

**COMMISSIONERS' MINUTES
KITITAS COUNTY, WASHINGTON
COMMISSIONERS AUDITORIUM
SPECIAL MEETING**

TUESDAY

2:00 P.M.

FEBURARY 2, 2010

Board members present: Chairman Mark McClain; Vice-Chairman Paul Jewell and Commissioner Alan Crankovich.

Others: Catherine Dunn, Deputy Clerk of the Board; Dan Valoff, Staff Planner; Christina Wollman, Planner; Jan Ollivier, Transportation Manager; Michael Murphy, Attorney for Appellant; Brent Bottoms, Deputy Prosecutor; Sean Northrup, Allison Kimball, Sapphire Skies; Lindsey Ozbolt; Wayne Nelson, Encompass Engineering; and two persons representing the public.

APPEAL HEARING

PBCP CODE INTERPRETATION

COMMISSIONERS

At 2:00 p.m. **Chairman McClain** opened the special meeting continued from January 20, 2010, to consider the Board Discussion and Decision on the appeal by Michael Murphy of the staff administrative decision regarding KCC 16.09 Performance Based Cluster Plats. He noted the record is closed.

Commissioner Crankovich said that as part of the 2007 study session on this question, it was agreed upon to consider the Bonneville Power Administration (BPA) easement to be part of the Open Space without gaining density bonus points from it. He said that he would honor that interpretation.

Vice-Chairman Jewell said he had a different interpretation. He said he questioned whether it could be counted as Open Space. He said the fact that the code had been administered wrongly before, did not mean it had to continue to be administered the wrong way, and he thought the code needed to be modified to preclude these interpretations.

Chairman McClain said there was merit to that argument, but a BPA easement was not a regulatory requirement. He said it was not the same protection as Critical Areas Ordinance or Shoreline Management Plan. As a Planning Commission member, when the code was developed, he said they had not allowed the bonus density for those areas protected by other means, and he had to look to the legislative intent. He agreed that the code needed revisions.

Commissioner Crankovich said that interpretation is what led to the 2007 study session. He said he supported continuing to interpret the code this way, and also supports the code revision.

Commissioner Crankovich moved to uphold the appeal, overturning the administrative decision, and remanding the application back to staff. **Vice-Chairman Jewell** seconded the motion. Motion carried, 2-1 (Jewell opposed).

EXECUTIVE SESSION

LITIGATION

COMMISSIONERS

At 2:20 p.m. **Chairman McClain** announced that the Board would retire into Executive Session for 10 minutes with Deputy Prosecutor, Brent Bottoms, to discuss with legal counsel representing the agency matters relating to agency enforcement actions, or to discuss with legal counsel representing the agency litigation or potential litigation to which the agency, the governing body, or a member acting in an official capacity is, or is likely to become, a party, when public knowledge regarding the discussion is likely to result in an adverse legal or financial consequence to the agency. No action is anticipated.

At 2:30 p.m. the Board reconvened from Executive Session and **Chairman McClain** announced that the Board would retire into Executive Session for 10 minutes to discuss with legal counsel representing the agency matters relating to agency enforcement actions, or to discuss with legal counsel representing the agency litigation or potential litigation to which the agency, the governing body, or a member acting in an official capacity is, or is likely to become, a party, when public knowledge regarding the discussion is likely to result in an adverse legal or financial consequence to the agency. No action is anticipated.

At 2:40 p.m. the Board reconvened from Executive Session. There was some discussion on the appeal process and the Board asked that the request from **Chairman McClain** on appeal process be revisited by the Prosecutor's office.

Meeting adjourned at 2:45 p.m.

DEPUTY CLERK OF THE BOARD

**KITTITAS COUNTY COMMISSIONERS
KITTITAS COUNTY, WASHINGTON**

Catherine Dunn

Mark McClain, Chairman