



# WASCO COUNTY BOARD OF COMMISSIONERS WASCO COUNTY PLANNING COMMISSION

*Tuesday, February 7, 2012*

Columbia Gorge Discovery Center  
Lower Level Classroom  
5000 Discovery Drive  
The Dalles, OR 97058

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## WASCO COUNTY PLANNING COMMISSION WORK SESSION

<b><u>Meeting Topic</u></b>	Facilitate Communication and Update Planning Commission Bylaws
<b><u>Where</u></b>	Columbia Gorge Discovery Center, Lower Level Classroom
<b><u>When</u></b>	Tuesday, February 7, 2012 3:00 p.m. – 4:00 p.m.
<b><u>Participants</u></b>	Wasco County Board of Commissioners, Wasco County Planning Commission, Wasco County Planning Department Staff

### **Anticipated Meeting Outcomes**

- Recognize the work of the planning commissioners.
- Overview the planning commission's roles, responsibilities and any expectations of the county commissioners.
- Identify any outstanding issues from the planning commissioners.
- Discuss potential changes to the planning commission bylaws and reappointment process.
- Establish target dates to have the planning commission review and the county commissioners adopt updated bylaws.

### AGENDA

- I. Welcome & Introductions
- II. Brief Background & Overview by Planning Director
- III. Communication
- IV. Discuss Bylaws & Substantive Issues
- V. Identify Dates to Target Review & Adoption of Updated Bylaws
- VI. Other





# Wasco County Planning Department

*"Service, Sustainability & Solutions"*

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To: Wasco County Board of Commissioners ("BOC")  
Wasco County Planning Commission ("planning commission")

From: John Roberts, Planning Director

Date: For February 7, 2012 Work Session

Re: Facilitate Communication and Update Planning Commission Bylaws

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## PURPOSE

The purpose of the February 7<sup>th</sup> work session is to provide an opportunity to:

- 1) Recognize the work of the planning commissioners.
- 2) Overview the planning commission's roles, responsibilities and any expectations of the BOC.
- 3) Identify any outstanding issues from the planning commissioners.
- 4) Discuss potential changes to the planning commission bylaws and reappointment process.

## COMMUNICATION

The BOC's relationship with the planning commission is an important one; therefore regular communication between the two parties is important. In that context this work session provides an opportunity for the BOC to touch base with the planning commission and update it on any expectations and roles it plays. Additionally, the work session is an opportunity for the planning commission to provide feedback to the BOC regarding any issues or concerns it has. Overall, the work session is intended to serve as a venue to foster communication and the exchange of priorities and ideas.

## BYLAWS & SUBSTANTIVE ISSUES

In early 2011 the BOC expressed to the planning department some apprehensions regarding the planning commission appointment / reappointment process. In response to these concerns on March 2, 2011, Acting Planning Director Gary Nychyk presented and discussed with the BOC proposed changes to the Planning Commission Rules and Regulations (i.e., bylaws) focused on the reappointment process. For a number of reasons, the effort to bring closure to these possible changes to the bylaws stalled and there was no resolution on the reappointment issue.

This work session provides an opportunity for the BOC and planning commission to address the initial apprehensions raised, and discuss or flesh out possible amendments to the bylaws. The following bullets identify the perceived significant discussion topics and issues to resolve in updating the bylaws.

- Interview process - Should planning commission interviews be conducted by the planning commission? Should an advisory committee be appointed – composed of two planning commission members, a county commissioner, a staff member, and one or two citizen members – to conduct the interviews? The pros and cons of both these approaches should be discussed at the work session. Regardless of the approach to interviewing candidates, the BOC will still make the

final decision on appointments to the planning commission.

- Reappointment procedure – It has been expressed that the process of reappointing existing planning commissioners is possibly flawed or touchy. For example, it would be politically incorrect for the current planning commissioners to not recommend to the BOC the reappointment of someone they have served with over the last four years. Additionally, if the BOC is going to reappoint a standing planning commission member, does the position still need to be advertised for?

One simple solution: If an existing member of the planning commission is reapplying for a vacancy, only the BOC (rather than the planning commission and BOC) would interview the candidates. Also, it should be noted that the notion of having an alternate, as discussed below, could alleviate some of the concerns of advertising and then not being able to involve qualified applicants or individuals who have expressed a real desire to be on the planning commission.

- Alternate position – There are reasons that could warrant having an alternate serve on the planning commission (i.e., attendance and quorum issues). It is envisioned that an alternate would not be a voting member unless a regular member was absent. Moreover an alternate could provide the opportunity to have an appropriate candidate serve on the planning commission even with an existing planning commissioner being reappointed.
- Term limits – The notion of term means limiting a commission member's service to no more than four or five terms (i.e., 16 or 20 years). This is frequently included in other planning commission bylaws, but not necessary for us to pursue (shorter term limits are more common).
- Other – There could be other significant issues or potential amendments the BOC or planning commission would like to raise or discuss.

## ATTACHMENT

Proposed changes to the planning commission bylaws are attached. These changes represent a working draft and identify possible amendments through track changes. In addition to the issues above, a number of administrative or "housecleaning" changes have been made. However, it is not necessary to discuss all of these administrative changes in detail, but we can if the BOC or planning commission desires.

## RECOMMENDATION

It is recommended the BOC and planning commission come prepared to the work session to:

- Discuss outstanding issues.
- Discuss and provide feedback on the potential substantive changes to the planning commission bylaws.

## OTHER

- The existing planning commission rules and regulations were adopted on June 4, 1990 (approximately 22 years ago).
- In moving forward with the potential changes, planning commission bylaws from Deschutes County, Umatilla County, Hood River County and Summit County, Colorado were referenced.

**Proposed Changes to the  
Wasco County Planning Commission Rules & Regulations  
“Working Draft”**

**Recommended new language and changes are identified by  
Track Changes: ~~strikethrough~~ and underline**

**Identified Discussion Topics are Highlighted**

Prepared by: John Roberts, Planning Director  
Prepared for: February 7, 2012 Joint Work Session

**BYLAWS**

**WASCO COUNTY PLANNING COMMISSION  
~~RULES AND REGULATIONS~~**

*Adopted: ??/??/2012*

WHEREAS, the Wasco County Planning Commission wishes to adopt BYLAWS in order to provide RULES AND PROCEDURES for its members, meetings and activities. Therefore the Wasco County Planning Commission and Board of Commissioners herby adopted the following:

**SECTION I – ORANGATION OF THE PLANNING COMMISSION**

A. The Wasco County Planning Commission (“Commission”) shall be composed of seven members, appointed by the Wasco County Board of Commissioners (“Board”).

[Discussion Topic: Notion of one (1) alternative; not a voting members unless there is not a full commission; addresses issue of frequency of full commission; training of interested parties or future potential commissioners; I.e., Commission may have up to one alternate member, with the alternate member serving as a regular member when a regular member is absent.]

A.B. \_\_\_\_\_ The Planning Commission (“Commission”) shall, at or before its first meeting, in each year, elect or install one of its members to serve as Chairperson and another to serve as Vice-Chairperson. Nominations for Chairperson and Vice-Chairperson shall be by oral motion, duly made and seconded, placing a name for Planning Commission consideration.

B. Nominations for Vice-Chairperson shall be by oral motion, duly made and seconded, placing a name for Planning Commission consideration.

C. Appointment to the Planning Commission, which shall consist of seven (7.) members, shall be made by the County Court.

D. The Planning Commission shall review all applications prior to appointment by the Court, and shall recommend all candidates that the Commission feels are qualified, Candidates for membership

shall submit a resume of qualifications for consideration by the Commission. The Commission may call any applicant for membership to appear for a personal interview before the Commission. Interviews shall be held at such time and place as the Chairperson directs.

*This section could possibly be reorganized to:*

**SECTION II: METHOD OF NOMINATION & APPOINTMENT: Members shall be nominated and appointed according to the following procedures:**

E.D. Selection of applicants to the Planning Commission shall be accomplished through an open process which shall include, at a minimum:

- 1) Notification to ~~to~~ of all Area Advisory cCommittee members by the Planning Director of Planning that a vacancy has occurred.;
- 2) ~~A~~Publication of a public service announcement sent to local media outletsnotice in a local newspaper, inviting application or recommendations for membership by a specified date.

~~Members shall be appointed for four-year terms, or until their respective successors are appointed and qualified. A member may be removed by the governing body, after hearing, for misconduct or nonperformance of duty; or any member who misses three (3) meetings in one year may be removed. Any vacancy shall be filled by the governing body for the unexpired term of the predecessor in the office.~~

E. All members of the Commission whose terms are expiring shall be notified prior to the expiration of the term and invited to re-apply.

F. Candidates for membership shall submit an application for consideration by the Commission and Board.

G. The Commission shall review all applications and forward a recommendation on the appointment to the Board. The Commission may call any applicant for membership to appear for a personal interview before the Commission. Interviews shall be held at such time and place as the Chairperson directs.

- The Board may interview any or all applicants prior to making an appointment. If an existing member of the Commission is an applicant for a vacancy, only the Board will interview for such a vacancy rather than the Commission.

[Discussion Topic: Interview process and interview committee conducted by who? Existing planning commission or committee composed of: two members of planning commission, one county commissioner, a staff member and one citizen?]

[Discuss Topic: Reappointment procedure for existing planning commissioner. Existing commissioners may reapply. The Board may reappoint any standing commission member? When to advertise the position if reappointment will take place?]

**This would then be the end of this Section II.**

H. Members of the Commission shall be appointed for four-year terms, or until their respective successors are appointed and qualified.

[Discussion Topic: Term limits – No commission member shall serve more than four or five full terms, except that the Board may extend the term of a planning commission member to complete a project which commenced prior to expiration of the term. In no case shall such extension exceed six months.]

I. A member of the Commission who misses three (3) meetings in one year may be asked to resign or removed upon a motion, second, and majority vote by the Commission. Any vacancy shall be filled by the Board for the unexpired term of the predecessor in the office.

J. A member of the Commission may be removed by the Board for findings of misconduct, nonperformance of duty, or three unexcused absences from regular meetings in one year. Any vacancy shall be filled by the Board for the unexpired term of the predecessor in the office.

F.K. \_\_\_\_\_ Members of the Commission shall serve without compensation other than reimbursement for duly authorized expenses.

G.L. \_\_\_\_\_ Members of the Commission shall be residents of the various geographic areas of the Wasco County. No more than two voting members shall be engaged principally in the buying, selling or developing of real estate for profit, as individuals, or be members of any partnership or officers or employees of any corporation that is engaged principally in the buying, selling or developing of real estate for profit. No more than two voting members shall be engaged in the same kind of business, trade or profession.

H.M. \_\_\_\_\_ Before taking office, each appointed member shall execute the following oath or affirmation:

*"I do solemnly swear (or affirm) that I will support the Constitution and laws of the United States and of the State of Oregon, and that I will diligently apply the ordinances of Wasco County, and that I will faithfully discharge the duties of Wasco County Planning Commissioner, to which office I have been appointed."*

I.N. Upon taking the oath, each appointed member shall be heard and vote upon any matter before the Commission, provided however, that no member shall vote nor participate in any matter as to which he may be disqualified pursuant to Section IV of these rules. The Chairperson is a voting member of the Commission.

J.O. \_\_\_\_\_ The Chairperson of the Planning Commission shall be the Presiding Officer at all Planning Commission meetings.

K.P. \_\_\_\_\_ The Vice-chairperson shall perform the duties of the Chairperson in the absence of the Chairperson and shall have at such times the authority to sign appropriate documents.

L.Q. \_\_\_\_\_ In the absence of the Chairperson and Vice-Chairperson, the remaining members shall elect a temporary Presiding Officer.

M.R. \_\_\_\_\_ All decisions of the Chairperson shall be subject to review by a majority of the of Planning Commission members present upon motion duly made and seconded; which motion shall have priority over all other matters.

N.S. \_\_\_\_\_ A majority of the appointed members, when present at any Commission meeting, shall constitute a quorum. A quorum is not necessary for the Commission to conduct work sessions,

continue agenda items or to talk about discussion items.

Θ.T. When a matter is called for a vote, the Chairperson shall, before a vote is taken, state the question before the Planning Commission in general terms, and shall announce the decision of the Planning Commission after such vote.

U. Decisions shall be rendered by those pPlanning cCommissioners present, and the majority vote of those members present shall prevail. In cases of a tie vote, the decision shall be deemed a denial of the motion before the Commission.

P.V. A member of the Commission may not vote on minutes for a meeting a member did not attend. A member may not vote on a project which has been heard at a series of meetings, where the member has not been present at all meetings where the project was considered unless that member has listened to the tape recording of the meeting(s) from which they were absent.

W. The Commission will meet at 3:00 p.m., on the first Tuesday of each month in the downstairs classroom of the Columbia Gorge Discovery Center, The Dalles Oregon 7:00 p.m., on the first Monday of each month in the court rooms of the Wasco County Courthouse, The Dalles, Oregon or in such other location approved by a majority of the Commission. When such regular meeting date falls upon a legal holiday, the following TuesdayMonday shall be the regular meeting date.

X. In addition to the foregoing regular meeting dates, the Commission shall meet or conduct special meetings, at such other times, dates and places as may be deemed appropriate or necessary.

Q.Y. A regular meeting shall be cancelled if no business is scheduled for discussion. The Planning Department shall notify Commission members if a meeting is to be cancelled.

## **SECTION II - PLANNING COMMISSION STAFF**

A. The Wasco County Planning Director of Planning and Development of Wasco County or a member of the Director's staff shall serve as Secretary to the Planning Commission and shall keep an accurate, permanent, and complete record of all proceedings before the Planning Commission.

B. The Planning Director of Planning and Development shall be responsible for the preparation of Planning Commission minutes.

C. Subject to the direction of the BoardCounty Court and the Planning Commission and its Chairperson, the Planning Director of Planning and Development and the Director's staff shall perform the following duties:

- 1) Conduct all correspondence of the Commission, send out all notices required by law or ordinances, attend all meetings and hearings of the Commission, keep the dockets and minutes of the Commission's proceedings, compile all required records, and maintain the necessary files and indexes.
- 2) Enter into the record the number of appeals or applications, the name of the appellant or applicant, a short description by address and legal description of the premises; the nature of the appeal or application; and the final disposition after the case has been disposed of.
- 3) Enter in the record all continuances, postponements, dates of sending notices, and other steps

- taken or acts done by the Commission or its officers on behalf of the Commission.
- 4) Enter in the minutes the decision relating to each case acted on by the Commission, together with the vote of each member of the Commission, those absent or failing to vote being so marked, together with all other actions of the Commission and the full reasons for its decisions.
  - 5) The ~~Planning Director of Planning and Development~~ shall not permit any property of the Commission to be removed from the ~~Planning Department's~~ Office without authority of the Chairperson, except that he may produce records and files for inspection upon the ~~request~~ order of a court of competent jurisdiction. Upon request, the public records and writings of the Commission shall be available for examination and copying by any interested person at the ~~Planning Department's and Development~~ Office during the regular office hours thereof, provided that such inspection or copying will not endanger the safety of such public records or writing.

- D. The District Attorney or his deputy shall act as legal advisor to the Commission in the conduct of all hearings.
- E. In addition to the ~~Planning Director of Planning and Development~~ and the District Attorney, the following officers of the County, or their delegates, shall be considered staff to the Commission: the Roadmaster, the Surveyor, ~~North Central Public Health District employees, the Sanitarians,~~ the Assessor, and the County Extension Agents. The Commission Chairperson shall recognize members of the staff in all proceedings before the Commission.

### SECTION III - INITIAL HEARING ON PROPOSED ACTIONS

- A. Hearings on proposed actions shall be conducted in compliance with ~~Chapter 2 section 2.140.13~~ of the Wasco County Land Use & Development Ordinance or Wasco County National Scenic Area Land Use & Development Ordinance.
- B. ~~To the extent practicable, the~~ Commission shall conduct a hearing upon an application within sixty (60) days of an application being deemed complete and in the order in which the applications are deemed complete by the ~~Planning Department receipt of the application in the order in which they are filed with Planning and Development Office.~~
- C. In all cases, the ~~Planning~~-Commission shall enter findings based upon evidence in the whole record before it to justify its decision.
- D. No action shall be taken unless a staff report is prepared by the ~~Planning Director of Planning and Development~~ and mailed or sent to the members of the Commission at least seven (7) days prior to the hearing.
- E. The action at the public hearing may be to approve the application as submitted, deny the application, or approve the application with conditions deemed necessary to carry out the intent of the Wasco County Comprehensive Plan or Columbia River Gorge National Scenic Area Management Plan. The hearing **may** be continued to a date certain upon majority vote of the Commission. A continuance shall also be granted to any party so requesting if new information regarding the application has been presented by the applicant after the notice of public hearing is sent.
- F. If there is no continuance, the record shall remain open for at least seven (7) days, only if a party so requests.

G. In all cases, the Chairperson shall state the Commission decision upon the close of the hearing.

H. If the application is denied by the ~~Planning Commission~~ or by the ~~Board County Court~~ upon review, no new application for the same request shall be accepted for at least one (1) year from the date of final order on the action.

I. Conditional approvals shall be limited as follows:

- 1) Time limitations shall be set by the ~~Planning Commission~~ in which compliance with conditions shall be met.
- 2) Such conditions shall be conceived to fulfill public needs for protection from potentially adverse effects of the proposed use and public service demands created by the proposed use.
- 3) Changes or alterations to conditions ~~may~~ shall be processed as a new application.

~~J. Failure to fulfill any condition established by the Planning Commission within the required time limit shall be grounds for revocation of the approval.~~

~~K. A bond, in a form acceptable to the District Attorney or a cash deposit from the property owners or contract purchasers in such an amount as will assure compliance with the conditions imposed pursuant to this section may be required. Such bond shall be posted at the time that a contract containing the conditions of approval is filed with the County Clerk.~~

~~L. J. The Planning Commission may adjourn any hearing in order to obtain additional information it feels is necessary to make reasonable decision. Persons previously notified need not be notified of the resumption of said hearing, unless the Planning Commission so orders, if the date and time of the continued hearing is announced at the adjournment of the initial hearing.~~

~~M. K. \_\_\_\_\_~~ The following persons only, if making a appearance of record, are hereby defined as "parties", and shall be entitled, either themselves or through counsel, to a full hearing before the Planning Commission and, upon such participation, to review by the ~~Board OEC~~ and the Courts:

- 1) The applicant.
- 2) Those persons entitled to personal notice pursuant to Chapter 2 of either the Wasco County Land Use ~~&and~~ Development Ordinance or the Wasco County National Scenic Area Land Use ~~&and~~ Development Ordinance.
- 3) Other persons that demonstrate to the ~~Planning Commission~~ that the proposed action affects a substantial right of those persons.

~~N. L. \_\_\_\_\_~~ "Appearance of record" shall mean either:

- 1) An oral statement made at the initial hearing on the proposed action. The statement shall clearly identify the individual and his or her address, and the identity of the person being represented, if applicable; or
- 2) A written statement submitted prior to the closing of the hearing, signed by the individual making the statement or his or her representative, and clearly indicating how the individual has standing as a party. The statement shall be submitted to the Planning Director, Planning Department staff and Development Office or to the Commission at the hearing.

~~O. M. \_\_\_\_\_~~ A verbatim record of the proceeding shall be made by oral, written, or mechanical

means, which record need not be transcribed except upon review of the record.

P.N. \_\_\_\_\_ The Commission Chairperson may set reasonable time limits for oral presentations to the end that parties are encouraged to submit as much evidence as possible in writing prior to the hearing and the Chairperson may exclude or limit cumulative, repetitious or immaterial matter.

Q.O. \_\_\_\_\_ All exhibits received shall be marked so as to provide identification upon review. Such exhibits shall be returned when the period for review has expired, but shall otherwise be preserved by the Planning Director of Planning. Evidence may be received, subject to a later ruling as to its admissibility.

#### SECTION IV - CONFLICT OF INTEREST AND EX PARTE CONTACT

A. A ~~Planning~~ Commission member shall not participate in any proceedings in which any of the following has a direct or substantial financial interest: the member, the member's spouse, brother, sister, child, parent, parent-in-law, cousin, niece, nephew, employer or partner in any business of which he or she is then a member or has been a member within the previous two years, or in any business with which he or she is negotiating or has an arrangement or understanding concerning prospective partnership or employment.

B. Any actual or potential financial or other interest that would lead to bias or partiality shall be disclosed at the hearing where the action is considered.

C. Any party to any action may, in relation to an action, challenge the impartiality of any member before or during the hearing on the action. A challenge must include the facts relied upon by the challenging party, relating to the members alleged bias, prejudice, or personal interest, or other facts from which the party has concluded that the member cannot participate in the decision in an impartial manner.

D. In the event of a challenge for bias, the member shall respond in a statement of capacity to participate in the hearing, which shall be part of the record. The statement shall refer to the challenge and include the reasons why the member wishes to participate or be disqualified. The statement of capacity to hear shall not be subject to cross examination, but shall be subject to rebuttal by the challenging party.

E. The members of the ~~Planning~~ Commission shall not:

- 1) Communicate, directly nor indirectly, with any party or his representatives in connection with any issue involved except upon notice and an opportunity for all parties to participate; nor,
- 2) Take notice of any communication, reports, staff memoranda, or other materials prepared in connection with the particular case unless the parties are afforded an opportunity to contest the material so noticed; nor,
- 3) Inspect the site with any party nor their representative unless all parties are given an opportunity to be, present.

F. If *ex parte* contact cannot be avoided by a member of the Commission, disclosure of the contact should be made by the member at the opening of the appropriate hearing. Such disclosure shall be subject to the same rules as for a statement of bias or conflict of interest.

G. Requests for disqualification based upon bias or *ex parte* contact, pursuant to subsections A through F of this section, shall be considered by the entire Commission present, and be granted upon majority consent (excluding the individual disclosing or challenged concerning bias or *ex parte* contact). The Commission shall consider the evidence in the record and decide whether the individual can reasonably be expected to render an impartial decision.

H. In the event a member of the Commission is disqualified, the remaining members shall hear the application. In the event of no quorum, the application will be rescheduled to a future meeting.

## SECTION V - BURDEN OF PROOF

The burden of proof is placed upon the applicant seeking approval of the proposed action. Such proof shall show that:

- A. The proposed action fully complies with applicable statewide planning goals, Oregon Revised Statutes and Oregon Administrative Rules, and the Wasco County Comprehensive Plan or Columbia River Gorge National Scenic Area Management Plan ~~applicable map elements, goals, and policies of the Comprehensive Plan;~~
- B. The proposed action is in accordance with the applicable standards and criteria of the Wasco County Land Use & Development Ordinance or Wasco County National Scenic Area Land Use & Development Ordinance; and
- C. Granting the request is in the public interest, and that public interest is best served by granting the request at this time.

## SECTION VI — REPEALER & SEVERABILITY

These ~~bylaws rules and regulations~~ repeal and replace all previous versions.

If any part of these bylaws is for any reason held invalid, such shall not affect the remainder of these bylaws.

## SECTION VII – AMENDMENTS

Any member of the Board, Commission or Planning Department may propose amendments to these bylaws. An amendment must be approved by the Board to become effective.

Adopted this \_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
Wasco County Planning Commission

\_\_\_\_\_  
Chairman

CONFIRMED

Date

Wasco County Board of Commissioners

Signatures....

