

This meeting of the Wallowa County Planning Commission convened at 7:00 p.m. on Tuesday, March 31, 2015, with the following present:

MEMBERS: Ken Wick
Ramona Phillips
Chris Bullat
Georgene Henson
Kim Tippet
Jim Nave

STAFF: Harold Black, Planning Director
Ashley Lee, Department Specialist

OTHERS PRESENT:

Bruce Dunn Enterprise Resident	Don McCully Joseph Resident	Miklos Vali Joseph Resident	Robert Reading Joseph Resident
Bill Diskin Enterprise Resident	Katy Nesbit LaGrande Observer	Jean Pekarek Enterprise Resident	Dennis Henderson Wallowa Resident
Teresa Pemninger ODOT	Michelle Young City of Enterprise	John Bosket DSK Associates	Darci Rudzinski Angelo Planning Group
Alvis Bell Joseph Resident	Troy Baker Anderson Perry	Mike Montoya Joseph Resident	

KEN WICK, CHAIRMAN: [Introduced members and staff and read agenda.]

[Please note that draft and adopted findings, staff reports, written testimony, and the official Planning Commission meeting audio record are available for review and/or purchase in the Planning Department.]

Public Hearing Procedure

Ladies and Gentlemen, I call the regular March 31, 2015 hearing session of the Wallowa County Planning Commission to order. My name is Ken Wick, and I am the Chairman of the Planning Commission for Wallowa County, Oregon. The members of the Planning Commission are appointed by the Wallowa County Board of Commissioners and we all serve as volunteers. Now I would like to introduce the current members of the Commission who are present tonight, and the staff of the Planning Commission, who have prepared the materials we will consider. (Does introductions of members and staff).

Our role as commissioners is to conduct public hearings and to make decisions about land use matters in Wallowa County. You may already understand that we conduct two very different kinds of hearings- legislative hearings and quasi-judicial. The processes for these hearing are different. Legislative hearings involve the making of rules, either new ones or revisions to existing rule-in these cases we act as “lawmakers” and recommend our conclusions to your elected lawmakers, the County Commissioners, who always take the final action on legislative issues. On tonight’s agenda the items

that we have before us are legislative and quasi-judicial we will hear a staff report on each matter, call for public comment, ask questions, and then consider our decision. State ethics rules apply to us as decision makers of course, but we do not need to disclose ex-parte contacts nor are we required to be unbiased on legislative matters. We behave as legislators, representing our point of view and that of our constituents, and make recommendations that we believe are in the best interest of the people of the county.

Quasi-judicial hearings, by contrast, involve the application of existing rules to specific cases or proposals—in these cases we act and judge and compare the facts to the applicable criteria and rules. We make final decisions on such matters, but our decisions may be appealed, subject to written procedures, to the County's Board of Commissioners and additional higher authority. On tonight's agenda, Enterprise Water Tower is a quasi-judicial. I will now explain the procedures for hearings on quasi-judicial matters.

In decisions on quasi-judicial matters, we must apply the laws and rules of Wallowa County and the State of Oregon and we cannot vary from or change those laws. If you think the law should be changed you can work with the County or State to do that, but State law provides that applications must be judged based on the law that existed at the time the application was filed.

Members of the Planning Commission are to be unbiased (like Judges). Before the start of the hearing on each quasi-judicial item, I will ask the members of the Planning Commission whether they have any potential conflicts, such as a family, financial, or business relationship with any of the applicants or with the land in question. If such a potential conflict exists, I will ask whether the commissioner in question believes he or she is without actual bias or whether he or she would like to step down from the Planning Commission during that case.

I will also ask whether any of the Planning Commissioners have had ex-parte contact to report—that is whether they have discussed the application in question with any parties or have independent knowledge of relevant facts, such as from a visit to the site in question. If any of the planning commissioners have such contact or knowledge, I will ask the Planning Commissioners to share the substance of that information with us, so that we can all make judgment from the same base of information. At that time, a person may challenge the impartiality of a Planning Commissioner.

Later during testimony, any person may rebut the substance of the Planning Commissioner's statement regarding knowledge of the facts and the commissioner may respond to such a challenge.

A copy of these rules of procedure, an agenda for tonight's meeting, and copies of staff reports on each item are available here tonight. We will consider each quasi-judicial case one at a time in the order listed on the agenda.

I will begin each case by asking our staff to summarize their written report. Then the applicant and those in favor of the application testify orally or in writing. Then witnesses who oppose the application or who have questions or concerns testify, again either orally or in writing. If there is opposition or there are questions, the applicant will be given an opportunity to respond to provide rebuttal. The Planning Commissioners also may ask the staff and the witnesses questions throughout the hearing until the record closes. If a witness introduces new evidence in response to opposition or questions, others may respond to the new evidence however, there shall be no audience cross-examination of any witness. Then the applicant can make a closing statement that does not introduce new evidence. I will then close the public testimony phase of the hearing and the Planning Commission will deliberate about what to do with the application. During deliberations, the Planning Commission may re-open the public portion of the hearing if necessary to receive additional evidence before making a decision.

Any person with an interest in tonight's agenda may offer relevant oral or written testimony. But please only speak after being recognized by me and then come up here before the microphone and testify, after stating your full name for the record. Please spell your last name and give your address, if you represent

someone else please say so. If you have any exhibits you want us to consider, such as a copy of your testimony, photographs, petitions, or other documents or physical evidence, please give it to me so we can mark it and enter it into the record. The planning staff will keep exhibits until appeal opportunities expire, but you can ask that exhibits be returned.

Please be sure to direct your testimony and evidence to the applicable substantive criteria presented in the staff report or other criteria in the land use plan or land use regulations which you believe to apply to the decision.

Please do not repeat testimony offered by yourself or earlier witnesses. If your testimony appears to be irrelevant to the applicable criteria or repetitious, I may interrupt and ask that you continue with another subject.

You must testify orally or in writing before the close of the public record to preserve your right to appeal our decision to the Wallowa County or the state Land Use Board of Appeals, also known as LUBA. You must raise an issue clearly enough so people can understand what it is and offer evidence in response or else you cannot raise that issue on appeal.

It is important that you make your best case to the Planning Commission, because, although all of our decisions are subject to appeal, an appeal may be decided solely on the evidence in the record before us. If you feel you need more time to prepare or gather evidence, you can ask the Planning Commission to hold open the record or to continue the hearing. You must make that request before we close the public portion of the hearing.

If the Planning Commission decides to hold open the record, you can submit additional written testimony and evidence into the record before the Commission makes a decision.

If the Planning Commission continues the hearing it means oral and written testimony, including new evidence, can be offered at the future hearing.

Whether or no the hearing is continued or the record is held open for any other reason, state law provides that we must hold open the record for at least 7 days after it is closed to all other parties to allow the applicant to submit final written arguments in support of an application unless the applicant waives that right.

We must also comply with state law that requires the County to make a final decision, including all local appeals, within 150 days after the County staff found the application was complete, unless an applicant waives that right. So we cannot hold the record open for very long in most cases.

This hearing will be held in an orderly fashion and no audience demonstration or other conduct that could disrupt this hearing will be permitted. Unrecognized comments from the audience will not be part of the record.

This concludes the introduction to procedure. Questions regarding the conduct of this hearing shall be addressed to the Chairman at this time. If there are no questions, the hearing shall proceed.

Ken Wick states that the minutes are on the agenda first tonight. Commissioner Wick asks if anyone in the audience has any questions or issues with last month's meeting minutes. No one has issues.

Chris Bullat moves to approve the minutes as written.

Georgene Henson seconds the motion. **[Motion Passes 5-1-0]**

Bike Path AMD#15-01

Harold Black reviews the Staff Report dated March 31, 2015 and proposed changes.

John Bosket presents the plan for the Bike Path.

Darci Rudzinski presents the Article 44 proposed revisions to allow the bike path.

John Bosket addresses the issue of bike racks, keeping people on the path and off the road, pull outs and parking along the highway, their intent to create a smaller path to save on cost, and reducing the posted speed in the area.

Harold Black asks for comments from the public.

Testimony

Bruce Dunn states his name and address for the record and that he represents the Yanke Family Trust. Mr. Dunn states that he is not for or against the bike path but has three concerns. He explains that he does not want their access denied to the dock. Further more he does not want a user hiking trail on private land, and he wants to make sure that there would be compensation for lost property for this project unless they intend to buy the land.

Jean Pekarek states her name and address for the record and that she is not apposed to the bike path or the changes to Article 44. However, does want to make sure that the proposed language in section 3A is worded properly. Concerning paragraph D 3A on the draft, the wording needs to be changed to match 3C. Pekarek wants the planning commission to limit the allowed use to transportation only.

Mike Montoya states his name and address for the record and wants to make sure the property owners at the lake will not be responsible for any costs to build the path. Also points out that surveys have been done, and further feels that there are still water lines and power lines that are not marked properly.

Alvis Bell states his name and address for the record and is in support of this project, however wonders how this will effect the parking on days like July 4th, or the kids that park along the highway to swim. Bell wonders what are they going to do to make this safe?

Ken Wick and Harold Black agree that tax payers would not be responsible for costs and agree that the money would all come from government grant money. Mr Black adds that the state may have to look into doing a bike registration fee to be adopted at the state level.

Georgene Hanson states that if there were any costs passed to owners it would have to be voted on.

Ken Wick shares his experience with bike paths recently and how pleasant and beautiful they can be.

Harold Black comments regarding Jean Pekarek's proposed change to 3A and explains that they can change the language to best describe what they need it to say. Mr. Black and Darci Rudzinski work together to word the corrections properly.

Darci Rudzinski- Explains how the pull offs will still be there and their plan to put in safe stairs down to the lake edge.

Harold Black reads the submitted letters from **Brad and Gina Toynbee** dated March 17, 2015, **Joan Creamer** dated March 24, 2015, **Kirk and Barbara Stein** dated March 24, 2015, **Gary and Gloria Saul** dated March 25, 2015, and **Mary Burtis** dated March 31, 2015.

Georgene Hanson moves to approve the changes to article 44 specifically changes to section 3A and 3C as read by Harold Black.

Kim Tippet seconds the Motion. [Motion Passes 4-1-1]

City of Enterprise CUP#15-01

Harold Black presents the staff report for CUP#15-01 for the City of Enterprise Water Tower.

Michelle Young Describes the Proposed project and the need for the tower. Young calls on Troy Baker of Anderson Perry to explain the tower and its construction.

Troy Baker discusses the construction and materials for the tower and the fact that there will be a FAA Light on top of the tower due to the distance from the airport. Baker discusses where you will be able to see the tower from, the location of the underground water lines, and how the system works.

Harold Black reads letters for the record from **George and Janice Hill** dated March 15, 2015, **Mr. Sutphin** dated March 19, 2015, and **Bob and Charlene Howard** dated March 23, 2015.

Ken Wick calls for anyone that wants to testify in support or opposition and there is no oral testimony provided.

Georgene Hanson moves to approve the City of Enterprise CUP#15-01.

Ramona Philips seconds the Motion. [Motion Passes 5-1-0]

Other Business

The **Planning Commission** discusses a potential cap on short term rentals on the west side of Wallowa Lake and the impact they create to the community on the west side of Wallowa Lake.

The **Planning Commission** discusses the training that will be happening in Baker City, Oregon on Friday April 3, 2015.

The **Planning Commission** discusses making the rule that no one except the planning commission members and staff can be behind the tables. **Kim Tippet** motions to approve that rule, **Georgene Hanson** seconds the motion, and the motion passes unanimously.

Chris Bullat moves to close the meeting.

Ramona Phillips seconds the motion. [**Motion Passes 5-1-0**]

There being no further business before the commission, the meeting was, on motion duly made and seconded, adjourned at 9:05 p.m.

Ashley D Lee
Department Specialist

Date