



Clark County Planning Commission

Steve Morasch, Chair
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Bill Wright
Karl Johnson
Richard Bender
Matt Swindell
Robin Grimwade

CLARK COUNTY PLANNING COMMISSION THURSDAY, DECEMBER 6, 2018 MINUTES OF PUBLIC HEARING

Public Services Center
Council Hearing Room, 6th Floor
1300 Franklin Street
Vancouver, Washington

6:30 p.m.

CALL TO ORDER & ROLL CALL

MORASCH: All right. Good evening, and welcome to the December 6th, 2018, Planning Commission hearing. Can we have a roll call, please.

WRIGHT: HERE
BARCA: HERE
SWINDELL: HERE
JOHNSON: HERE
GRIMWADE: HERE
BENDER: HERE
MORASCH: HERE

GENERAL & NEW BUSINESS

A. Approval of Agenda for December 6, 2018

MORASCH: All right. With that, if there are no amendments to the agenda, I would take a motion for approval of the agenda.

BARCA: **Motion** to approve.

SWINDELL: I'll **second** it.

MORASCH: It's been moved and seconded. All in favor say aye?

EVERYBODY: AYE

MORASCH: Opposed? All right. Our agenda is approved.

And now we're at the point of our agenda where we have communications from the public on items not on the agenda. Is there anyone in the audience wish to speak on a matter that is not on the agenda? All right. Seeing no one, we will now move to the public hearing items.

PUBLIC HEARING ITEMS & PLANNING COMMISSION ACTION:

2018 Annual Reviews and Dockets amending the 20-Year Growth Management Comprehensive Plan Text:

- A. CPZ2018-00020 Clark Regional Wastewater District:** A proposal to amend Clark County Comprehensive Plan, Capital Facilities Element and Appendix E Capital Facilities Plans Review and Analysis Element to reflect the update of the Clark Regional Wastewater District Comprehensive General Sewer Plan.
Staff Contact: Jose Alvarez, Jose.Alvarez@clark.wa.gov (564) 397-4898

MORASCH: We have one public hearing item on our agenda tonight, the 2018 Annual Reviews and Dockets amending the 20-Year Comprehensive Growth Management Plan Text: Number CPZ2018-00020, Clark Regional Wastewater District: A proposal to amend the Clark County Comprehensive Plan, Capital Facilities Element and Appendix E Capital Facilities Plans Review and Analysis Element to reflect the update of the Clark Regional Wastewater District Comprehensive General Sewer Plan.

Planning Commission Procedures

MORASCH: Before we open the public hearing, I will ask if there is anyone on the Planning Commission that needs to disclose a conflict of interest? All right. Seeing none, I will then move to my summary of the procedures.

We are going to begin the hearing tonight with a staff report. The Planning Commission members will then ask the staff questions if they have any at this point. I will then open the public hearing to public testimony.

Members of the audience who wish to testify need to sign in at the sheet at the back of the room. If you wish to give oral testimony, you will then come to the front when I call your name to the table and you'll have to say and spell your last name for the court reporter.

If you have any exhibits that you wish us to consider such as a copy of your testimony, photographs, petitions or other document or physical evidence, please hand it to staff. We've got a couple of exhibits in front of us tonight that were submitted previously. And the information that you hand in will be included as part of the record and we will consider it as part of our deliberations.

As I mentioned before, when you testify at the front table, speak into the microphone so the court reporter can hear your testimony and be relevant and concise and try not to repeat anything that you hear others testifying. There's not -- there are not a lot of people here today, so I will not impose any strict time limits on the testimony, but please try to keep it as brief as possible.

And then when everyone's had a chance to testify, I will close the public hearing and the Planning Commission will then deliberate and they may ask staff further questions and then they will take a vote on our decision.

Our decision is just a recommendation, it's not a final decision, the Board the County Councilors has the final say and our recommendation will be forwarded to the Board of County Councilors who will have another public hearing on the matter and they will make the actual decision.

So with that, I will turn it over to staff for the staff report.

ORJIAKO: Good evening, Planning Commission members, for the record my name is Oliver Orjiako, Community Planning Director.

As the chair indicated, the hearing before you is a proposal to amend the capital facilities plan element and also Appendix E. These are all part of the 2015 to 2035 comprehensive growth management plan to reflect the updated Clark Regional Wastewater District plan as well as their general sewer plan.

Chapter 6 is the capital facilities element and that is in your packet that you've received as Exhibit 1, and changes are in that chapter starts from Page 166 to 171. There are edits that staff is recommending given the proposal or the updated capital general sewer plan from the sewer district.

There is also language in Exhibit 3 and that is on Page 1 of the staff report relating to areas known as study areas which Jose will go over with you. There are also some proposed changes to Appendix E and that is in your staff report or package as Exhibit 2.

As the Planning Commission is aware, the County adopts the district plan by reference and that adoption must be consistent with the action of the County. What I mean by that is that the action or the adoption of the district sewer plan must be consistent with the County land use plan, for example, when the County through the general plan update expands the urban growth

boundary that the district is not serving, they have to come back, amend their sewer district plan to show that they now are going to be serving that area consistent with the action of the County.

So Jose will go over the proposal in detail and discuss what aspect of staff review and other aspects of the staff review and recommendation. I am here to answer questions and support my staff. So with that, I will turn it over to Jose.

ALVAREZ: Thank you, Oliver. Jose Alvarez, Community Planning, for the record. So as Oliver mentioned, there are really two components to this. There's text edits to Chapter 6 of the capital facilities plan and then Appendix E.

And I -- when the initial report came out, we had, we're still working with some language with the wastewater district, so there's an amended Exhibit 2, and I'll go over that and show you there's one change in there and that's to deal with the 20-year costs of the projects.

We were working with the utility to identify those areas, the study areas, those were the freight rail overlay, the Ridgefield areas that were brought into the urban growth boundary that were, and the rural industrial land bank, those two are subject to litigation currently.

And so in conversations with the sewer district, the Ridgefield expansion, the proposed capital facilities for that would also serve other areas, so it wasn't specifically for that area. So when we asked for the costs for those 20 years, we didn't include that.

So I'll show you the table that we're referencing here. So these areas are for the costs of the land bank that the wastewater district included in their 20-year plan, and the freight rail overlay pump station, these total \$4 million. And so what we did was initially, well, this is the second one, initially the cost was \$106 million including that, those three items.

What the appended Exhibit 2 does is remove that 4 million from that, and so that's the only change in that second appendix and it's just to reflect that the costs for those areas that aren't to be served until the County makes a change in policy because currently those areas are outside of the urban growth boundary and per our policies cannot be served, and so that was the language we were working with with the wastewater district to clarify, so the change for the 20 year has that reduction.

The 40 million is part of the CIP, the Capital Improvement Program, there are no projects that were part of the study areas that were included in the CIP, so that's why there's no change to those dollar figures.

MORASCH: Okay. Can I ask a question. I think you said \$4 million was taken out --

ALVAREZ: Yes.

MORASCH: -- but it looks like it's gone from, the Vancouver UGA went from 36 million to 40 million, so it looks like it's going up, and then the total cost went from 122 million to 102, so it went down by 20 million. So can you give us a little further clarification about the numbers.

ALVAREZ: Okay. So this is what was existing in 2016, and so when the wastewater district came forward with the update of the plan, their proposal was to reduce this to this \$106 million figure.

MORASCH: Oh, okay. I see it now.

ALVAREZ: So there's two iterative changes essentially.

MORASCH: All right. That makes sense. Thank you.

ALVAREZ: Yep. So, again, the -- so we have received two additional public comment letters from Futurewise and the Friends of Clark County and they were concerned about allowing the sewer district to serve these areas.

And what I think, we're all on the same page that the intent is not to allow that currently, our policies do not allow for the extension of sewer service outside the urban growth areas with some limitations, and so that's what we tried to do with in crafting this language that's going to be in the general sewer plan, so when we adopt this by reference, we're comfortable that that language reflects that.

The environmental analysis, the SEPA, was done by the wastewater district, they were the lead agency on that, so there aren't any comments on that. And then we are recommending approval of this and believe it meets all of the criteria that are required for this amendment.

BARCA: So, Jose, based on the language that you have here --

ALVAREZ: Yes.

BARCA: -- it has the appearance to me that says if the County decides to go forward with freight rail, then by us approving this plan we have already agreed to that, but we've taken the money out for that. So do they have to come back and ask for capital to cover this area or is this area implicitly covered even though the 4 million has not been allocated?

ORJIAKO: I think the best way for me to answer that, Planning Commissioner Member Barca, is that the language here if you read it carefully it says that at such time that, for example, the invalidity order relating to the rural industrial land bank is lifted, the County will take some action which will have to come to the Planning Commission and then go to be forwarded on to the Council. That action will have to be consistent with the Growth Management Law, and in

the future the Clark Regional Wastewater District will have to then come back and amend their sewer plan to be consistent with the action of the County.

BARCA: Okay.

ORJIAKO: By approving this language and taking that 4 million or so or more dollars off their plan and this language being inserted in their plan and what you are recommending go to the Council, if you recommend approval, that locks that in.

BARCA: It locks in the idea that the County reserves the right to come back and ask for additional capital facilities from the wastewater district. Let me clarify I guess. My concern, in the past, is we have acted to open up development when we haven't included in the capital facilities plan in the past and we have found ourselves where those actions have gotten appealed because the capital facilities plan was not consistent with our development plan.

So all I'm really trying to clarify right now is by us approving this capital facilities plan tonight, we are saying that should the County as a jurisdiction decide that we can develop both either the industrial land bank or the freight rail dependent uses area, then formally the County will come back to open that up and then wastewater district will come back and amend their capital facilities plan accordingly.

ORJIAKO: We have, the County will have to, as Jose indicated, the current policies in the comp plan does not permit extension of sewer outside the city, outside the UGA boundary. So those policies if, again I will use the freight, I will use the rural industrial land bank, if we are successful that the action of the County complies with the GMA and by extension that that also include, depending on how that comes down, that includes ability of a special purpose district, in this case sewer or Clark Regional Wastewater to serve that area with sewer, the County will have to amend our policies to reflect that ruling for an example.

BARCA: Okay. You've clarified that for me. Thank you.

ORJIAKO: Yes.

MORASCH: Any other questions for staff before we open it up to the public testimony? All right. With that, I will open the public hearing to public testimony and it looks like the first person we have on the list is Denny Kiggins.

Public Testimony

KIGGINS: I did not want to speak, but I just signed the sheet just as attendance.

MORASCH: Okay. So you signed the sheet and you do not wish to speak?

KIGGINS: That's correct.

MORASCH: Okay. Is this the only sheet? Is there another sheet? All right. We have another sheet coming up here. Sue Marshall.

MARSHALL: Hello.

MORASCH: Good evening.

MARSHALL: Thank you for the opportunity to speak. After hearing the explanation I must admit -- oh...

BARCA: Can you start with your name and spell your name for us, please.

MARSHALL: My name is Sue Marshall, S-u-e, M-a-r-s-h-a-l-l --

MORASCH: Thank you.

MARSHALL: -- I'm here on behalf of Friends of Clark County. And as Jose explained, if we're all in agreement that you cannot extend urban services into rural areas, well, that's a very good thing.

And in my testimony, which I believe you all received, I talk about the Growth Management Hearing Board and the rural industrial land bank and also the freight rail dependent use, and apart from the decisions of the Hearings Board, I think there still remains some questions about whether or not under the authorization of Senate Bill 5517, the freight rail dependent use, if extension of urban services can be allowed even with the designation.

So I guess the point with my testimony, and maybe it's moot as I think I understand the explanation, is that it would have been premature to extend those services and to budget that money. And when the Council in the new year may decide, make these policy decisions, there still will be quite likely invalidity determination from the Hearings Board and I think there will be questions about whether or not those services can be extended.

So I guess I would say we'll stay tuned and come back when that occurs. Thank you.

MORASCH: All right. Thank you. Any questions? All right. Well, thank you for coming tonight.

MARSHALL: Thank you.

MORASCH: That's the only person I had signed up. Is there anyone that didn't get a chance to sign the sheet that would like to testify tonight? All right.

Return to Planning Commission

MORASCH: Seeing no one, I will then close the public hearing and return it to the Planning Commission for any follow-up questions of staff. Hearing none. Is there any deliberation? Or, if not, I would take a motion.

WRIGHT: I make a **MOTION** we **approve** this item as recommended by staff.

SWINDELL: I'll **second** it.

MORASCH: It's been moved and seconded to approve the item as recommended by staff. Is there any discussion on the motion?

BENDER: It seems to me that WAC 365-196-320 providing urban services needs to be looked at from the standpoint of being changed to basically accomplish what the County wants to accomplish. What I see is I feel we're putting the horse before the cart here in allocating the facilities and more work should be done to make sure that we're in a legal position that is sound. The last thing I want to do is put the County in another position to incur legal costs on this item. So basically until I feel more comfortable, my vote is **no**.

MORASCH: Anyone else?

BARCA: May I explore that with you a little bit, Richard?

BENDER: Sure, Ron.

BARCA: It appears like the one contentious component has been removed from the budget the way I heard Oliver explain it.

BENDER: Go ahead and re-explain it then.

BARCA: All right. So based on the figures where it showed the budget being modified by the 4 million being removed, that is in direct correlation with what is described here in the blue area as the study areas, and I believe the Friends of Clark County testimony was specifically around that portion of it and that was my question to Oliver to try and clarify.

So by removing that, I think we've taken the one item of jeopardy for the County, exposure to jeopardy, out of the budgeting process for now and the County's going to have to come back with an amendment and wastewater would have to come back with a capital facilities modification.

So I understand what you're saying and that was what I tried to clarify. I feel pretty

comfortable about what's happening here because everything else is straightforward urban development and meets the criteria by them removing the study area implementation at the bottom. I don't know if anybody else has a different take on that, but that's the way I heard it.

MORASCH: No. That's my take and that was my question about the numbers --

BENDER: Yeah, I saw that.

MORASCH: -- because they showed the -- it was an iterative process to get to the 4 million, because when I first looked at that exhibit, I didn't see 4 million because there's a strikethrough and a number and highlighted, but the highlighted numbers had changed by 4 million from the prior version to the version that we're going to be adopting tonight going down by the 4 million in this table here.

BENDER: All right. Thank you.

ORJIAKO: And I don't usually like to interrupt when the Planning Commission is deliberating, but on Page 1 of the staff report I will also refer you to the language that is in there and that language will also be in the district's plan as well.

BARCA: Okay.

MORASCH: Any other deliberation? All right. Can we get a roll call, please.

ROLL CALL VOTE

WRIGHT: AYE

BARCA: AYE

SWINDELL: AYE

JOHNSON: AYE

GRIMWADE: AYE

BENDER: So comprehended, AYE

MORASCH: AYE

MORASCH: All right. Motion passes. I guess that was unanimously. So thank you everyone, and that's our only public hearing item on the agenda tonight. I don't think we have any old business. Is there any new business? If not, we are adjourned. Good evening everyone and thank you for coming.

OLD BUSINESS

None.

NEW BUSINESS

None.

COMMENTS FROM MEMBERS OF THE PLANNING COMMISSION

None.

ADJOURNMENT

The record of tonight's hearing, as well as the supporting documents and presentations can be viewed on the Clark County Web Page at:

<https://www.clark.wa.gov/community-planning/planning-commission-hearings-and-meeting-notes>

Proceedings can be viewed on CTV on the following web page link:

<http://www.cvtv.org/>

Minutes Transcribed by:

Cindy Holley, Court Reporter/Rider & Associates, Inc.

Sonja Wisner, Program Assistant, Clark County Community Planning