendation to the Findings of
28 Fact.
- 29 • If the BoCC rescinds the Water as a Resource policy, we would require
30 guidance on how to go back and make changes to the Comprehensive
31 Plan, in a time frame beyond the allowed annual update.
- 32 • **QUESTION:** Mr. Beam asks how Kitsap will monitor progress and effectiveness
33 before the next update?
 - 34 • Ms. Silva defers to Michelle Perdue, who notes an existing section in
35 the code that requires the county to evaluate actions taken and
36 compliance; Kitsap currently participates in programs through DOE to
37 measure effectiveness and resource outreach programs; partnership
38 with Kitsap Health looks for success through habitat and complexity
39 of streams, stream bugs and storm effects; when put together this
40 provides a good picture of the effectiveness of our program.

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- 1 • Mr. Beam asks, and Ms. Perdue confirms, this information is published
2 online in the Stormwater section on Kitsap.gov and the Kitsap Public
3 Utility District (KPUD) publishes their water quality report which
4 includes a lot of the metrics and visual display of the efforts.
- 5 • **QUESTION:** Mr. Beam asks for evidence of public participation and
6 administrative response, noting three groups made multiple comments, all
7 received staff response of no change.
- 8 • Ms. Silva notes during the outreach workshops, Berni Kenworthy
9 provided comment on behalf of the Kitsap Builders' Association
10 (KBA), reviewing the first draft in March; when the second draft came
11 out, staff response to multiple comments stated the minimum
12 requirements necessary to be in compliance; when asked about those
13 beyond DOE requirements, staff shared the applicability of the Water
14 as a Resource policy and current NPDES permit process, as well as the
15 way to pursue change or become involved in advocating for public
16 policy and change.
- 17 • Mr. Beam asks for evidence that action was taken to consider the
18 comments.
- 19 • Ms. Silva notes this may be the point where staff agrees to disagree,
20 by acknowledging where the comments are coming from but also that
21 requirements must be met, and why, along with how to approach
22 change being requested, but we have to work within the policy we
23 have currently in effect.
- 24 • **QUESTION:** Chair Eliason notes the cycles of the Comprehensive Plan
25 Amendment (CPA) and DOE manual are lengthy processes over several years;
26 statewide participation is an option, but you are dealing with local vs. state vs.
27 federal authority, and you cannot change it; if new technology or science is
28 available after you have adopted something more restrictive, you can't change
29 it and that is troubling.
- 30 • Chair Eliason notes the Water as a Resource policy was affirmed over a decade
31 aimed at rural and suburban, but how does the one-size fit all approach apply
32 to permits in rural areas.
- 33 • Chair Eliason notes the staff report references that deviations from one area
34 may result in liability under another; asks if there is any potential litigation or
35 liability risk for the County if there is pushback and the recommendation is not
36 to adopt some or all of these change as mandates?
- 37 • Mr. Tucker notes the liability he is most familiar with was during the
38 2010 iteration of the NPDES permit, Clark County decided not to
39 follow and chose to adopt different standards, were sued and lost in
40 federal court. They were ordered to go back and mitigate differences

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- 1 in the permitting process, at the county's expense. This is a federal
2 law and anyone, anywhere can sue the county for not enforcing
3 federal requirements. Kitsap has been sued before, though it has
4 never gone all the way through, and it is very costly.
- 5 • Chair Eliason asks about the extent of damages awarded, to
6 retroactively address and bring projects up to federal standards.
 - 7 • Mr. Tucker notes county had to provide funds to regional facilities in
8 order to bridge the gap between what was adopted and what was
9 required; not sure on details of costs.
- 10 • **QUESTION/ANSWER:** Chair Eliason asks, and Ms. Silva confirms, a majority vote
11 of the total Planning Commission, or at least 5 members, must be in the
12 affirmative in order to pass legislative amendments or regulations.
 - 13 • **QUESTION/ANSWER:** Mr. Beam asks, and Chair Eliason confirms, this vote will
14 be on the motion to approve proposed changes to Title 12.
 - 15 • Jim Svensson notes while he did not attend the previous meeting, he has read
16 all materials and past minutes, and is comfortable voting for recommendation.
 - 17 • Mr. Shattuck notes frustration with state mandates, updates to sewers putting
18 water into the sound and struggles with applying the SDM and NPDES to areas
19 outside of where it is required, but also sees that the community has
20 recognized something special about Kitsap, and decided having this
21 underground water to nourish is worth trading additional costs for protections.
22 Notes many of the same concerns expressed by Mr. Beam during deliberations,
23 but due to the community value and input, will vote in favor.
 - 24 • **VOTE (on Title 12): 6 in favor; 0 opposed – Motion Carries**
- 25 **6:28:00**
- 26 • **MOTION:** Mr. Shattuck moves to approve the Stormwater Design Manual and
27 as presented and amended by staff, including corrections.
 - 28 • **SECOND:** Mr. Phillips
 - 29 • **VOTE (on SDM): 6 in favor; 0 opposed – Motion Carries**
- 30
- 31 **H. 2019 Planning Commission Annual Report – Dave Ward, DCD Planning &**
32 **Environmental Programs (PEP) Manager**
- 33 • Mr. Ward presents brief overview, timeline of the 2019 Annual Report.
 - 34 • **MOTION:** Mr. Phillips moves to approve report as presented
 - 35 • **SECOND:** Mr. Svensson

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- 1 • Chair Eliason notes that only capturing the number of comments at a hearing
2 might minimize the overall level of public participation for a topic. For
3 example the High Risk Secured Facility process generated a lot of comment
4 even though only one was received during the actual public hearing;
- 5 • Mr. Ward notes moving forward it may be possible to identify public
6 comments received in aggregate for each process or topic.
- 7 • Chair Eliason suggests using tiered criteria might also work, to
8 indicate when high interest or comment was present.
- 9 • Mr. Phillips asks, and Mr. Ward confirms, the BoCC does review the
10 comments provided on each topic, as listed in the report, but it may
11 be beneficial for readership outside the BoCC to know when a topic
12 was high interest.
- 13 • Clerk Walston suggests including a count from the final Comment
14 Matrix for each topic.
- 15 • Mr. Beam suggests including a link to the meeting date for each
16 topic.
- 17 • **VOTE: 5 in favor; 0 opposed; 1 abstention – Motion Carries**
- 18 **I. Findings of Fact: Stormwater Design Manual Update – Angie Silva, Community**
19 **Development (DCD) Assistant Director, Dave Tucker, PW Assistant Director**
- 20 • Ms. Silva reviews the draft FoF.
- 21 • **MOTION:** Mr. Shattuck moves to suspend the rules, and allow consideration
22 of the Findings of Fact as presented at tonight’s meeting.
- 23 • **SECOND:** Mr. Phillips
- 24 • **QUESTION:** Mr. Beam asks if there is an urgent need to consider tonight.
- 25 • Ms. Silva notes it is an option, as it has been noticed, and
26 consideration and deliberations are complete and approval
27 recommended, but the FoF can be brought back in August if
28 desired.
- 29 • Mr. Beam notes this is the PC’s formal communication to the
30 commissioners, and something regarding the significant discussion
31 that has been had on this topic should be expressed to the BoCC. If
32 this is the medium to communicate our thoughts, we need more
33 time. If this is not the right vehicle, it doesn’t matter.

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- 1 • Chair Eliason notes the staff’s work and responses to questions and
2 concerns prompted him to vote in favor but would also be
3 interested in expressing thoughts or concerns to the BoCC, but
4 would need to find the right process.
- 5 • Ms. Silva notes the FoF is a factual document, not a statement of
6 opinion. Additional comments could be addressed in a minority
7 report, but it would have to come from a member casting a
8 dissenting vote.
- 9 • Mr. Shattuck notes the PC has a path of communication through the
10 minutes, the discussion is all there for the BoCC to read.
- 11 • **VOTE: 6 in favor; 0 opposed – motion carries**
- 12 • **MOTION:** Mr. Phillips moves to approve the FoF as amended.
- 13 • **SECOND:** Ms. Maule
- 14 • **QUESTION:** Chair Eliason asks if Mr. Beam wishes to include additional
15 comments in the FoF.
- 16 • Mr. Beam notes he is fine continuing as is and will pursue through
17 the appropriate medium.
- 18 • Chair Eliason notes this was a difficult vote in terms of feedback
19 received from the public, and is interested in joining some of the
20 other commissioners in bringing some issues such as the NPDES
21 permit itself and the countywide application forward to the BoCC
22 and at the state level.
- 23 • Mr. Phillips and Chair Eliason ask for clarification whether writing a
24 minority report would require someone voting in opposition.
- 25 • Ms. Silva, reading from the PC Bylaws regarding minority reports,
26 clarifies that ‘...a Planning Commissioner whose vote was in the
27 minority may submit a minority report...;’ also notes that Mr.
28 Shattuck is correct that minutes are received and noted by the BoCC,
29 and is happy to share opinions and comments voiced by the PC with
30 the BoCC in further presentation.
- 31 • **VOTE: 6 in favor; 0 opposed – motion carries.**
- 32 **J. For the Good of the Order**
- 33 • Mr. Svensson asks if there will be an additional special meeting on 8/11.
- 34 • Ms. Silva notes multiple factors are still needed before confirmation.


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- Mr. Beam asks, and Clerk Walston explains process of viewing attendee and panelist visibility.
- Chair Eliason notes he hoped for an in-person joint BoCC meeting but with current situation, assumes remote is likely option.
- Mr. Phillips appreciates Director Rimack’s email to the PC regarding project impacts, staffing and other things currently happening was very well written, insightful, and helpful.
- **MOTION:** Mr. Phillips motions to adjourn.
- **SECOND:** Mr. Shattuck
- **VOTE: 6 in Favor; 0 Opposed – Motion carries**

Time of Adjournment: 7:06 pm

Minutes approved this 18th day of August 2020.



Mike Eliason, Planning Commission Chair



Amanda Walston, Planning Commission Clerk