

**Lewis County Planning Commission
Public Hearing
Lewis County Courthouse
351 NW North St.
Chehalis, WA 98532**

**April 26, 2011 – 7:00 p.m.
Meeting Notes**

Planning Commissioners Present: Mike Mahoney, Bob Guenther, Jim Lowery, Bill Russell, Richard Tausch, Arny Davis

Planning Commissioners Excused: Rachael Jennings

Consultants Present: Mike McCormick

Staff Present: Dianne Dorey, Glenn Carter, Lynn Deitrick, Pat Anderson

Others Present: Please see sign in sheet

Handouts/Materials Used:

- Agenda
- Meeting Notes from March 22, 2011
- Memo from Dianne Dorey re: Public Benefit Rating System
- Staff Report on Open Space Tax Program
- Teitzel-Omage Application
- Reisinger Letter of Withdrawal
- Letter of Transmittal for Public Benefit Rating System
- Memo from Jerry Basler re: Rezone Requests
- Maps of Properties for Rezone Requests
- Letter of Transmittal for Chapter 17.200 and Official Zoning Map

I. Call to Order

Chairman Russell called the meeting to order at 7:00 p.m. The Commissioners introduced themselves.

II. Old Business

A. Approval of meeting notes from March 22, 2011

The Chair entertained a motion to approve the meeting notes from March 22, 2011. It was moved and seconded to approve the meeting notes. The motion carried.

B. Public Hearing on the Public Benefit Rating System

Commissioner Lowery noted that the public hearing notice states the Commission will be considering 31 acres on one of the applications and the staff report states 20 acres. He asked Mr. Deitrick to explain the discrepancy.

Mr. Deitrick stated the public hearing notice is in error; it should read 31 acres.

Chairman Russell opened the public hearing and recognized Ms. Dianne Dorey. Mr. Deitrick stated a letter of withdrawal was received on the Reisinger application. Only one application would be considered tonight.

Ms. Dorey, Lewis County Assessor, spoke to the application submitted by Karen Teitzel and Javene Omage, for 10.62 acres. The Public Benefit Rating System Committee evaluated the application and is recommending an 80% reduction. That means that at least 8 points in the application criteria were met. Ms. Dorey asked for questions.

Commissioner Mahoney stated he was on the committee and this application score card was never completed because the maximum points were achieved before the end of the process. This property meets all the criteria and deserves the reduced tax rate. Ms. Dorey stated the maximum allowance is 80%.

Commissioner Guenther asked if that is 80% of assessed value. Ms. Dorey stated it is 80% of the market value.

There were no more questions from the Commission and Chairman Russell opened the oral public testimony of the hearing. There were no questions from the public and Chairman Russell closed the oral testimony. He stated written testimony would remain open until 5:00 p.m. on April 29, 2011. Comments can be submitted to Department of Community Development, 2025 NE Kresky Avenue, Chehalis, WA.

Commissioner Lowery made a motion to authorize Chairman Russell to sign the Letter of Transmittal after 5:00 p.m. on April 29, 2011. Commissioner Guenther seconded the motion. The motion carried.

C. Letter of Transmittal on Zoning Maps

Chairman Russell asked if there were questions on the Letter of Transmittal. There were none. Commissioner Lowery made a motion for the Chairman to sign the Letter of Transmittal regarding Lewis County Code 17.200 and the zoning maps. The motion carried.

D. Update on WRIA

Mr. Deitrick stated the discussion on the WRIA (Watershed Resource Inventory Areas) would be postponed until the next meeting when Mr. Basler would be present.

E. Update on South County Subarea Plan

Mr. Mike McCormick stated he was glad to be back in Lewis County and to see things moving relatively well.

Mr. McCormick is a consultant working with Mr. Basler on a revised Subarea Plan and that Plan also seems to be moving along. In the past there was some controversy that arose regarding the Subarea Plan and the Planning Commission was subjected to a lot of that.

A couple of activities are under way that Mr. McCormick thinks will help the Planning Commissioners when the Plan goes back to them in the fall. One is that Mr. Basler and Mr. McCormick have met with all of the affected property owners, the majority of whom expressed a desire to be out of the economic

UGA on Highway 505. They have been asked to respond formally; most of them have responded and they still want to be removed. Mr. McCormick and Mr. Basler have looked at some alternative configurations and it appears that the integrity of the designation, the geographic area, will remain. There are three new parcels that roughly equal the parcels that were taken out and Mr. McCormick does not think there will be any issues with them with any of the agencies. They will be checked out, however.

There will be a small adjustment to the UGA at the I-5 interchange that would add property on the southwest side of the interchange and that does not seem to be problematic.

There is progress on creating the regional utility which is in the 20-year time horizon of the comp plan and it is important to have that as part of the Capital Facilities Plan update that would demonstrate how services could be brought to those UGAs commensurate with development. Mr. McCormick stated there is a revised plan that is sufficiently detailed to be in the Capital Facilities Plan and meet that requirement.

There was a recent appeals court decision that specifically cited Lewis County case law. Initially it was thought to create an anticipated problem, and we wanted to make sure that if there were problems, that we had anticipated them and if there were additional steps that needed to be taken we would undertake that work. We think that is minimal but we will be very thorough as to how we review what we have done, how the record is built, what the factors are that are considered and all of that will come back to you as an amended proposed plan in the fall. The Planning Commissioners should anticipate that the package will come back to them hopefully with near universal support from both the jurisdictions and the residents who live in that area of the County.

Mr. McCormick asked if there were any questions.

Commissioner Guenther stated when the Planning Commission went down to the Mission for the hearing it was one of the most uncomfortable situations he had ever been in as a Planning Commissioner. He hoped that what Mr. McCormick explained tonight would alleviate that from happening again.

Mr. McCormick stated a much more significant outreach program has been laid out, providing people with timely information. He and Mr. Basler met with the property owners who were unhappy and the number one complaint was that they did not receive timely notice. That is easy to fix and there are mailings scheduled to go to everyone and he thinks the issues have been identified and reasonable steps have been taken to reduce that kind of situation. If there is discomfort, he believes it is on the part of the Advisory Committee. They don't understand or see the need to do much more work. Mr. McCormick's and Mr. Basler's recommendation to them is there is no need to meet on a monthly schedule, and when there is a revised proposed package, a copy will be provided to them and at that point they still may not feel the need to meet.

Commissioner Mahoney suggested that when the Planning Commissioners look at the revised package that a meeting is held in that area that is not a public hearing. The rules of public hearings are very rigid and do not allow for trading information. If a meeting could be advertised as collecting information for the Planning Commission's use and also give information to the public, then a public hearing could be

scheduled for giving formal testimony. That has been an issue in the past: people wanted to ask questions and get answers but because of the rules for public hearings that was not done. The meeting in Mineral went well because it was more informal and Commissioner Mahoney would like to see something similar to that in the south county area.

Chairman Russell asked the other Planning Commissioners how they felt about that suggestion. They all agreed. Chairman Russell asked that a special meeting be scheduled to allow questions to be asked and answered from all parties. Mr. McCormick also thought it was a good idea; there have been other similar workshops in the past that helped quite a bit.

Commissioner Lowery thanked Mr. McCormick and Mr. Basler for their work on the Plan. He thought the previous group did a lot of good work, also, and the Steering Committee believed that a lot of people who were at the public meeting were actually in support of the Plan until misinformation went out. That is a potential again, so a meeting with dialogue is a good idea.

Mr. McCormick stated one of the first things he did was look at the materials and he thinks the technical work on the package was very good. There is not a technical or substantive issue with it; it is a political and perception problem that needs to be addressed well in a timely manner. Mr. Basler is doing a good job and Mr. McCormick believes the Plan is proceeding very well.

Commissioner Mahoney stated there were some individuals whose property was not directly involved in either the proposed UGA or the rezone that has already taken place. They were concerned about spillover or impact from the new UGA or proposed UGA. We should not send post cards to only those people who own property in those proposals but to the neighbors, too.

Chairman Russell understood that Mr. McCormick and Mr. Basler spoke to the people that were opposed to it. He asked if all the land owners were included. Mr. McCormick stated they did not speak with all the landowners but they talked to either the owners or representatives of the majority of the properties. There are a couple of people who Mr. McCormick has not talked to; Mr. Basler has talked to more people than Mr. McCormick has. Mr. McCormick talked to two property owners who were in and wanted to remain in but did not like some of the pressure they were getting from the group who wanted to opt out. They talked to Mr. Lane who represents the Wasser and Winters properties, and it is their property that is being added to the proposal.

Chairman Russell asked if it is Mr. McCormick's intention that all of the land owners will be contacted. Mr. McCormick stated they will be contacted.

Chairman Russell asked that Mr. Carter update the Commission on an item before it moves on to the rest of the agenda.

Mr. Carter updated the Planning Commission on the Mineral Lake issue. He explained that 2082 acres, north of Mineral Lake between Highway 7 and the railroad, was requested to be rezoned many years ago. The original application was for 2082 acres of Forest Resource Land of Long Term Commercial Significance to be rezoned to Forest Resource Land (FRL) of Local Importance for the entire property. The most recent application was for 830 acres to be rezoned to Forest Resource Land of Local Importance with the remainder of the land staying in Long Term Commercial Significance.

Subsequently the application was revised to provide for those remaining 1252 acres to be kept as Long Term Commercial Significance and there would also be CC & Rs (Covenants, Conditions and Restrictions) recorded against that land to provide additional protection which would preclude it from being developed at all.

This application went before the Planning Commission and the transmittal recommended that the rezone be denied. It went before the Board of County Commissioners and the BOCC approved the rezone of the 830 acres to Forest Resource Land of Local Importance on December 27, 2010. The remainder 1252 was zoned Long Term Commercial Significance with the additional protection of forest preserve.

In early March, 2011 – within the 60 day notice – the petitioners filed a petition for review with the Growth Management Hearings Board. The GMHB held a preliminary hearing to see if there was a possibility of resolution and the Hearing Officer asked the petitioners to clarify their issues. The petitioners filed an amended petition. They are the same issues; however, there are a number of public participation issues. In addition, at the time of the action by the BOCC, they entered certain findings and conclusions. One of those findings concerned contiguity, what is contiguous for purposes of what is a block of 5000 acres for FRL. Forecastle submitted that one of their justifications for the rezone is that the 5000 acres is not contiguous – it is broken up by the separation of the railroad and the highway.

Mr. Carter asked if this is binding upon the Planning Commission. He reminded the Planning Commission that the Planning Commission is independent and that it makes decisions as to what it believes to be the appropriate determinations on the information provided by staff and counsel. As to the finding that was entered on December 27, and the meaning of ‘contiguous’ for purposes of FRL of long term commercial significance, Mr. Carter does not believe that is binding on the next application that might raise that issue.

The petition was filed, the hearing was held, Forecastle Timber intervened and the intervention was granted. The position taken by the BOCC is that the defense against that position is the primary responsibility of Forecastle Timber. The County does have an overarching responsibility and Mr. Carter will be at the hearing, and has filed pleadings so far. Those pleadings are with respect to what the record is. The County was the custodian of the record and there have been requests to supplement that record and Mr. Carter has responded.

At the time of the hearing on the merits, most likely in July, it will probably primarily be presentations by the petitioners and by Forecastle Timber. Mr. Carter will be there and will be asked questions and will provide information to the Growth Board.

Mr. Carter asked for questions.

Commissioner Mahoney spoke to the questions on public participation. He asked if there had been accusations that the Planning Commission did not include public participation.

Mr. Carter stated it was in reference to the Planning Commission. The public participation issues are primarily with reference to the BOCC public hearing on December 27. For example, regarding the findings and conclusions entered by the BOCC, the position of petitioners is:

1) Whenever the BOCC is going to make a decision that is contrary to the Planning Commission's transmittal letter, that the BOCC in giving notice of its hearing must state in that notice that they are going to make a different decision than what the Planning Commission made. (Mr. Carter stated he was paraphrasing as he did not have the petition in front of him.)

2) If at any time the BOCC during the hearing is going to enter findings and conclusions that those findings and conclusions must be included in the publication of the notice of hearing for the BOCC.

There are other issues but they do not relate to what the Planning Commission did, but focus primarily on the BOCC.

Commissioner Mahoney stated these questions seem odd because the purpose of a public hearing is to get additional information and then make a decision. He asked how a decision can be published before the public hearing.

Mr. Carter stated to be fair to the petitioners they felt that going into the process after the transmittal from the Planning Commission where there might be a reversal they felt they are entitled to a notice of the potential for that kind of reversal.

Commissioner Mahoney stated the potential for a reversal is always there for any Planning Commission recommendation.

Mr. Guenther stated that Forecastle's responsibility for seeing this through means to him that there is little or no taxpayer dollars being spent on this.

Mr. Carter stated he has to be there because the Growth Board would not accept that he not appear. There will be a half-day hearing, there will be a brief that Mr. Carter will file, and to say that it will be de minimus is not correct.

Chairman Russell asked Mr. Carter if the Growth Board decides the railroad and highway issue, will it be binding as far as our pre-existing ARL or other resource lands.

Mr. Carter stated if the Growth Board finds that lands are contiguous, notwithstanding the interposition of a railroad or a highway with respect to resource lands and to the extent that our Code uses the term "contiguous", that it would be persuasive authority.

III. New Business

A. 1st Workshop on Rezones

Mr. Deitrick stated the memo gives a general description of the rezones. A more detailed staff report will be available at the next work session which is scheduled for May 24.

There are five rezones and one remand. They are numbered 1 through 6 and each has corresponding maps. Chairman Russell asked that the Planning Commissioners retain the color maps for future work sessions.

Mr. Deitrick asked for questions.

Chairman Russell commented about application #4 and was curious as to why the property is being split.

IV. Calendar

The next meeting will be on May 24, the 2nd workshop on the rezones. There will not be a meeting on May 10.

V. Good of the Order

No one wished to speak.

VI. Adjourn

A motion was made and seconded to adjourn. The meeting adjourned at 7:45 p.m.