

RECORD OF THE PROCEEDINGS**OKANOGAN COUNTY****FEBRUARY 25, 2019**

The Okanogan County Board of Commissioners met for its regular session on February 25, 2019, with Chairman, Commissioner Jim DeTro; Vice Chair Commissioner Chris Branch; and Member, Commissioner Andy Hover, and Laleña Johns, Clerk of the Board, present.

Review Commissioners' Agenda and Consent Agenda

Commissioners reviewed their agenda and consent agenda.

Briefing Among Commissioners—Discuss Individual Weekly Meetings & Schedules

Commissioners briefed themselves on individual meetings attended.

Discussion – Staffing Requests-Commissioners

Maurice Goodall was present.

Commissioners discussed several requests they have received regarding salary increases. Commissioners discussed the Building Official's request first. His salary is a straight salary with no step increases. The contract does not provide for longevity. Commissioners reviewed the salary survey information provided by HR. Commissioners said if the board moves forward with the request they would like a resolution reciting the findings to back up the decision.

Commissioner Hover discussed the Clerk III position in the Building Official's Office. The Building Official wants to increase the worker hours from 20 per week to 30 per week. He noted the county has been way up in sold properties which translates to more building permits. His thought was if the board approved the one individual from 20 hours to 30 for 8 months it would cost \$6,100 annually and that includes salary and benefits.

The Assessor requested an increase to the chief appraiser position based on what they do. Commissioner Hover suggested another meeting with the Assessor to work out those details due to Union requirements and questions the board has on capacity and structure. The Auditor has already discussed with the board her wish to move positions out of the MARC fund into Current Expense and the board apparently already agreed to that.

The request for a Fairgrounds Maintenance Coordinator position for fairgrounds maintenance was discussed.

Emergency Management discussed not having to pay the retirement costs the county would have to pay it if someone else not already retired was hired in that position. The previous Sheriff received an annual \$5,000 stipend for overseeing the Emergency Management services in addition to his regular salary. An increase of \$2500 annually would be split between the Emergency Services Organization (ESO).

The odd thing is that the position of Emergency Management Director has steps 1-5 just like a regular employee of the county as opposed to other contracted Directors. There are other contracted employees listed with department heads that do not receive step increases. Technically he works for the ESO.

The Veteran's request was discussed. More information will be needed to consider that request and it was suggested another executive session would be needed to discuss the details.

Randy Clough was reached via telephone conference call as the commissioners wanted to know his time frame for retirement. Mr. Clough said he would know in about two months. His hope is to give a more definitive answer than but his plan to retire is around the end of November or the end of January.

Commissioner Hover noted that wages should be at a high enough level to keep employees here and attractive enough to potential applicants when the position opens up.

Motion Create a Fair Maintenance Coordinator Position

Commissioner Hover moved to create a Fair Maintenance Coordinator Position. Motion died for lack of second.

Commissioners directed staff to create a Maintenance Coordinator position specific to fairgrounds.

Legislative Update – Potts & Associates

Jim Potts and Zach Kennedy phoned in.

Mr. Potts and Mr. Kennedy updated the board on the several bills before legislators. It appears the fiscal committee was cut off so not much is happening right now. Commissioner Hover asked about Sen. Erickson's SB 1524 bill that would provide funding an Alaskan hatchery model for a proposed hatchery in Bellingham. Mr. Kennedy said it hasn't had a hearing yet. If he is the only sponsor of it then they may not hear it. He was just appointed to the Orca task force committee. It will depend on the funds attached to it too.

SHB1824 the seals and sea lions is in appropriations and have till Friday to move it forward. It is a new pass out committee. They are hearing there is quite a bit of support for it and accepted process procedure so far.

Mr. Kennedy brought forward in their letter, about wrongful deaths and looking for sponsor counties to sign on to it. Information will be provided to the board to see if we are interested. The commissioners will look at it.

Chapman SB 1829 regarding Veterans assistant levy as a separate levy, basically asking for individual support from counties and commissioners. Let them know if we like it. We should support both Maycumber's bill and this one.

Member of the public George Thornton came in briefly at 10:50 a.m. and obtained the weekly agendas.

Discussion – Methow Forest Ranger District Update – Chris Furr

Methow Ranger Forest Range Chris Furr and Char Schumacher were present.

Methow Forest Ranger, Chris Furr, updated the board on the Twisp River Restoration Project. (map attached)

Twisp river project kick off meeting was held off until now because of the fires in the Methow last year.

Out to comment right now for a proposed action by 2020 and decision in 2021 which is Virginia Ridge. DNR will be working in Wolf creek as well.

This also the wildfire resiliency program but are small acreages. If they had a specific area to go into in the 2000 acre range. They are looking at what the Colville Tribe are doing on some slop treatments to learn how they perform on steep hillsides.

Methow Ranger Forest Range Chris Furr, updated the board on other projects in the mission. He

discussed the Buttermilk project and the changes made due to the fire on the ground. They had an option for winter logging only, or let it rest. He discussed the operator options and difficulties found with those.

Ranger Furr said Regional Mike Williams announced his retirement and his last day is May 3rd but he has not heard who the interim will be.

The interim Travel Management plan was discussed. Commissioner Hover asked what the language on WATV up there is. Commissioner DeTro said those working on the plan balked on designating the roads until an engineer did the roads. He said at one time Okanogan County had an engineer engineering those roads to required specs, so why not do a categorical exemption.

Outfitter Guide is close to issuing permits, it is one place they are acting and moving forward with. The EIS is getting close.

The Cub allotment is a large grazing allotment with two permittees. Ranger Furr discussed those allotments and will continue to work with those involved.

Methow Ranger, Chris Furr, provided a map of the Upper Beaver Creek Road access with photos of the Volstead Creek washout and discussed the history and damage there. (attached) It's qualified for emergency repairs but the decision has not been made and has not gone through NEPA. There are seven crossings that were affected by the 2011 event. Many options were discussed such as reroute and replace in kind, but mostly in the same footprint. They will continue to have issues on the other five crossings that are undersized. There is bull trout downstream and he feels there are three bad options with one being closure and one being do nothing. Through URPO?? They can fix part of it, but there are lots of issues to push through. There is also the decommissioned piece of road and they are looking at other options for access. The map showed accesses that were affected by washouts. He has an issue putting money into this problem for this mile and half of road that isn't in a good place anyway. His thought they'll be back in there to determine how to make up the lost miles. He has discussed this with many, but we are already into year one with those funds.

Commissioner Hover doesn't like seeing public dollars wasted. Would there be any chance of creating a trail up that road. He likes the idea of getting the road system back but putting it back into a gully that gets washed out all the time isn't the best plan. What to do in the interim is the question. Other washed out roads have varying conditions.

Commissioners discussed options for the damaged road. Commissioner Hover explained that by not fixing these roads it limits who can visit the forest in that area. Ranger Furr said this would be a huge money suck for such a short piece of road. They would start the NEPA process and let people know so they have an opportunity to comment. Another year he thought for that process. Commissioner Branch said if there is interest from other to contribute then it would be good to know who that is. He would like to know those numbers. Wood cutting permits were discussed and the funds derived from those.

Commissioner Hover discussed the Lost River levee as it has been an issue for 16-20 years especially with the recent Diamond Creek and McCloud fires as it will increase water coming down lost river with a lot of potential damage if it breaks through the levee. He would like a conversation with Forest Service on alternatives and repairs to provide for the mitigations if it should breach. He'd like to put it to bed.

Ranger Furr stated he met the new Tonasket Ranger Kathy Johnson as she just arrived last week. The hope is that she will schedule time with the commissioners to introduce herself in the near future.

Public Hearing – WATV Proposal District #1 – Public Works & Planning

Mike Worden, Dave Hilton Isabelle Spohn, member of Okanogan Watch, video and audio recording the meeting. Spencer King, WATV Club several others.

The county's audio recorder was turned on and the sign in sheet circulated.

Commissioner DeTro opened up the hearing, noting the purpose of the hearing was to hear and receive comments on the proposed ordinance to open certain county routes, approximately 90.951 miles, to WATV use.

Director Huston provide his staff report highlighting a final MDNS published Jan 30-31, 2019. The potential of illegal ridership, which led to litigation, and the MDNS recognized that as an adopted mitigation for that piece. This proposal brought about the science for the initial proposal had not been completed. An established schedule was created for the type of signs needed.

Engineer Thomson discussed legislation the created the WATV which is not an ATV. 35 mph roads may be opened for WATV's. He referred to the map where the county has the proposed routes for consideration. The dark green routes were open prior 2013, lighter green opened up in 2017 to WATV, red dashes opened to ORV after but not open to WATV. The area in orange are proposed to be opened, and pink are eligible to be opened but not proposed to be opened, some roads at 35 mph with varied speed limits that would need a separate proceeding to reduce the limit.

Engineer Thomson showed the large fine sign that is the same size as the primitive road signs with 20 ordered for placement. Signing on roads that are not open with brown, any road opened with intersections to roads that are open will be signed as well. The RCW says that signing is not what is enforceable but the maintained website with KMZ file that has the same overlay and can be accessed by phones or computers. The KMZ files is located on the Public Works website under recreation.

Director Huston discussed the sign placements being in the higher participation areas where there are many riders, where reflector signs would be used, and why. Commissioner Hover discussed the use of signs that would allow people to know this is not a road they can drive WATV's on. SEPA mitigation was to consider the enhanced penalty on illegal ridership and the commissioners did adopt that into code.

Commissioner Hover asked if the map could show where critical areas are and where the signs exist on our road system. Engineer Thomson stated yes.

Commissioner Branch asked if the critical areas were large areas. Yes, most are large areas Director Huston explained, but the areas that are of most of concern would be where riders are most likely to ride illegally and where the signs would be located. The idea is that illegal ridership could be anyone riding a motor vehicle in illegal areas. More discussion on the Max Fine sign, said Commissioner Hover, because the person could be driving a vehicle other than an ATV.

We are an agricultural county and users like the tree fruit and cattle producers and can use their ATV's on their ranch, but they can get a caution triangle farm permit and they can ride on the roads 25 miles in proximity of their house.

Commissioner Branch said if we use any other vehicles outside of ATV/ORV there is no code reference for that fine. There is also the penalty for those who ride on roads not open. Engineer Thomson stated the sign could be refined.

Commissioner DeTro read down the list of those who wished to comment. He stated the normally he allows three minutes to testify.

Tom Windsor, from Omak. For the last forty years he has owned at least four WATV and each have

over 200,000 miles on them. He supports the county efforts to open roads up for this use. He said in his opinion about 80% of the damage done has been done by Jeeps, pickups and other motorized vehicles. As a member of the WATV club they make sure folks know the best information. It isn't true that his club is causing the damage.

Spencer King, NC WATV Club President. His club has been very involved with where the routes are located and have provided a lot of information to the public about the rules. They are trying to bring forward those areas that create connectivity to the riders. He was disappointed by the signs because it is specific to WATV and should include all forms of wheeled motorized vehicles because it isn't just the WATV going off the roads. He doesn't want to see inconsistent fines between the types of motorized vehicles. He believed we should cover all wheeled vehicles. It has been discussed in the past. As a club they are working hard with the issues that are brought to their attention such as dead end roads, roads that lead to private areas and so they have left those off the maps they publish. This whole WATV license is the fastest growing motorized recreation in the nation. We can responsibly travel these routes without getting the blame for misplaced dirt. He doesn't want to lose the ability to ride these areas as so much work has gone into making these area legal to ride.

Laura Super MVCCC. Ms. Super provided the written comment from WVCC. IN general it feels like we are moving in the right direction. She said the clearer it is the better people can comply. Making it illegal for all types of motor wheeled vehicles and establishing the fine for that.

She suggested the board set a date in the future after the signs have been placed. WDFW wished to identify the critical areas and invite them to assist with the appropriate signs. Make sure county is able to enforce on county roads, ensure mitigations are on the ground prior to the effective date of the ordinance.

Isabelle Spohn of Gold Creek. She supported the comments made by Lorah Super and mitigations that were suggested by WDFW. ON Gold Creek she sees someone almost every day riding on the Forest Service road and doesn't seem to be doing anything bad. She said she found the map on the internet but she wasn't able to go past the dead-end roads in the Methow watersheds that are dead end now, but will those predispose them to choosing roads in the Methow, if so it should be advertised in that area. The fact they dead end be one reason the commissioners choose roads to connect to them. Engineer Thomson said one ended at private property, another ends on Forest Service property and we don't have jurisdiction, another is state jurisdiction. Having a remote place her main concern for her is noise as it echo's and is so loud.

Director Huston has prepared an Ordinance with recitals taking us to this public hearing today. It can be completed for signing today, but if they wished to delay for mitigations to catchup they could fold it into the record before making a final decision.

Commissioner Branch thought comments have been consistent concerns and we should resolve the issues first.

Commissioner Branch asked Mr. Worden about traffic rules adopted by ordinance and he doesn't see those in our code, how does this particular thing get addressed between the two. Mr. Worden County Dispatch said, the county has not adopted a general traffic code specific to the county, so until this proposal we would refer to that until the county adopted more stringent code on the matter.

Commissioner Hover asked about raising the fine. Mr. Worden asked if there is a violation for going into a critical area. Engineer Thomson showed the county code 10.10 regarding the specific fines for Off-road.

Commissioner Hover spoke to comments about funding the sheriff's office sufficiently for enforcements. The county did not cut the Sheriff's budget for operations or enforcements. The

commissioners did approve two of the six vehicles they requested.

Commissioner DeTro said the reason Forest Service is riding ORV is because the current 1980's travel management plan allows it. They have not yet adopted the update, but have been working on it for the last 15 years. There are several bills before the legislators and wondered if we should continue the hearing in order to watch the bills then incorporate those changes once approved. Director Huston stated two weeks from now would give enough time to build into the resolution.

Commissioners discussed whether the roads are opened up today or in April. Commissioner Branch said the signs are on track to be placed out quickly, we should be vigilant in getting that done. Carrying a map should be discussed further too, he said. No matter what bill is approved, we still cannot drive off the road. Director Huston said to keep in mind the roads to be signed in District #3 and thought when the signs arrived that could begin as the decision has already been made. Either go forward and adopt the roads today and start signing the roads right away as soon as we get the signs, or push it off to a point where we know we'll have the signs. He doesn't believe it prudent to sign roads that have not been adopted yet. Engineer Thomson said all the signs could be in the shop by the end of March.

Motion Continue Public Hearing to March 25 at 1:30 p.m.

Commissioner Hover moved to continue the public hearing to March 25 at 1:30 p.m. Motion was seconded, all were in favor, motion carried.

Director Huston asked what information the commissioners wanted for the hearing, a progress report, update of when installation is to occur. Commissioner Branch said the concern he gets from the comments is a trust issue with the board in whether they do what they say they will do or not. Commissioner Hover explained why carrying the map would be difficult for riders and thought that should be left open for comment. Commissioner Branch thought people may want to comment on that as many don't have the technology to get to it. Commissioner Hover said there are wood cutting maps showing fish bearing streams on it and we might consider a map like that. Commissioner DeTro discussed allowing time to coordinate the signing of the roads and suggested coordinating with other work on the road for placement of the signs, so we aren't covering the territory twice. Enforcement is what it is, without signage or maps or that kind of knowledge it is still against the law with or without the map. Something showing what is legal and what is not. Mr. Worden said the Sheriff's office can enforce state, county or whatever it is they would be trained on what code to use. He suggested the RCW or county code be referenced for enforcement and identify which applies. There could be various RCW or code that could apply. Commissioner DeTro closed written comment, any further discussion to continue the hearing, no further discussion, all were in favor, motion carried.

The hearing was adjourned until March 25, 2019.

Director Huston discussed a draft resolution to place a sales tax question on the ballot for communications improvements. Mr. Worden discussed this shows a certain level of trust that the county is stepping up to help. Dedication of the funds to a specific effort is important. He feels it is very positive from the agency side.

Commissioner Hover thought the resolution for 1/10 of 1% and if the legislators change to allow more then the resolution should also allow this should it be approved by the state. Mr. Worden said fire chiefs are scheduled in March to discuss and he would like to show the intentions of the county at that time.

Update Planning – Perry Huston

WRIA 49 Watershed Plan update

Director Huston suggested a resolution that authorizes him to sign the WRIA 49 agreement would

meet the requirements of EAGL system.

Director Huston discussed what the WRIA 49 work group discussed such as what space is needed for it, what the work flow is, and what the design considerations are to be.

Public Hearing – OCC17A.290 & .220 Cannabis Operations – Perry Huston

The audio recorder was turned on and the sign in sheet was circulated.

Commissioner DeTro opened the hearing up for the BOCC's first review. He asked for staff report.

Director Huston provided his report stating an ordinance has been drafted consistent with the results of the public hearing. Right now operating under the interim controls. A new draft of 17A.290 restructures the code regarding lighting. Director Huston read the r

The planning commission recommended a 5-acre minimum for the production of cannabis. Director Huston discussed the district use chart that is arranged alphabetically. The interim controls in R-1 required a conditional use permit in the Methow review district and that is still the recommendation, because of the additional restrictions on lighting, Commissioner Hover described a scenario, if permitted in R-1 and the minimum lot size is five acres and the person gets a production facility permitted but only uses a portion of it, then they want to subdivide for another uses, what happens. Director Huston said in the review process it would be a short plat or long plat and would be flagged if not already in a preexisting operation. A five acre parcel could have seven tier III operations on it. Director Huston said the idea was to create some separation from neighbor. They also discussed a limitation on how much you can put in one particular place and didn't give recommendation on a ceiling in terms of how many operations can be in one place, there was also the limitation of water that was a factor. How to minimize the impacts to the neighborhood would be provided by the five acre minimum without providing for additional setbacks. Director Huston explained the process for looking at an application and what questions would need to be answered.

The Director said the planning commission did not recommend anything regarding industrial hemp. The current regulation in the interim control sets the setback between industrial hemp and cannabis production is 10-miles. Director Huston discussed the agriculture aspect, and our right to farm ordinance provides a clause that says they are safe from litigation in some cases. The county may regulate it. Commissioner Branch said there will come a time when the county may have to designate residential areas from agricultural areas. Commissioner DeTro stated the farm bill recognized hemp as an agricultural product. The Planning Commission did not have enough information regarding industrial hemp, and the BOCC wondered if the ordinance should be remanded back to Planning Commission in order for that commission to provide a recommendation.

Commissioner DeTro asked about lands on the reservation in regards to growing industrial hemp and how those permits would be handled. Director Huston explained the interlocal agreement between the county and the Colville Tribe on how land use permitting would be handled. Commissioner Branch said it could be the tribe itself growing the hemp. Director Huston doesn't know if they have any in the ground.

Commissioner DeTro called on those wishing to testify stating three minutes would be allowed if testimony is kept reasonable.

Kelsie Taylor Attorney represents a company that leases 502 grows. She spoke to the five acres fitting seven grows and she explained the addition room needed for moving around on the 30,000 square feet. She said the industrial hemp issue should not go back, pass this right now then do the research on what mitigations of impacts would needed. There are things that can protect existing cannabis. They have been working on this since October of last year. Give businesses the security to those on

where they can and where they cannot grow. If we allow the hemp in the area she said there should be time enough to do the research before adopting the rules on it.

Andrews Taylor, a cannabis grower and member of the cannabis advisory group. He said one thing that happens is to be able to create rules when there are a lot of things to address. One concern is if we kick it back to the advisory committee that we run into a challenge of getting everyone together again. With the unique challenges this presents, he is grateful on the recommendation provided so far. He urged the passage of the ordinance and once it is come back later on the hemp issue rather than trying to solve two very different challenges and could confound the issues that are out there.

Matt Frigone, cannabis grower and member of the cannabis advisory group. He said the group came up with recommendations that addressed all the issues. He recommended the BOCC move forward with the rules as they are recommended by the Commission then take up another discussion on industrial hemp later. He discussed the definitions be

Stu Skidmore resident of Omak near Engh road. He has six approved grow operations. The odor, fencing, and hemp production. He said photos were taken of the particular operations. The wind was blowing the day before and he showed the damage that was caused on the Engh road operation the next day. The fence has been down and finally got put back up. The grower across from the Gun Club, had it fence blown down, grow plastic blowing around sticking on the fence and the fence is still down. He further explained other grows with these same issues. Why have a fencing ordinance and it should be redone and specified to handle the types of wind we have here. We have winds in excess of 40 mph.

He addressed the odor that it's presumed they meet the odor portion of the WAC. None appear to be in compliance as it is very offensive for three months you cannot get away from it. The other issue is hemp production which is legal in all 50 states. Hemp would allow an alternative to canola and is as economically viable as cannabis. Living in close proximity he said it is all negative and affects the lives of those nearby. If the county continues to allow cannabis within residential areas we will continue to hear the effects of it.

Commissioner Hover asked what stinks. Mr. Frigone said it is a scent and every strain is different and every plant puts out hydro carbon smell that is a terpene. There is no difference in smell from hemp and cannabis. There are subtle differences but they all smell about the same. Some genetics will smell less but every strain is different.

Commissioners discussed industrial hemp. Commissioner Hover thought a field of hemp would be much more odorous than a smaller cannabis grow. He doesn't want to address hemp right now just because it is in the farm bill. The rule doesn't speak to how many grows would be allowed on a 5 acre parcel, should the board consider a number of grows allowed per 5 acre parcel.

Our regulation doesn't provide a rule on the number of grows allowed on a particular parcel, but there is other guidelines that may restrict the number allowed. Commissioner Branch asked if we control it, the impacts should be considered the same whether individual or multi use. Commissioner Branch asked about the fencing requirements and spoke to materials that are not secured well. The requirement for a fence is a state rule, but now we have a requirement for certain types of fences and will reach back to those legal preexisting would have to come into compliance with. Applied lighting rules should be across the whole county in terms of offensive lighting and could be addressed elsewhere in the code. To be fair we should not have fencing that blows around the county. He said there were things that happened that generated the need for rules.

Commissioners asked where the five acres minimum lot size came from. Director Huston explained there is a smorgasbord of lots sizes in the county code. Each individual license dictates the amount to be grown. The size would allow greater separation between landowners. The thought was by creating

a larger lot size you are creating a higher level of separation. The state licensing doesn't allow one fenced compound there are separation requirements? The audience said it was 20 feet between operations. Commissioner Branch discussed his thoughts on the five acre lot minimum lot size. Commissioner DeTro agrees with him, but sorting it all out is the constant challenge in terms of identifying only certain areas that where cannabis operations can exist. If that certain area is owned by one landowner then it appears only that one land owner is allowed to have a cannabis operation. Director Huston spoke to the idea of trying to designate cannabis zones where cannabis would be more appropriate due to the mix of zones it was overly daunting. They then took the overlay idea but they did recognize the challenges.

Motion Adoption of Rules-Cannabis

Commissioner Branch moved to adopt the rules as presented. Motion was seconded, discussion on the motion dealt with the challenges with farm density during which it was concluded that because of state regulations and setback within the code density on a five acre parcel would probably never be more than three tier III farms. Chairman DeTro asked for further discussion, none was presented, motion carried.

Director Huston will rework the ordinance with the direction of the board. Commissioner Branch would like to see some things discussed today in the code that don't have to do with cannabis.

Commissioner DeTro closed public hearing.

Update Planning Continued

Director Huston asked if the board would like to discuss the new position predicated on the primitive road analysis. OCOG anticipates going in a different direction from the one previously discussed. Commissioner Branch said it was approved to consume all the money as possible. The proposal was to do it in house, but it seemed somewhat decided before he got there as the executive committee had already talked about it. It was a rub for him that the money goes to a third party, but it wasn't to them. He sees it as a trust issue, and has to do with trust by cities and counties. Where is the primitive roads study, asked Commissioner Hover? Commissioner Branch said the plan has value, but it was recognized it was a legitimate project. There was opposition. The big picture is the county could gobble up all the money before getting to where we needed to go. Historically the appearance has been that the county gobbles up money that was previously promised for something else.

Director Huston can continue to put together a proposal for that project. He doesn't have anything nailed down, but has identified the shared activities, and contacted Commerce. Commissioner Hover asked if we really need it now that OCOG is taking on the project. There will be some conversion, to be incorporated into our regulations, and not sure a consultant could do that to inform other code. Planning will still be doing some of the work.

The board adjourned at 4:45 p.m.