

**WHITMAN COUNTY  
PLANNING COMMISSION  
ZOOM MEETING  
February 2, 2022**

**MEMBERS:**

**Chad Whetzel- Chair  
Dave Gibney  
Matt Webb  
Fred Wexler**

**Brian Davies – Vice Chair  
Keith Paulson  
Weston Kane  
Rusty Jamison**

**Staff:** Alan Thomson, WC Planner; Grace Di Biase, WC Assistant Planner; Brandon Johnson, Public Works; Elinor Huber, Clerk.

**Others:** Shelly Chambers Fox.

**7:02 p.m.** – Chad Whetzel called the meeting to order. Introductions were held.

**MOTION** by Brian Davies and seconded by Dave Gibney to approve the minutes from January 19, 2022. Motion passed.

Alan Thomson – Reports:

- a. Board of Adjustment forthcoming hearings – None.
- b. Forthcoming Administrative Use Permits – We have an ongoing administrative use permit from the WC Emergency Department. We talked about that last time. That is not complete yet so that is still ongoing. They are replacing their cell tower.
- c. Forthcoming Variances – None.
- d. Update on previous conditional use permits and variances – None.
- e. Update on previous administrative use permits – None.
- f. Board of County Commissioners’ action – None.
- g. Update on previous Board of County Commissioners’ action – None.
- h. Forthcoming Shoreline of the State Substantial Development Permits - We have a permit with Helena Agri-Enterprises down at Central Ferry. They are putting in a new barge line pipe. We talked about that last time and it is ongoing.
- i. Update on previous Shoreline of the State Substantial Development permits – None.

- j. Planning Commission forthcoming hearings – We may have one for the Comp Plan. The tentative date will be March 16<sup>th</sup>, depending on the comp plan coming back to me on Friday, from the consultant, and then bringing it to you, the PC, possibly have a public hearing on March 16, 2022.

Chad Wetzel – So, for unfinished business we have the comp plan which we just went over and that is where we are at already. Then the new business would be the Planning Commission By-Laws.

**Adjourned – 7:06 p.m.**

-

**WHITMAN COUNTY  
PLANNING COMMISSION  
ZOOM WORKSHOP  
February 2, 2022**

**MEMBERS:**

**Chad Whetzel- Chair  
Dave Gibney  
Matt Webb  
Fred Wexler**

**Brian Davies – Vice Chair  
Keith Paulson  
Weston Kane  
Rusty Jamison**

**Staff:** Alan Thomson, WC Planner; Grace Di Biase, WC Assistant Planner; Brandon Johnson, Public Works; Elinor Huber, Clerk.

**Others:** Shelly Chambers Fox.

**7:07 p.m.- Dave Gibney** - We will be discussing the By-laws. It will be easier to go through this section by section. I assume that all the applicable codes are still correct under that article authority?

Alan Thomson – Yes.

Dave Gibney - Did you check?

Alan Thomson – Yes. That is the Growth Management Act, RCW 36.70 and the Planning Enabling Act. They haven't changed.

*Preamble*

*A Planning Commissioner has a larger responsibility to put the public interest before his or her personal political agenda.*

*Article I Authority*

*The Whitman County Planning Commission, hereinafter referred to as the Commission, has been established by the Whitman County Board of Commissioners, (thereinafter referred to as the Board), Whitman County Code Chapter 2.16, pursuant to RCW 36.70, the Planning Enabling Act. These By-laws are developed under the authority of RCW 36.70.140.*

*Article II Purpose and Objectives*

*A. The Commission has responsibility for assisting in preparation and execution of the Whitman County Comprehensive Plan. To meet this responsibility, the Commission conducts hearings as required and forwards findings, conclusions, and recommendations to the Board.*

*The Commission has all powers and responsibilities granted to it by provisions of RCW 36.70 and any other duties or authority which may be conferred on them by the laws of the State, subject to the limitations expressed in the legislation of the Whitman County Code.*

*B. The Commission also makes recommendations to the Board concerning any plats, subdivisions or proposed new county roads (Whitman County Code 2.16.70). Each recommendation should include any modifications necessary to assure conformance with the County's Comprehensive Plan and any other applicable local controls.*

Chad Whetzel – Are there any questions on Article II?

Dave Gibney – Is everybody happy with what it says in the Preamble?

Chad Whetzel – Oh, thanks, Dave. I missed that part.

Dave Gibney – Should it say anything else?

Chad Whetzel – I don't know. I think it is okay. I haven't read too many preambles and By-laws, honestly. So, if anybody has any bright ideas, I'm okay.

Alan Thomson – It is standard language for bylaws.

Chad Whetzel – So, I assume the Preamble is okay. Article III, are there any questions?

Article III Membership

- A. *The Commission consists of nine members appointed by the Board according to the procedure outlined in Whitman County Code 2.16.010, and RCW 36.70.080. Each commissioner district is represented by a minimum of two and a maximum of four Planning Commission members. Vacancies on the Commission should be filled as soon as possible by the Board.*
  
- B. *The term of office for each of the nine members is four years. Appointments are staggered with two or three Commission positions expiring each year, terminating on December 31. Vacancies occurring for any reason other than expiration of the term will be filled by the Board for the unexpired portion of the term.*
  
- C. *Commission members are expected to regularly attend Commission meetings and workshops. After two missed consecutive meetings, staff will contact member. The unexplained absences of four consecutive meetings and/or workshops by a member may result in recommendation for removal from the Commission to the Board according to the procedure set by RCW 36.70.110.*

Dave Gibney – We did tweak that not so long ago. It used to be three from every district and then a minimum of two and a maximum of four. It made it easier to fill the vacancies.

Chad Whetzel – I have a question on C. If nobody has anything on A or B we can move to C. In that second sentence it says, “.....after two consecutive meetings the staff will contact member.” I know we want to try to encourage attendance but should it be just any two missed or should we have something about two missed without contacting by staff.

Dave Gibney – There is a difference between just missing a meeting and informing staff you can't make it and being excused.

Brian Davies – I was going to say maybe we should say something about an excused absence.

Dave Gibney – The next sentence says “unexplained,” in here.

Alan Thomson – I’ve never encountered an unexplained absence. Typically, I contact every member and if somebody says they can’t make it, they give me an explanation. So I know about that ahead of time.

Chad Whetzel – Okay, so that is working for you, Alan?

Alan Thomson – Yes. Everybody’s time is valuable and sometimes you can’t make a meeting. That’s fine. As long as I know prior to the meetings.

Chad Whetzel – Things come up and that is understandable to. I’m kind of going along with Brian and maybe we need to say something about excused but I guess maybe that second sentence covers it.

Alan Thomson – I think so.

Dave Gibney – We did have difficulty of a member not showing up fairly frequently for a while there but we generally knew what his conflicts were.

Alan Thomson – Somebody was fighting fires for quite some time, if I remember correctly.

Chad Whetzel – Right. I didn’t miss too many meetings.

Dave Gibney – I was thinking about that guy who was in the Army.

Chad Whetzel – Again, you can only do so much. As long as we are covered there, I’m happy. Let’s move on to Article IV. Are there any questions about the duties? I think it is pretty basic. I don’t have any questions on it.

Brian Davies – I don’t either as far as the Vice-Chair. I know what I’m supposed to do if I am called on.

Dave Gibney – It is not an automatic succession from Vice-Chair to Chair. It is until the election.

Chad Whetzel – Right, and I think the one thing, not so much in our By-laws, but we need to remember that our elections can happen in odd years and make sure everybody is happy with the way things are going.

Article IV Officers and Duties

- A. *The officers of the commission will consist of a Chair and Vice-Chair.*
- B. *The terms of office of the Chair and Vice-chair will be two years, running from the time of their election until the subsequent election.*
- C. *Elections will be held at the meeting in December in odd calendar years. Officers will assume their duties at the first regularly scheduled meeting of even calendar years.*

- D. *Vacancies in offices will be filled by election at the first opportunity for the remainder of the normal term.*
- E. *Duties*
1. *Chair: The Chair will preside at all regular and special meetings of the Commission, appoint committees to assist and advise in the work of the Commission, and sign all approved records of the Commission. The Chair will retain full voting privileges.*
  2. *Vice-Chair: The Vice-chair will assume the duties of the Chair in the absence of the Chair. In the event of a vacancy of the Chair positions, the Vice-Chair will assume the duties of the Chair until an election can be held for a replacement.*
- F. *Support staff will be provided by the County. The duties of the staff members include the following:*
1. *Prepare and distribute meeting agenda in consultation with Chair.*
  2. *Attend all meetings and workshops, keeping a verbatim record of the Commission's proceedings to be sent to all members.*
  3. *Sending required notices of meetings to Commission members and other designated individuals.*
  4. *Distribute minutes of Commission meetings to members and other interested individuals or agencies.*

Chad Whetzel – Okay, let's move on to Article V.

Dave Gibney – Are you sure you don't want to burden Alan with more duties?

Alan Thomson – Thanks, Dave.

Article V Meetings

- A. *Regularly scheduled commission meetings are held on the first Wednesday of each month at 7:00 p.m. in the auditorium of the Public Service Building in Colfax, Washington. When a regular meeting day falls on a legal holiday, the Commission will convene at the call of the Chair. Meetings may be cancelled by the Chair, provided notice is given to Commission members.*
- B. *Special meetings may be called by the Chair or by a majority of the members of the Commission provide written or electronic notice of special meetings is sent four (4) days in advance of the meeting.*
- C. *Voting Procedures*
1. *A majority of the members of the Commission (five) shall constitute a quorum. A quorum is required for the transaction of business by the Commission.*

2. *A recommendation for approval or denial of any proposed amendment to the comprehensive plan or official control may be made only by vote of a majority of the total members of the Commission (that is, five members.) any other Commission business may be transacted on a vote of the majority of those present at any regular or special meeting.*
  - a. *If a motion to make a recommendation concerning a proposed amendment to the comprehensive plan or official control fails for lack of required votes (five), the Commission may vote to table the matter to the next regularly scheduled meeting or table the matter until a special meeting can be arranged.*
  - b. *If action on a proposed amendment to the comprehensive plan or official control is tabled to another meeting, the Commission shall act on the proposal at that meeting (according to the provisions above.) No proposal tabled for failure to obtain the required votes will be tabled until a third meeting.*
3. *Any Commission member may disqualify him/herself from voting on any quasi-judicial matter before the Commission based on the provisions of Article VI of these By-laws. In addition, any member will disqualify him/herself from voting on any matter before the Commission if he/she did not attend all of the public hearings associated with the proposal, unless he/she reads or listens to the verbatim transcription of the missed public hearing(s).*
4. *An abstention shall be recorded as a nay vote.*
5. *Except as modified by these By-laws, Robert's Rules of Order shall guide the conduct of meetings and workshops. In case of dispute on a point of order, the Commission by majority vote, shall decide the procedure and resolve the dispute.*

Chad Whetzel – We could find something within those guidelines, I'm sure. This is where I thought we needed to make some changes. Primarily in A. We talk about the *“Regularly scheduled Commission meetings are held on the first Wednesday of each month at 7:00 p.m. in the auditorium of the Public Service Building in Colfax, Washington.”* We have not held a meeting there in a long time. I would entertain any ideas on how to change that to include some of our Zoom type meetings.

Alan Thomson – We need to include some language about on-line meetings.

Dave Gibney – We have on occasion met in the Commissioner's Chambers if something else was going on in the auditorium. We might find ourselves in some location even when we get back in person, should we have the flexibility of a location coming in advance of the meeting.

Alan Thomson – I like that idea, Dave. We did meet in the Chambers a couple of times. We need to include that.

Dave Gibney – You don't want to tie yourself down to changing the By-laws even you change the meeting location.

Brian Davies – Maybe something like a general statement after the Colfax Washington, **“if our location is changed, we will notify everybody and/or zoom or on-line meetings.”** I'm sure other agencies have had to re-vamp their By-laws to include zoom meetings. I've not seen that language myself.

Alan Thomson – I think we can wordsmith this and also, I would like to suggest that meetings are held on the first Wednesday of each month, but we also have the third Wednesday as an alternative. An alternative regularly scheduled meeting the first and third Wednesday. I think we need to include that in there.

Dave Gibney – When the public service building is not available or emergency or other things that we will hold it, the one thing is we are required to make that notice within the legal requirements in the Open Public Meetings Act so it does have to happen a certain amount of time ahead of the meeting.

Brian Davies – Maybe something like, **“In the case of an alternative meeting site the Planning Department staff will notify everyone within the parameters of the open meetings law.”**

Chad Whetzel – If we keep everything the way that it is but put a period after 7:00 p.m. Then say, **“The primary location will be the public service building in Colfax, Washington. Alternate locations may be used with advanced notice per the open public meeting requirements.”**

Weston Kane – Due to special circumstances it may be moved.

Chad Whetzel – Then continue along like, **“On-line meetings such as zoom will also be accepted and those meetings shall be recorded.”**

Alan Thomson – That sounds great because there is a distinct possibility that we might be having in-person/on-line meetings.

Chad Whetzel – I didn’t cover that, but yes, we do need to. I think in the future that will be a good thing to do. My question about the recording of the meetings, is for example, our last meeting we got Zoom bombed there. Is there any reason we need to keep that portion of the meeting? I know that none of us agreed with it but it does not reflect well on the Planning Commission if somebody else is looking through this. What in the world are those guys doing?

Alan Thomson – You’ll notice we didn’t include that in the minutes. That was our call.

Chad Whetzel – I did not see the actual recording of it.

Alan Thomson – The recording is going to be there. It is there. We can’t erase that. The minutes that we handed out; we didn’t put it in there. Okay, so let’s go over the wording here. I like what you just said, Chad, so let’s repeat that again.

Chad Whetzel – I already wrote it down for myself. From the beginning of **Article V, A. “Regularly scheduled Commission meetings are held on the first Wednesday of each month at 7:00 p.m. The primary location shall be in the auditorium of the public service building in Colfax, Washington. An alternate location may be used with advanced notice in accordance of the open public meetings law.”**

Dave Gibney – The only other bit would be something like this alternate location can be on-line or a hybrid meeting.

Chad Whetzel - Yes, the next should be, **“On-line zoom are also acceptable.”**

Dave Gibney – Don't get specific to a company that isn't going to be around forever.

Chad Whetzel – Is there another generalized term for “zoom?”

Alan Thomson – On-line meetings.

Weston Kane -Virtual.

Alan Thomson – On-line/virtual

Chad Whetzel – **“On-line/virtual meetings are acceptable and in the future hybrid meetings will be accepted.”**

Dave Gibney – Hybrid meetings are desirable.

Alan Thomson – That will be a BOCC decision, Dave.

Dave Gibney – Desirable is not requirement it is an encouragement.

Chad Whetzel – This is our By-laws not theirs. With the virtual meetings people can join in that maybe normally can't because of distance and the work schedule. I think that would open it up to more public attending.

Alan Thomson – Let's keep it neutral would be my recommendation. On-line meetings are something we definitely can do.

Dave Gibney – I did not say on-line meetings were desirable.

Alan Thomson – On-line/in person, I know what you are saying. My recommendation would not be to fall on one side or the other and just to allow it.

Dave Gibney – I think we should not be eager to continue this fully on-line method or our meeting. We really do need to get back to having in-person meetings.

Alan Thomson – That is the goal but the auditorium is out of commission for another 9 months to a year. After that is a possibility so we need to include that in here now.

Chad Whetzel – Does that sound good for a start, Alan?

Alan Thomson -Yes, I will bring this back to you again anyway so you get a second chance at it.

Chad Whetzel – The next thing I had something in B. Does anybody else have any questions about A or B? At the end of section B. *“...notice of special meetings is sent four (4) days in advance of the meeting.”* Is that actually practical, Alan? We have the Open Public Meeting Act and we have to advertise that and our paper is the Whitman County Gazette, which comes out on Thursday.

Alan Thomson – I've gone over this with Denis Tracy. So, before we have published this in the Gazette and that would be a good idea but we are not contained to just in the Gazette. Now we are putting all

of our notices on-line on the County Website along with the minutes and any documents that we are working with. That is the primary notice to people now, is on-line and our website.

Dave Gibney – I believe the Open Public Meetings Act does allow for special meetings to be called with a somewhat shorter notice than regular ones.

Alan Thomson – Yes, that is my understanding, too. I don't know what the exact time frame is, but typically I'm going to try and get that ad in about a week ahead of time when I know about it.

Chad Whetzel – I just wanted to make sure that four days was actually a practical number, not something that was out of line.

Alan Thomson – My guess is that four days is in there for a reason. The people that wrote this originally.

Chad Whetzel – Okay, are there any questions in C?

Dave Gibney – Do you have any knowledge of how that came to be of requiring a majority? There have been a couple of times we have had a five-member commission and therefore we require a unanimous vote at the meeting. Actually, I thought there was a law about that but when the same question came up here in Pullman, they didn't find one.

Chad Whetzel – Are you are in Section C-1?

Dave Gibney – To take any action recommending the change of the law or quasi-judicial matter it takes a majority of the nine rather a majority of the quorum present. I'm not saying I want to change it, I'm asking do we know how we got there?

Alan Thomson – I think that is a GMA thing. It is in the GMA manual that I have, that you have to have a majority of the actual total number to be a quorum to do official business. That is GMA language.

Chad Whetzel -What Dave is saying is that in the way that I'm reading this, if we are going to work on amendments to the comp plan or any kind of a control that you have to have a majority of the membership. So, that would be five or more. If we are just holding, if we are not voting and just doing a kind of an open meeting trying to get ideas on things we can, as long as we have five people, we don't have to have the majority. It just has to be the majority of those in attendance.

Dave Gibney – I have seen on this Commission a zone change fail because there were five commission members and at that time, I think we were only five members, maybe we were less, but we could only get four affirmative votes at that meeting. Again, I'm not saying change it, I'm just,

Alan Thomson – Dave, on #2 what are you saying that we are thinking about changing? Is it the first part?

Dave Gibney -The first part, (C-2) where it says, *"...made only by vote of the total members of the Commission (that is, five members.)..."*

Alan Thomson – I don't think you can change that.

Dave Gibney – I'm not suggesting to change it. You believe it is GMA so can we, if it is GMA then it applies to the Pullman Commission too. We did this change to our rules to allow 3 out of the 5 that were there to approve a zone change.

Alan Thomson – How many members do you have?

Dave Gibney – Nine just like you.

Alan Thomson – Did your attorney research that and come up with an answer?

Dave Gibney – Yes, because I was basing my knowledge on this stuff here and they came back and told me it wasn't a requirement.

Alan Thomson – Okay, if your attorney came up with that,

Rusty Jamison – Can you hear me? I haven't talked yet. My speaker was fixed since the last meeting. The way I understood this to read is that the people that are at the meeting would be able to make the changes and that this three of the five voted and it would be okay. But what I am hearing you say is that all five would have to vote and be a unanimous vote to make the change. Is that what you are saying, Alan?

Alan Thomson – That is correct. This language in the By-laws is the original language. It has always been there. The thing that Dave is referencing was here, what is written here right now. So right now, you have to have five members of the nine in order to do official business. If you were,

Dave Gibney – No, this isn't talking about a quorum. What it is saying is that it has to be a vote of a majority of the total members of the commission.

Matt Webb – But it says *"...of the majority of those present at any regular or special meeting."*

Dave Gibney – The first part is if it we are amending the plan or laws it takes five out of the nine. Even if there aren't nine is what it says. The second sentence says that if we are changing our By-laws or something else it only takes the majority of those at the meeting.

Chad Whetzel – Before we go any further, it says, *"....amendment to the comprehensive plan or official control..."* What is official control?

Alan Thomson – The Zoning Ordinances, Land Use Ordinances. Those are official controls.

Dave Gibney – Again, I see some benefit myself in making sure you can't come up with a planning commission meeting where for some reason or another there are only five there and three of them agree that the zone should change. I see some benefit in having this greater majority requirement. I was asking, do you know how we got here?

Alan Thomson – Other than GMA. I read that in the GMA manual before that this is what they say you have to have a majority of quorum of the total number of the Planning Commission in order to make a decision. That's the way we have always done it. If we can come up with some reference here that is not correct, I'm curious what your attorney came up with, Dave.

Chad Whetzel – Under Article V, Section C2, I would like to put you in charge of finding that answer.

Alan Thomson – That’s the way we have done business up to this point.

Chad Whetzel – I agree with Dave, up to this point. I think what we have is good but I would like to know if there are some supporting documents that say that is the way we are supposed to do it.

Weston Kane – I’d like to know that. RCW 36.70.

Alan Thomson – What did your attorney come up with?

Dave Gibney – I asked if there was a reason and she said there wasn’t. She didn’t find something allowing it. She found nothing prohibiting it to be a majority of the quorum present.

Alan Thomson – Okay, I’ll look into it.

Rusty Jamison – I agree with what has been said, but one of the things Alan, you need to ask the attorney, is how you would handle a planning committee board that was not getting along well? If they weren’t getting along well, what could happen to you if the planning committee just didn’t participate enough that you never had a quorum to change the things that need to be changed to run your business?

Right now, we all get along well enough that we participate in those meetings. But if you ever had a situation where people just simply didn’t show up because they didn’t want the business to be conducted, that could be a real problem.

Alan Thomson - There is a solution to that, Rusty. The BOCC appoint you guys and they can un-appoint you.

Rusty Jamison – But what I’m getting at is that can take a lot longer than what you have to get something done. You might, as the Chair, want to make it say you have some repercussion so that if we don’t show up in two or three meetings you could say that you are on probation and you can’t vote and you are going to be off until you change your attitude.

I don’t know. I’m just saying you might ask that because I understand that this could hold up your business if people on this board didn’t get along and see they need to participate.

Alan Thomson – I understand, Rusty, but look at what Dave has just highlighted on the screen.

Rusty Jamison – I understand. But how long would it take the BOCC to kick a person off?

Alan Thomson – That is something that is out of our control. If we have a problem, there is a process that needs to be gone through and that is the process. I would contact the BOCC and say we have a problem and they would make the decisions. It is up to them.

Rusty Jamison – I think the language as it reads is the best.

Chad Whetzel – To back track really quick, we’ve always known this because of the way everything is set up. But, in the Preamble, should we also have something that states that we serve at the pleasure of the BOCC that appointed us? Because that is really what we are doing. They are the ones that select the board members and if we are not doing our job to their satisfaction, they can remove us, too.

Alan Thomson – Under Article Authority, it states that BOCC appoints you.

Chad Whetzel – Yes, and I realize that but,

Alan Thomson – What goes unsaid there is they can bump you off as well.

Dave Gibney – That will be in 36.70 something about kicking off.

Chad Whetzel – That has always been my understanding of it that we serve at their pleasure, and if they are not happy then we can find the door.

Alan Thomson – That is the way it is and it has happened before.

Chad Whetzel – So, are we okay, with Alan’s homework assignment? Down on “2a,” they are talking about,

Dave Gibney – The “a.” and the “b.” are just how you continue if you are in the situation where you couldn’t get five affirmative votes due to a lower attendance or whatever. The other part there is you can’t fight it forever.

Chad Whetzel – Right, and “a.” if I am understanding it correctly, is if you have five members and it passes four to one, we have to table it until the next meeting to get the full quorum to get it done.

Alan Thomson – If it stays four to one, it fails.

Dave Gibney – If the next time you get seven,

Alan Thomson – Theoretically too, you could have seven, eight, nine members present and four of five vote it down. The same result.

Chad Whetzel – So, in “b.” if we have an issue where it passed four to one, so we still need more members and then if you have it tabled to a second meeting and you only have four people show up, can you table it again, because you don’t have the people to do the business or not?

Dave Gibney – Not under the way this is written. You could choose not to take it off the table.

Alan Thomson – Or you could wait until another time where you could get more members present. That is typically what the problem is, when we don’t have enough people show up at that time.

Dave Gibney – You don’t have to take things back up.

Chad Whetzel – What I am looking at is “b.” because when you table something you are supposed to table it to a specific date. If that date comes up and you only get four people, according to this we can’t table it again. It fails and we start over. Should there be an exception for not meeting a quorum?

Alan Thomson – It says there under “b.” *“If action on a proposed amendment...is tabled to another meeting...”* It doesn’t say a specific time frame here. Just,

Chad Whetzel -What happens if so, tonight we were doing something and,

Dave Gibney – Under “a.” it actually does say if you are going to table it to the next meeting or a specific special meeting.

Chad Whetzel – Okay, so, if tonight we were meeting like that and we were going to table it, we would table it for the 16<sup>th</sup> and on the 16<sup>th</sup> if we only end up with four members, it automatically fails because we cannot push it off one more meeting.

Weston Kane -The 16<sup>th</sup> wouldn’t be a meeting because you wouldn’t have a quorum.

Rusty Jamison – That’s the point I was making and you guys said that it would go back to the Commissioners. It seems to me like in a situation like this, Alan would have to get ahold of the BOCC and tell them to get their people to come to the meeting or else get somebody else that would participate.

That could go on for a long time and if there were four people or three people on the committee that simply didn’t want to have the process go through. They could stop the whole process by not participating.

Alan Thomson – We never had that happen, Rusty, and I can’t imagine why that would happen. So, we’ve had times where we’ve had only six people and then if someone cannot show up for scheduling reason, then we at five, so if somebody votes against it that is just the way it goes.

Dave Gibney – The last time I remember this, the arguments against it where it wasn’t just being contrary, there were legitimate arguments both ways.

Alan Thomson – Yes, it was a legitimate decision, so I really don’t think that is problematic. We have never had issues like that where people refuse to show up. They might disagree with something and the reason they disagreed with it was because something was amiss with the actual application.

Dave Gibney – You’ll have more information on this when we next discuss.

Rusty Jamison – My feeling is to leave the language as it is written and if problems occur where the committee didn’t get along well enough to agree to disagree, then at that point in time I guess, Alan, if you are still in that position, you would have to figure out with the BOCC the best route to get it so that the committee would be a functioning committee again.

I agree with you right now. I don’t think we need to change any language because even if we don’t have a 100% agreement on the issues that we vote on we are professional enough that we move on.

Chad Whetzel – It sounds like to me everyone is okay with section “2 a.” So, we are down to #3. Are there any questions on that one? Is there a problem with #4? How about #5.

Rusty Jamison – I’d say I like #4. You might send that up to the Spokane City Council.

Dave Gibney – That is based in the standard to pass something it takes the majority in the affirmative, 50% plus one, and an abstention is not in the affirmative. So, really when you are asking about abstentions you are just letting someone give their opinion and it is a no vote.

Chad Whetzel – So, is #5, okay? We will move on to Article VI Conflicts of Interest. If there are any problems at all we can discuss that otherwise we can move on.

#### Article VI Conflicts of Interest

- A. *Any member of the Commission having a financial or personal interest in a quasi-judicial matter before the Commission will disqualify him/herself from participation in Commission proceedings. Disqualified member(s) will step down from the Commission table and not participate in the deliberations of the Commission.*
- B. *If any Commission member has had contact with a member of the public outside of the public hearing concerning any quasi-judicial matter before the Commission, that member shall make the substance of the conversation or the correspondence (if written or electronically sent) a part of the hearing record (RCW 42.36.060.)*
- C. *A Commission member(s) who has removed him/herself on “appearance of fairness” grounds (see B above) may fully participate in proceedings if his/her/their participation is necessary to obtain a quorum, provided that the member(s) disclose the basis of the challenge.*

#### Article VII Public Hearing Procedure

- A. *Public hearing procedures are contained in Attachment A to these By-laws. These procedures will be adhered to by Commission members. The Chair of the Commission is responsible for the public’s compliance with their provisions.*
- B. *The Board will be notified of any public hearing.*

#### Article VIII Amendment to By-Laws

*The Commission, by a majority vote of its members, may make, alter, amend or rescind these By-laws at any regular meeting, following 14 days written or electronically sent notice of the changes to the membership.*

Dave Gibney – That is pretty standard language. Here in Pullman, we have a list of 12 questions you get asked before any quasi-judicial to make it really clear whether there is a conflict or not.

Alan Thomson – You have a copy of those. I sent it out to everybody. That is something that Dave came up with a few years ago. Pullman’s procedure for quasi-judicial meetings.

Chad Whetzel – I think I missed those somewhere along the lines, Alan.

Alan Thomson – I will send them again tomorrow. I sent them to the whole PC.

Chad Whetzel – I’m not saying I didn’t get it. I’m saying I missed it somewhere and I’m not sure where I would find it now.

Rusty Jamison – Have we had a conflict of interest that you know of?

Chad Whetzel – The last one I remember was looking for a zone change on a piece of ground that one of the Commission members was closely tied to. They fully disclosed that issue and I think he ended up removing himself from the vote.

Rusty Jamison – Okay, I just needed an example.

Alan Thomson - That is a pretty clear example. If your business, and you have a share in that business and they are before the Board you should excuse yourself.

Chad Whetzel – I wasn’t even thinking about a business but something that they were closely affiliated with was trying to do a zone change. That person followed everything like they should.

Dave Gibney – Alan, what you sent out on the quasi-judicial that I am now just looking at still states at the top, “Rules of Procedure for Quasi-Judicial Public Hearings before the Pullman Planning Commission.”

Alan Thomson -Well, good catch there, Dave. I will fix that one.

Dave Gibney – I thought we did some revisions of this to make it fit us.

Alan Thomson – I’m pretty sure we did, and this is the one I picked out of my pile of papers. I got the wrong one but it will still be the same bullet points there. I will double check that.

Dave Gibney – The one you sent out for Legislative for me, says WC Planning Commission. But the other one is still the one for Pullman.

Chad Whetzel – Alan, I did just find that one. I just hadn’t seen it. It is dated January 24<sup>th</sup> and it says Quasi-Judicial Procedures.

Dave Gibney – Actually, they were both sent out on January 24<sup>th</sup>.

Weston Kane – I just found it in my junk folder.

Chad Whetzel – Before we get too encumbered with those, let’s finish the By-laws. Are there any questions on Article VIII? Okay, if there aren’t any comments on those, if we’d like to discuss any of the

other things that Alan brought up, the quasi-judicial rules, or the legislative actions. Do we want to read through those and go over those real quick?

Alan Thomson – I'm not sure we need to. We already looked at these, right Dave?

Rusty Jamison – Once these are approved by us do the BOCC need to approve these as well?

Dave Gibney – This is ours.

Chad Whetzel – Approved by a simple majority in attendance tonight.

Alan Thomson – We can't vote on it tonight because of the changes.

Dave Gibney – We probably won't want to adopt them at the next meeting either, because there will probably be a few more tweaks that we want to make. Usually, a By-laws amendment is done at the next meeting after everybody has agreed to the language.

Alan Thomson – I have to send it out to you after the changes are made and give you 14 days' notice on that. That will take more time to do before we can approve this.

Chad Whetzel – If we are going to adhere to the quasi-judicial hearing, there is no reference to that in our By-laws. Or did I miss something?

Dave Gibney – These By-laws refer to Attachment A and it could have both of those procedures in them. I can't remember for sure whether did adopt. We obviously have an adoption for WC in the Legislative version. The Legislative version doesn't have the ex parte talking and things like that she can't do.

For that matter, everybody in the County has some strong interest in the legislative zone laws and you can't just say you have to recuse yourself because you might buy a piece of property some day and want it re-zoned. But with the quasi-judicial you do own the piece of property and you shouldn't be voting on it yourself.

Alan Thomson – So, Dave, that reference to "Attachment A." I have no idea what that originally was. I don't think it refers to the new rules that you came up with from Pullman. So, we could formally do that this time. Make that Attachment A and both Legislative and Quasi-Judicial. I've got an observation on the quasi-judicial one. Taking an oath. We have never done that. Do we want to do that?

Dave Gibney – I really think you should take a look and see if you found non-Pullman Quasi-Judicial. This thing that I am sharing right now that is, this has been changed from what I sent you based on what Pullman has. Pullman had the Legislative and the Quasi-Judicial separately. This is not the same even with this title. Either we did or we need to.

Chad Whetzel – For clarity should we have our quasi-judicial as one or the other in Section A and then the Legislative as B or visa versa. So, that way they are two separate pieces or can we tie them together and just call them A both together?

Alan Thomson -Either way I'm not sure one way or the other is better. We can separate them Attachment A and B or Attachment A,

Dave Gibney – You could say something like. **“Public hearings, quasi-judicial and legislative are Attachment A.**

Chad Whetzel – That works. But you were asking about #11.

*#11. All members of the public speaking at the hearing must be administered an oath o affirmation. I will administer that now. (The Chair shall raise his/her right hand and say:)  
“Will each of you in the audience who expects to testify today, please raise your right hand? Do each of you swear or affirm to tell the truth in the testimony that you give? If so, please answer “I do.”*

Alan Thomson – Yes, so the administration of the oath. We have never done that. How do you feel about it? Do you want to include that?

Chad Whetzel – How do we enforce that? Are we going to have a man at arms too?

Dave Gibney – In Pullman we read this whole thing at the beginning of every quasi-judicial and if at the oath point, actually at the Zoom meetings we've been asking people to affirm they are going to tell the truth when they first start speaking. In a real meeting we do the, “Everybody who wants to talk, raise your hand, do you swear you are going to tell the truth?” Generally, we also try and notice when people come in after that has been done and if they talk, we ask them.

Chad Whetzel – As much as I like it, I don't think having that affirmation, if someone is going to lie to us, they are going to lie whether they said they would tell the truth or not. I don't know that that is all that important.

Alan Thomson – Well, then at some point the PC is going to have to tell me “Yes” or “No” for that one.

Dave Gibney – Are you sure we haven't already?

Alan Thomson – I'll have to check it out tomorrow.

Dave Gibney – I know that this one the one I sent you without any changing at all. This one, sort of resembles the Pullman Legislation.

Alan Thomson – I need to check back to see if we officially adopted this. We worked on it but I will check that.

Rusty Jamison – Dave, since you have been using this in Pullman, have you seen a difference with the public with respect to your Board? Do you still have members that come and lie just like Chad said?

Dave Gibney – I don't think we've had the actual lying. These rules have been in Pullman for, the second page the oath and appearance of fairness questions have been there forever, long before I ever joined the Commission.

I think they actually date back to the last time somebody sued the City of Pullman for not following, for somebody actually making a decision that shouldn't have. That would have been back in the days when Pullman was anti-growth.

Chad Whetzel – If I'm following all those questions correctly, if we get down to the end of it and we have somebody from the public that decides that Joe can't judge their zone request and they give a reason, then the Board deliberates whether or not that member is going to be allowed to vote. Isn't that correct?

Dave Gibney – Yes, the vast majority of them are just like Alan said. One member of the Commission happens to work for the guy who wants the zone change or Ken Paulson used to be on the Board and often he would not vote on developments because he had a financial interest in doing the plumbing in those developments. In all the time that I've been there, I've never seen this actually used adversarial. It is a protection against a law suit.

Chad Whetzel – Those rules I don't have a problem with. I guess we need to discuss whether #11 we want to have in there.

Dave Gibney – Some of this other stuff is time limit stuff and says don't read your letter you sent us last week. Don't waste our time reading it to us. That is really the last change that was done to these things.

Chad Whetzel – One other thing I just noticed, why don't we start up here talking about #5.

Dave Gibney – Actually, I was talking about #8 regarding reading letters already in the file. We on the WC Commission have never tried to restrict or drive who speaks in what order or anything like that.

*8. Speakers are discouraged from reading verbatim any letters that are already in the public hearing record, although it is acceptable for speakers to summarize such letters during their testimony.*

Chad Whetzel – Right. I do have some questions on that. We have never had replies and rebuttals. Mostly we allow people to say what they want although we will limit it and try to group people as proponents and opponents, which doesn't always work. So, I don't know if #5, if we need to change that a little bit to fit us better.

*5. The order of speaking shall be as follows:*

- a) Proponents of the proposal – no more than 30 minutes.*
- b) Opponents of the proposal – no more than 30 minutes.*
- c) Those who are neutral to the proposal – no more than 15 minutes.*
- d) Reply by proponents to comments made in b) – no more than 15 minutes.*
- e) Reply by opponents to comments made in d) – no more than 15 minutes.*
- f) Additional comments from neutral parties – no more than 5 minutes.*
- g) Rebuttal by proponents to comments made in e) – no more than 5 minutes.*

*The Commission reserves the right to modify these time limits when numerous individuals express interest in speaking.*

Rusty Jamison – One of the things I think Chad, is that you as the chairman, you have been really good at keeping people at bay at our meetings. You have the authority and demeanor that is presented out there that people know that they better not cross the line.

If we ever have a chairman that was a wishy-washy chairman that had a hard time handling the public, then something like this might be a good aid for those in the future. But I will agree, at this point I don't know that you would even need this just because you are a good chairman and you have been able to handle the public.

Chad Whetzel - Thank you for that, Rusty. I guess what I'm thinking of is, maybe you could even say something that, **"The order of speaking will be as directed by the Chair and speaking times will be based on the Board's decision for timing."**

Alan Thomson – If you want to change that #5 to what you just said, Chad, we can do that if that is what you are proposing.

Chad Whetzel – I think so. That would allow us to do something like that if we need to or if we have two or three people and want to have a discussion and we can do it that way too.

Alan Thomson – How does everybody else feel about that?

Dave Gibney – Let's find out where we left off last time. I know that the whole reason for these to have been in WC is because we didn't have, and it is before, you, Chad, came on the Commission. I know that we did. Where did we leave off?

Alan Thomson – I'll need to look into that, Dave. I have no memory of adopting these.

Chad Whetzel – I do remember one of the meetings, Dave. You did bring this in and I don't remember, it seems to me that it was when Guy was the Chair. We went through some of this but I couldn't tell you what meeting we decided we might need these. It had to be something on the clusters I would think.

Alan Thomson – I will look into it.

Chad Whetzel – Maybe we need to table this for tonight and see if Alan can find anything. Then if we don't find anything then we can discuss this and change this to what we want.

Alan Thomson – Okay.

Rusty Jamison – I was going to ask you when you are the Chair, would you during the whole period of being the Chair, would you rather have these as a guideline for you to use at your discretion or would you rather had them be part of our rules that we follow where you would not have the discretion to use them as you wish but more to follow in the way they are listed?

Because once we do adopt these, then the Chair has to abide by what is in here. Whereas the way it is right now, Dave handed you these as guide and you can use them to your own discretion.

Chad Whetzel – Honestly, we have never found this exact setup. So, it is more of a guideline is better off whoever the Chair is. For some meetings, it may be important to do something like this to keep things on track and keep from going all night long.

Rusty Jamison – If that is truly what we want our Chair to be able to use them as guidelines then we might not want to adopt this as our final plan. To have it available for the Chair to use is one thing, but to adopt it and say you have to use this is another.

Chad Whetzel – I think we will let Alan see if he can dig something up and if not, then we can revise this. Most the stuff we have followed those rules for the most part but the order speaking part we have never followed. I would say I would encourage everyone to read these quick before we discuss this again, whenever that is, and we can hold this off for later.

Rusty Jamison – I'm going to say right up front that the way you feel as the Chair and how you would want this whether it limits you or not limits you is going to sway my opinion quite a bit. If I was the Chair the less restriction I have on me and what I have to do or have to say the better I like it. I'm just one person and I'm not the Chair right now.

Chad Whetzel – Honestly, I think what I try to do is give everyone the ability to speak and say what they want to within reason. There have been times when things get very redundant and we don't need to hear the same thing all night long. That is what we are here for is to listen and make decisions based on their testimony.

Rusty Jamison – Right, and you handled that very well without this in front of you.

Chad Whetzel – Thank you.

Weston Kane – I trust that Chad handles this very well. What I'm looking at this, we need some sort of a guideline there. So, if the future Chair had something go wrong and somebody claimed discrimination or something like that, we need the By-laws or some legal backing to it.

Dave Gibney – That is what this is about.

Chad Whetzel – Regardless of how well I have done or not done, if somebody ever questions what we have done this is the documentation to back that up.

Dave Gibney – It also leads to consistency.

Weston Kane – Exactly.

Brian Davies – And repeatable processes.

Chad Whetzel – Especially that portion of not reading verbatim from stuff that you already turned into us. That has been important in the past. I think we will hold off on any decisions until we hear back from Alan.

**MOTION** by Matt Webb and seconded by Brian Davies to table this discussion until Alan can give us conformation on whether or not we have started this process. Motion passed.

Alan Thomson -The consultant said they will get the comp plan back to me on this Friday, the 4<sup>th</sup> and so I will look it over and then I will bring it to you again on the 16<sup>th</sup>. You can look it over and if you are okay with it then we still have the SEPA decision to come in.

So, once we get that then I will set a time for a public hearing. I think we arrived at March 2, 2022, as a potential date for the public hearing for the comp plan update if everything goes right. That is with the PC first and then it goes to the BOCC.

Rusty Jamison – I know I won't be here on March 2<sup>nd</sup>.

Alan Thomson – You have an opportunity, Rusty, when you see it, if you see any issues with it, let me know if you see anything that we missed. I will send it out sometime in the next week or so.

Rusty Jamison – I probably will just call you and then look at any specific areas that had major changes from that.

Chad Whetzel – Well, short and sweet tonight.

Rusty Jamison – I have a personal question for Dave. This has to do with where we were talking about someone on a committee. If they say they abstain from voting, then according to Robert's Rules of Order, that should be counted as a "no" vote? There a lot of people that use that because they are afraid of conflict and they don't want to vote.

Dave Gibney – I understand that and I'm part of other organizations where abstentions are common. Usually, it is more that they have no opinion one way or another. But Roberts says that a motion has to be passed by a vote of a majority in the affirmative. An abstention is not a vote in the affirmative.

If you've got 50 people there and you only get 24 positive votes or even 25, it doesn't pass. It doesn't matter how many vote "no" or abstain on the other side. You don't have that 50% plus one vote in the affirmative. Most of the time it doesn't matter. People who don't want to vote, it is usually obvious how the vote is going to go anyway.

In a real parliamentary thing like the Legislature, we can see that in Congress too. It takes 50% plus one to actually make anything happen. It doesn't contribute to pass the motion which means it is effectively a "no" vote.

Rusty Jamison – It irritates me when people hide behind that and when there are different committees and they are a volunteer and they are just not willing to make a decision and it really does slow the business down. I've haven't seen that but I have in the past.

Alan Thomson – In all my time with the County, I've never experienced an abstention.

Rusty Jamison – That says a lot for the people who have been on these boards in the past.

Alan Thomson – We have experienced a "nay" but not an abstention.

Chad Whetzel – It was not so much of an abstention, they just removed themselves entirely doing the clusters when people that had conflicts of interest. There was no issue.

Alan Thomson – All the members in my history have not had any problem saying “yes” or “no.”

Dave Gibney – I’ve never experienced it in an official PC or other type of a body where we actually are doing this kind of business. I have seen it in a political organization where they deliberately ask for an abstention and it is a meaningless thing. But it does allow people to say they made their position known.

Rusty Jamison – I just wanted to understand that. That is the way I thought it was.

Dave Gibney – The correct way to reference Robert’s, is “Robert’s Rules Newly Revised” and state the current edition. There are 12 editions to Robert’s and you don’t want somebody to say you said Roberts and here is my third edition and it says this and you didn’t do that.

Chad Whetzel – That sounds like a discussion for a later time.

**MOTION** by Dave Gibney and Brian Davies seconded to adjourn the meeting. Motion passed.

**Adjourned – 8:28 p.m.**