

PLANNING COMMISSION MINUTES

March 5, 2008

CALL TO ORDER: The meeting was called to order at 7:10 p.m. by Chair George Stead. Commissioners present were George Stead, Tom Whitson, Jennifer Ange, Jan Ostlund and Tom Howard. Commissioners Jim Wilmer and Robert Allen had excused absences. Planner Bill Trimm, City Attorney Wayne Tanaka and Deputy Clerk Heidi Swenson were also present.

APPROVAL OF MINUTES: January 9, 2008

The minutes were approved as written.

PRESENTATION: New Planning Commissioner and Councilmember Training

City Attorney Wayne Tanaka provided an instructional presentation regarding Appearance of Fairness/Open Meetings. He advised of a publication available from Municipal Research entitled, "Knowing the Territory" that contained similar information.

With regard to the Open Public Meetings Act, he explained why this was important, why action could be taken only at a duly called meeting, RCW definition of action, definition of final action, avoiding virtual meetings via email or serial phone calls, and penalties for attending a meeting held in violation of the Open Public Meetings Act. He explained the difference between a quorum of Planning Commissioners attending a social event versus meeting to discuss pending or anticipated Planning Commission business.

With regard to the Appearance of Fairness Doctrine, he provided a definition of appearance of fairness (would a disinterested person, apprised of the totality of a member's personal interest or involvement be reasonably justified in thinking that the involvement might affect the member's judgment?) and examples of quasi judicial matters. He provided examples of prejudgment, personal bias or prejudgment, ex parte contacts, organization membership/leadership, business/social relationships, and proximity or impact of a project on a Planning Commissioners' property. He described how Planning Commissioners would disclose information, ability for disclosures to be challenged and process for Planning Commissioners to step down from a decision if they felt they could not make a fair decision. He encouraged Planning Commissioners to contact him prior to discussing with the Commission any matters upon which they felt there may be an appearance of fairness issue.

Mr. Tanaka described the Public Records Act, provided a definition of public records and described the penalties for failing to provide public records. He cautioned email was subject to public records disclosure.

Mr. Tanaka responded to Commissioners' questions regarding Comprehensive Plan versus zoning code changes and instances where they are combined, applicability of the Appearance of Fairness Doctrine to Planning Commission recommendations as well as Council action, fees charged for providing public records, exemptions from public records requests, and a proposed legislative bill that would require cites to record executive sessions that could be reviewed by a judge, effects of sales tax sourcing legislation.

DISCUSSION: Scope of Update of Environmental Sensitive Area Ordinance WMC 16.10

Planner Bill Trimm explained the existing Environmental Sensitive Area Ordinance was adopted in 2000; shortly thereafter the Growth Management Act was amended to require that critical area regulations be based on scientific information/documentation or Best Available Science (BAS). The Town's Sensitive Area Ordinance (SAO) does not completely comply with BAS. In an effort to update the Town's SAO, Town staff contacted ESA Adolfson to review the Town's ordinance.

Mr. Trimm advised ESA Adolfson determined a limited number of revisions would be required. He reviewed ESA Adolfson's proposed scope of work: 1) review the Town's existing code, 2) participate in meetings with staff, 3) identify code issues that require modification to be consistent with Department of Ecology guidelines, 4) develop science background for the recommended changes and prepare a summary matrix and background memorandum regarding specific amendments to WMC 16.10 to be consistent with BAS, 5) attend one Planning Commission meeting to address comments and questions and 6) prepare a final matrix and memo and recommendation. Following ESA Adolfson's recommendation, he would prepare an ordinance for Planning Commission review and public hearing and recommendation to the Town Council.

Mr. Trimm responded to Commissioners questions regarding Best Available Science, staff's plans to identify inconsistencies in the Zoning Code, a recent violation with regard to removal of vegetation on a short plat, a potential request to add a second access to a short plat on North Deer Drive and Mayor Nichols' letter to Snohomish County requesting an Interlocal Agreement between the Town and Snohomish County with regard to Pt. Wells. Deputy Clerk Heidi Swenson invited Commissioners to inform her of any inconsistencies they have noticed in the Zoning Code. Mr. Trimm encouraged Commissioners to review WMC 16.10 prior to the next meeting.

NEXT MEETING: The next Planning Commission meeting was scheduled for April 2, 2008.

AUDIENCE COMMENTS: None

ADJOURNMENT: *Commissioner Whitson* moved to adjourn the meeting. *Commissioner Howard* seconded the motion. The motion carried unanimously and the meeting was adjourned at 8:55 p.m.

APPROVED BY THE PLANNING COMMISSION

Heidi K. Swenson
Secretary to the Planning Commission

George Stead, Chairman

(These minutes accurately reflect what was said at the Planning Commission Meeting. Publication does not vouch for the veracity of these statements.)