

**RECORD OF PROCEEDINGS OF THE
WHATCOM COUNTY PLANNING COMMISSION
March 11, 2021**

Work Session

1

1 **Call to Order**

2 The virtual meeting was called to order by Whatcom County Planning Commission
3 Chair, Kelvin Barton at 6:32 p.m.

4 **Roll Call**

5 **Present:** Kelvin Barton, Robert Bartel, Atul Deshmane, Jim Hansen, Kimberley Lund,
6 Dominic Mocerri, Jon Maberry

7 Absent: Stephen Jackson, Natalie McClendon

8 **Staff Present:** Cliff Strong, Mark Personius, Ryan Ericson, and Tammy Axlund

9 **Guest Presenters:** George Boggs, Whatcom Conservation District; Chris Clark,
10 Natural Resource Conservation Service, and Paula Harris, Whatcom County Public
11 Works - River and Flood Division.

12 **Department Update**

13 Mark Personius, Director of Planning and Development Services (PDS), provided a brief
14 update to advise that County Council considered the Planning Commission
15 recommendation to invoke an emergency moratorium on accepting new applications
16 for outdoor marijuana growing and processing operations. Following an executive
17 session with legal counsel, they decided to take no action. However, the item to review
18 and revise the marijuana regulations was already docketed by Council at their previous
19 meeting and we will move forward with that.

20 In addition, the particular operation that that was the subject and focus of the public
21 comments the Planning Commission received in the last several weeks has been
22 served by PDS with a notice of violation, and corrective actions indicated will be
23 addressed during their permitting process.

24 The public hearing for the Shoreline Management Plan Update has to be a joint hearing
25 with the Department of Ecology and has been set for April 22nd, which is when they are
26 available.

27 **Open Session Public Comment**

28 **Timestamp: 8:07**

29 There was no public comment.

30 **Commissioner Comments**

31 Commissioner Deshmane related that the community was disappointed that Council
32 didn't see the comments the Planning Commission saw; that some commercial growers
33 had a mistaken idea that current growers would be negatively affected by the
34 moratorium; and that their district representative, Tyler Byrd, was not present at the
35 Council Meeting.

36 Commissioner Hansen reported that he had an extended conversation with Ed Miller of
37 Miller Environmental about issues being discussed tonight.

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1 Commissioner Barton stated that he took part in a workshop on public hearings and
2 open session for public comment. Though the Commission does things well, he will
3 share with Tammy, Planning Commission Coordinator, some things we could
4 implement that might help things to flow even better.

5 **Approval of Meeting Minutes**

6 *Timestamp: 11:40*

7 **Commissioner Bartel moved** to approve the meeting minutes from February 11,
8 2021.

9 **Commissioner Maberry seconded.**

10 **Roll Call Vote: Ayes-Bartel, Barton, Deshmane, Hansen, Maberry, Mocerri;**
11 **Abstain-Lund; (Ayes-6; Nays-0; Abstain-1). The motion carried.**

12 **Commissioner Deshmane moved** to approve the meeting minutes from February
13 25, 2021.

14 **Commissioner Lund seconded.**

15 **Roll Call Vote: Ayes-Bartel, Barton, Deshmane, Hansen, Lund, Maberry,**
16 **Mocerri; (Ayes-7; Nays-0; Abstain-0). The motion carried.**

17 **Shoreline Management Plan (SMP) 2020 Update**

18 *Timestamp: 13:47*

19 Cliff Strong, Senior Planner in PDS, briefly went over what is planned for the Planning
20 Commission schedule for the next few meetings and reiterated that the public hearing
21 on the SMP 2020 Update will be April 22, 2021.

22 Mr. Strong, introduced guest presenters who then spoke about manure storage tanks,
23 Public Works River and Flood Division projects, and floodways vs. flood plains. Each
24 guest responded to commissioners questions.

25 *Timestamp: 1:00:08*

26 Commissioners discussed the motion that was laid on the table at the end of the
27 February 11th meeting, which was to revise 3d of 23.40.100 to add "except in the
28 floodways" after the word "mining."

29 *The amendment was withdrawn.*

30 *Timestamp: 1:07:07*

31 **Commissioner Maberry moved** to strike "associated with marine, river, or lake
32 shorelines and wetlands" and replace it with "within shoreline jurisdiction and or critical
33 areas and their buffers" in 16.16.225(D).

34 **Commissioner Mocerri seconded.**

35 Commissioner Maberry discussed the reasoning for the requested changes and invited
36 Ed Miller to provide further explanation.

37 **Roll Call Vote: Ayes-Bartel, Barton, Deshmane, Hansen, Lund, Maberry,**
38 **Mocerri; (Ayes-7; Nays-0; Abstain-0). The motion carried.**

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- 1 **Timestamp: 1:07:07**
2 Commissioner Maberry discussed the reasoning for his requested changes to
3 16.16.255(C)(3). Commissioners invited input from Ed Miller and staff.
- 4 **Timestamp: 1:32:49**
5 **Commissioner Deshmane moved** to modify item 3 of 16.16.255(C) by adding "as
6 identified in WCC 16.16.710."
- 7 **Commissioner Lund seconded.**
- 8 **Roll Call Vote: Ayes-Bartel, Barton, Deshmane, Hansen, Lund, Maberry,**
9 **Moceri; (Ayes-7; Nays-0; Abstain-0). The motion carried.**
- 10 **Timestamp: 1:41:26**
11 **Commissioner Maberry moved** to retain the existing language of 16.16.630(B) and
12 16.16.740(A)(1) with the exception of adding "ly" to "substantial."
- 13 **Commissioner Moceri seconded.**
- 14 At Commissioner Maberry's request, Ed Miller provided examples of how this would
15 affect property owners.
- 16 **Roll Call Vote: Ayes-Bartel, Barton, Maberry, Moceri; Nays-Deshmane, Hansen,**
17 **Lund (Ayes-4; Nays-3; Abstain-0). The motion carried.**
- 18 **Timestamp: 1:47:27**
19 Commissioner Maberry provided an explanation as to why he would like the to strike
20 sections 16.16.640(A)(5) and 16.16.745(A)(2), and Ed Miller provided further
21 explanation at Commissioner Maberry's request.
- 22 Commissioner Lund requested that there be a motion and a second initiating
23 Commissioner discussion prior to inviting attendees to comment. The Chair accepted
24 this as a point of order.
- 25 **Timestamp: 1:52:27**
26 **Commissioner Maberry moved** to strike sections 16.16.640(A)(5) and
27 16.16.745(A)(2).
- 28 **The motion failed for lack of a second.**
- 29 **Timestamp: 1:54:10**
30 **Commissioner Maberry moved** to strike sections 16.16.640(B)(2) and
31 16.16.745(B)(2).
- 32 **The motion failed for lack of a second.**
- 33 **Timestamp: 1:58:22**
34 **Commissioner Maberry moved** to retain the existing language for
35 16.16.640(C)(1)(c) and 16.16.745(C)(1)(c).
- 36 **Commissioner Deshmane seconded.**

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1 Commissioners discussed the motion and invited input from staff, and Ed Miller, and
2 RE Sources.

3 **Roll Call Vote: Ayes- Maberry; Nays-Bartel, Deshmane, Hansen, Lund, Moceri;**
4 **Abstain- Barton; (Ayes-1; Nays-5; Abstain-1). The motion failed.**

5 **Timestamp: 2:14:07**

6 Commissioner Maberry brought up issues with the language in 16.16.640(C)(1)(e)(iii)
7 and. 16.16.745(C)(1)(f)(iii). Staff agreed that it did not reflect their intent and will
8 work to satisfy his concerns with some new language.

9 **Timestamp: 2:21:18**

10 Commissioner Maberry expressed concerns with the language in 16.16.640(C)(3) and
11 16.16.745(C)(3). Staff agreed that it did not reflect their intent and will revise the
12 language to satisfy his concerns.

13 **Timestamp: 2:29:05**

14 **Commissioner Maberry moved** to replace "after" with "within a year" in
15 16.16.680(C)(4)(b).

16 **Commissioner Deshmane seconded.**

17 After discussion with staff, the motion was amended to change the language in
18 16.16.680(C)(4) to the following:

- 19 a. Where the mitigation is in place and functional before the impact occurs (i.e.,
20 advanced mitigation,) at a ratio determined by the functions, values and goals
21 of the advanced mitigation plan.
- 22 b. Where the mitigation is in place within 1 year of the impacts occurring at a 1:1
23 ratio (area or function); and
- 24 c. Where the mitigation is placed after 1 year of the impact occurring at a 1.25:1
25 ration (area or function); and

26 *Commissioners Maberry and Deshmane agreed to the amended language to the*
27 *motion.*

28 **Roll Call Vote: Ayes-Bartel, Barton, Deshmane, Hansen, Lund, Maberry,**
29 **Moceri; (Ayes-7; Nays-0; Abstain-0). The motion carried.**

30 **Timestamp: 2:51:18**

31 **Commissioner Maberry moved** to adopt staff's new language on 16.16.680(C)(4)(d)
32 as follows "For retroactive permits the Director may require the ratio to be up to
33 double the ratio in subsection (c) above."

34 **Commissioner Deshmane seconded.**

35 At Commissioner Maberry's request, Ed Miller provided examples of how this would
36 affect property owners.

37 **Roll Call Vote: Ayes-Bartel, Barton, Deshmane, Hansen, Lund, Maberry,**
38 **Moceri; (Ayes-7; Nays-0; Abstain-0). The motion carried.**

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1 **Timestamp: 2:55:56**

2 Commissioner Maberry asked staff to explain the purpose of the change in 16.16.710
3 (C)(1)(a)(v). After discussion, staff agreed to work on language to accommodate
4 artificial ponds without creating an unnecessary buffer.

5 The remaining items for Chapter 16 were dealt with in earlier motions.

6 **Timestamp: 3:09:13**

7 Commissioners agreed by consensus to have staff amend 16.16.760(E), as agreed to
8 by the Commission on a similar section.

9 **Adjournment**

10 The meeting was adjourned at 9:42 p.m.

11 Minutes prepared by Tammy Axlund.

12 WHATCOM COUNTY PLANNING COMMISSION ATTEST:

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Kelvin Barton, Chair

Tammy Axlund, Secretary

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