

**WHITMAN COUNTY
PLANNING COMMISSION
June 5, 2019
Workshop
MINUTES**

MEMBERS:

Chad Whetzel – Chair
Keith Paulson – Member
Russell Jamison – Member
Bob Hill – Member

Dave Gibney – Member
Brian Davies – Member
Gary Moore – Member

STAFF:

Alan Thomson – County Planner
Katrin Kunz – Assistant County Planner
Ginny Rumiser – Clerk

Chad Whetzel – So, tonight we have John Pederson from Spokane County down to talk to us a little bit about some of the issues they have come into, upsize, downsize, whatever they got.

Alan Thomson – Yeah, John is the Planning Director for Spokane County. Spokane County went through a very similar process to us, so I thought it would be very informative to hear, how, what and why they went through what they did. So, without further ado, we can have John come up and sit right here and get right into it.

John Pederson – Well, thank you, it's a pleasure to be here, to kind of help educate you a little bit about the journey that Spokane County went on regarding marijuana. I'll tell you, it was a long journey and I'm not really speaking, and I don't want to couch my remarks either pro or con, but just to give you the information that our County Commissioners went through and what they heard from the public and trying to get their arms around this new industry. And that is what is was, so I'm going to give you a kind of overview of some of the timing that we went through. So, if you want to wait to the end for questions, that would probably be better and then we can discuss these things in more detail.

First of all, as you know, the initiative that made marijuana legal in Washington, I-502, passed in November of 2012. So, this is still fairly new and so at that point, the initiative essentially said, what we called enabling legislation, in the Revised Code of Washington (RCW), you guys are probably familiar with those that basically said, here's the framework by which cities and counties can regulate marijuana. It pretty much put the licensing of marijuana into the hands of the Liquor Control Board. Now it's the

Washington State Liquor and Cannabis Control Board, and they address all the licensing issues. So, the licensing part of the equation falls within in the Liquor and Cannabis Board and the land use regulations falls upon the cities and counties. And there are some disconnects between the two and I will share about that a little bit later. The licensing requirements are pretty specific, it's either issued for production and processing and sale. When it first came out, they were very, very tight on the amount of production licenses that they were issuing. Also they were very limiting in the points of retail sale. For example, in Spokane County, I believe we had eight (8) potential sites for retail sale. Production was limited to a maximum statewide. So in essence, the licensing requirements of the State are something that they oversee and they oversee to their minimum standards. And they basically say, for licensing you've got 1,000 feet from a school, a playground, a recreational center, child daycare center, public park, library, or game arcade where you're going to have kids under 21. That is the licensing end, period. They verify that, it's not up to the local government, it's not up to Alan or his staff to do that with the license. So, with that said, it's the State that is being in the business of issuing licenses and that point it kind of puts local governments, cities and counties saying what are we going to do with this new industry? How are we going to regulate this?

We found that our Zoning Code which was in place at that time did not address marijuana. It didn't define it, it didn't say what it was, what it isn't, and so that put the burden on us, as the Planning Department, to say how are we going to look at this? So, there were things that we typically do and we didn't always want to reinvent the wheel, we want to look at what other jurisdictions have done. And so, we looked at what Colorado had done, because Colorado had gone through the process previously. And what I found was, in doing some initial researches, that there is no consensus. Nobody does it the same way statewide and the research that I did was primarily through the, what is called Municipal Research Service Center (MRSC), it's a very good tool. There are lots of good examples of the whole host of things you can research for planning topics. If you look under marijuana you'll see how cities regulate it, how counties regulate it and you can put all that information together in a three ring binder, but none of it will be the same. There is just no continuity, because everybody has a different opinion, different geographics. Cities are smaller, different landscape. Counties are more rural in nature, so there are going to be some inherent differences. We found that some counties took a very hands off approach, very laissez-faire, don't worry about it. Some decided to jump in, as did various cities. And as this process kind of evolved, one thing that came out after I-502 was passed, was an Attorney General opinion from the State of Washington that said, "Cities and Counties are not precluded, even though it's a legal activity, from banning marijuana". So, you always have that option. Either you can do it through a moratorium, which I understand you guys have had, if you want to do it permanently then you would have to enact some kind of permanent ordinance. But, it's kind of unusual to say, here's a legal activity, but the Attorney General is saying you can still ban it if you want and many places have done that, many cities have done that. Not a lot of counties have, a few here and there, but a lot of cities have banned that industry. So, what we did was work through our zoning code and we thought, this is something different, what is it? It grows, is it akin to a crop? We kind of came to that

conclusion and so looking at our current zoning code, we came to the fact that it allows us to make interpretations for new things, because you can't define every possible variable of a land use. So, we looked at it and said, okay we're looking at this new industry and said, you know what, if it's not listed in our zoning code we can do some administrative classification. So, we issued a policy initially to put out to all staff and for the industry people who come to see us and said, we're going to define where you can produce, process and do retail sales. We produced maps from our GIS system, on a mapping system, that said we're going to look at these various zoning classifications throughout the county and say in those rural areas you can do "x", this is where you can produce, here is where you can process and here is where you can have retail sale. So, initially our first cut was the policy level, interpretation by myself, we did that in October of 2013. So, shortly after this became legal. And we said that you can produce marijuana as akin to a crop, as an agricultural crop, it does grow, in our large tract agricultural, small tract forestry zones, our rural zones, rural traditional, rural five and urban reserve. So, we have a lot of different kind of rural zoning in Spokane County. Essentially if you're urban, you're going to be inside the urban growth area boundary, which you guys are familiar with, if you're outside that, you're pretty much in a rural environment. And Spokane County has a lot of rural area like Whitman County, and we have a fair amount of urban areas that surround the cities. So, we basically said in that policy you can produce just like you produce hay, grow tomatoes, and grow apples in our agricultural zones. If you're going to process, in other words, take the marijuana and change it into some other product, whether it's, a lot of these products, production processes require heat, they require gases, they require some other processing and we said that if you want to process and make marijuana into something else, that needs to go into a Light Industrial or Commercial zone where we have urban services available, like fire protection. And if you want to sell it, you can sell it in our zones that allow commercial retail sales. So we mapped those and we also mapped, kind of in the context of applying the State's separation criteria, that 1,000-foot. So, based upon what we knew, and we kind of put that out there and said, here are potential locations.

So, that was fine for a while. We put out a policy, it seemed to be working okay. But, it didn't really correspond initially to what the Board of County Commissioners were hearing from folks like these sitting in the audience about concerns, public concerns, complaints, and impacts to residents, property values, setbacks how close can this production area be to my house or to my neighbor's house? And I can tell you I've sat in a meeting room similar to this, for hours and hours and hours hearing testimony on this, as you'll see through this journey. It takes time. You're going to be hearing a lot from both sides of the fence.

So, we issued a policy in October and in May of that same year we found that the policy didn't consider a lot of those impacts. We didn't know, it was just a new process, it kind of evolved over time. So, then they said, you know what, we want to protect our Light Industrial Zone from being consumed by outdoor production area. So the first thing after the policy, was an interim ordinance, much like a moratorium, that said we're going to limit the production in the Light Industrial Zone to essentially indoor type production. So, we didn't consume undeveloped industrial land for the wrong purpose. And

whenever we adopted an interim ordinance, which we did many times, that requires a public hearing. Within 60 days of adopting an interim zoning ordinance or a moratorium you have to have a public hearing. And that is when, really, the public participation process started. Because every time you adopt a moratorium, you have to have a public hearing within 60 days and an interim ordinance is good for 6 months and at the end of that 6 month period it can lapse or you can affirm it for another 6 month period and that means another public hearing. So, that is kind of a way to generate some of the public impact and develop an interim ordinance to get something on the books immediately, as in interim step as you go kind of through this journey.

April 2014 rolls around. The Board of County Commissioners adopted another interim ordinance, again based on public comments and testimony, and said that we're going to regulate indoor/outdoor production, processing and we adopted setbacks from property lines. In other words, it was our first cut in attempting to find out how far should an outdoor production facility or indoor production facility be from a property line. Initially it was 100-feet from the front yard, 300-feet from the side/rear or flanking street, pretty good size parcel, and a minimum lot size of 8-acres. And we had again hours of public testimony on that. If you think about those standards, 100-feet from the front, 300-feet from side, if you think about a parcel that is about 300-feet wide, that typically is 5-acres or more, which a 5-acre parcel is typically 330 x 660 in dimension. So, we're kind of trying to guide this into more, if you're going to do this production in rural areas and that minimum lot size is 8-acres, probably the intent was to limit it to larger parcels and so you would have a greater dispersion and a greater setback and lessen the impacts on adjacent properties. So, that was fine for a while and then we heard again a lot of public testimony about, is that setback too much or too little? Primarily the 300-foot from side yards. So the Board adopted another ordinance about a month later in May of 2014 and said, we'll repeal the previous one, we're going to keep that 100-foot front yard, but it won't apply if you have an existing structure. And we kept 50-feet from the side or flanking yard and the 300-feet from any adjoining residence on an adjacent parcel. So, if there is a house next door, you had to be 300-feet if you're to have an outdoor or indoor operation. And that 300-foot setback, with this ordinance, could be reduced by 50% if an adjoining neighbor said, I don't object. So, again you can see this inner process we started and we just kept moving forward and developing new regulations each time. And it also identified minimum lot sizes for the various tiers of the growing operation. At that time, the Liquor and Cannabis Board had Tier 1; Tier 2 and Tier 3 production levels. And that was based upon how much they could produce. So, we actually reduced the lot size down to 3 and 5 acres. We also defined, because of this interim process, people were saying I can grow outdoors, right? What about a temporary structure? What about a greenhouse? What about, what we called Hoop Huts? Those are basically plastic type structures that are somewhat temporary in nature. So we found that we had to get our Building Official involved in this and look at what kind of structures can be used for housing an indoor grow operation. And so we had to come up with a definition of what we defined as a temporary structure. And that was somewhat of, you've got a semi-ridged plastic kind of a thing that are called Hoop Huts, they're pretty prevalent in the industry.

So, those first series of interim ordinances developed into a formal text amendment to the zoning code. In Spokane County and typically other places, when you adopt an interim ordinance you do that to be a place holder while you develop a more permanent regulation. And when the Board of County Commissioners adopted these interim ordinances they directed staff to say okay, now go work on amending the zoning code in a permanent matter to address what we've done in these interim ordinances. So then we adopted a zoning code amendment in 2014 and that basically took it from an interim to a permanent amendment to the zoning code with those minimum setbacks and those lot sizes for the tiers. So, that worked for about 1½ - 2 years, 2014-2015. In the fall of 2016, the Board began to hear complaints about odors. And what they were hearing from was the Spokane Clear Air Agency. I understand you don't have one of those in Whitman County. Spokane County has a Regional Health District that covers various counties and we have the Clean Air district that covers specific regulations on dust abatement and air emissions. They are the agency that were getting complaints about the smell and odors of production. Primarily in the rural areas, not from indoor grows, per se, but from outdoor production areas and they were getting numerous complaints and so that got the attention of the Board of County Commissioners, who sent us an input.

So, in November of 2016 the Board of County Commissioners looked at again amending our regulations through another interim ordinance and that resulted in trying to wrap our arms around, how do you mitigate odor? And odor is very sensitive and what we tried to do was compare what other kinds of other land uses have odors that we regulate? We looked at landfills, we looked at other things that have, hop farms, things like that that have potential for odor 24/7. Because marijuana has a seasonal growth, obviously, so the odor is going to be very prevalent when it's harvested and when it's dried. We learned all these things through the process. When it's growing it doesn't have much of an odor, but when it gets ready for harvest and it's dried, it has quite an odor. So, based upon those complaints we had a series of public workshops and most of that focused on the issue of how can we work together with Clean Air and the current zoning code to find out how can we mitigate those odors? And that led to another text amendment to the zoning code.

This journey just keeps on going. And so that text amendment cleaned up the definitions a little bit, about what's indoor and outdoor. And ultimately what that resulted in after again, hours and hours of testimony from a lot of folks on both sides of the fence. We started off just allowing this as an outright permitted use with standards. You could have minimum lot sizes, setbacks, and meet the licensing requirements. So, after the Board heard again hours of testimony, they took a different twist and said, you know what, we've had enough of complaints and we have a lot of production facilities and ultimately they decided that, instead of allowing this as an outright permitted use just subject to administrative review and licensing, that each one of a new facility, because you can't go back and undo what's been done before, those are already vested, they're there, they're lawfully established, it would require a new indoor and outdoor production in our rural areas would require a conditional use permit. That's a public hearing process through the County Hearing Examiner. And in that they

established very, very detailed conditional use permit standards that retained much of those setback issue, but also allows the Hearing Examiner a lot of flexibility to impose additional standards, greater setbacks if necessary, based upon that public input. It also required those folks to work very closely with the Clean Air Agency to develop odor mitigation. And that is a tough one, because there are some State laws that require or don't allow you to mask the smell of marijuana with injecting other odors to it. So, you have to work with some charcoal filtration systems and look at some exhaust scenarios where it can mitigate to the satisfaction of the Clean Air Agency, but it's going to minimize those impacts on adjacent properties. There are tons of data out there about how mitigation of hop farms occurs, as far as, blowing air through trees and things like that, it's pretty fascinating. But, again we went from a totally different mindset of allowing this use as an outright permitted use, with standards, to saying, okay each one of these is going to be unique now, it's going to require a public hearing process and a conditional use permit. That is a whole different burden to bear for an applicant. There are fees involved, there is notification of property owners, a detailed site plan, they need to show us, how, what, when, where, indoor/outdoor, fencing, parking, landscaping and the Hearing Examiner, again, has a whole host of mitigation measures that can be applied above and beyond that. We also took the steps to define, really what is agricultural in nature. We had it before, but we added to it, so that we said that marijuana is a little bit different animal, so to speak, than a typical agricultural production. We defined it, basically what it is, and its cannabis. We said it's not particularly defined as what we normally see as agricultural, but it's more of a production of this controlled substance. And we took the term again further to define, what it is, what a temporary growing structure is, so that we knew what kind of facilities these would be housed in. We defined what a greenhouse was, because what's a greenhouse? People have different interpretations of the code. We talked about what is a controlled plant growth structure. We had to be very definitive so that we could give people guidance and know what the industry was going to expect through this process.

Again, the only people that could apply for this conditional use permit, it just means they have to be in the licensed process with the State. They have to comply with all of the odor control measures that are implemented by the Clean Air Agency. The Hearing Examiner has the flexibility to determine setbacks, based upon site specific conditions. Not all sites are created equal, some might be in a little bit of a valley or a dell, so it may have more homes adjacent to it. Some may be out in a very rural area with nobody around them, therefore the setbacks can be variable. We didn't allow anybody to produce on a lot that didn't meet the minimum lot size of the zone. As you know, under Growth Management, you're either urban or you're rural. And the rural, in Spokane County, is typically 10-acre parcels and above. So, in these regulations we didn't allow people to say, I've got an existing 2-acre parcel that I created back in 1950, I can't produce marijuana on that unless it's truly in a rural parcel and that is typically 10-acres or larger. We also worked at limiting lot coverage. This is kind of interesting. This is a way to mitigate those impacts of smell. If you have outdoor production and a structure, we said that you can't exceed 20% of your area of your lot with production. Think about a 10-acre parcel, 20% of that, not a whole lot of area. So, you can't cover 10-acres completely in plants and structures, so you would limit that impact.

So, that is kind of what we did. And the Hearing Examiner has other conditions and restrictions as may be imposed based upon the site specific conditions. We learned a lot and I can tell you that what Alan has here, in this 3-ring binder, we had about two of those, information, data, a lot of public input about folks that were dissatisfied with the process. There are various opinions on what marijuana is, you'll have people say that it's not an agricultural product and that's somewhat kind of true when it comes to the taxing of that product. Under the RCW 82.02 marijuana is not taxed like an agricultural product, so that leads to a lot of discussion, a lot of assumptions that it's not "agricultural". For the purpose of taxing, it's not. When the State taxes marijuana, they don't tax it as an agricultural product. But, it is something that grows and we tried to kind of start with that premise of, it's a crop, it's harvested, it has seasons and it led to this very long and protracted journey that led us to where we are today.

I hope that gives you a kind of background and sense of what you may choose to do. What you may not choose to do. Again you have the full range of options, you can regulate it, you can ban it, you can ignore it, but it's still going to happen, because I will tell you that the State will issue licenses regardless of your local land use regulations. They are not in the land use business, they are in the licensing business. And so we see all the applications for licenses. They send them to people like myself and Alan and we have the ability to comment on those. If you object to the issuance of a license, the State will require you to submit some kind of documentation and state the reasons why, but they will still issue that license, if it's consistent with their standards and they will depend upon local government to enforce their own land use regulations. What the Liquor Control Board will enforce is their licensing standards and they are rigorous. If you look at that RCW I cited earlier, there are pages and pages and pages of who can and who can't be issued a license, eligibility requirements in the separation requirements, it's pretty rigorous. If someone is not complying with the licensing requirements, my advice is, they need to talk with the Liquor Control Board for enforcement. If they're not complying with the land use regulations, it comes to your Planning Department and your code enforcement folks then take that step to go out and do an investigation to determine if they are in compliance. We have not had a lot of compliance issues regarding our standard. The only one that really kind of drove the bus, so to speak, was odor. When someone came in for a new production facility, if they were going to build a building, one, they need a building permit. So, we have the review process to ensure and they have to disclose what they are doing, if they are going to build a building for production, then they have standards to meet. So, we knew they had to meet setbacks, dimensions, standards, and lot sizes. That is how we looked at that regulatory part of it, at that time.

So, that gives you a little bit of an overview of where we've been. It has been pretty quiet in our front since we adopted these few regulations for conditional use permits. I think what we're seeing now is that the industry has kind of, for a lack of a better term, weeding out some of the smaller growers. I think that there is a certain economy scale for people who actually make a living to do this. It takes a lot of capital to invest in this to get the business started. We're not receiving complaints from the processing folks who

we wanted to separate. Again, just because of the nature of the beast, processing involves a lot of different things. Turning marijuana into other products, closed-loop systems, application of gases, pressure vessels and things like that. Those are probably appropriate in a place where you have fire protection. And retail sales, you know you see them, but they are very tightly regulated by the State. They are very tight on the number of outlets that they will let people have. So, we wanted to make sure that we separated processing, production and retail sales. On the production side, our ordinance allows people to do very limited, they can take the product, they can dry it, they can trim it and they can bag it. So, packaging and labeling and then they ship it to the retail outlet. If anything happens in between, it has to go to another place where they can make flour, or other products.

Does that help? I know you'll hear a lot, you probably will hear a lot of, my district didn't vote for that, I didn't vote for that, you know, what about federal laws? I'm not going to give you legal advice, I'm not an attorney, but we have very good attorney's that work for us and the State Attorney General has said, again, that you can regulate this any way you choose. You can ban, you can regulate it, and it's up to you. But, that federal issue that comes up occasionally. I think we've seen that it doesn't look like the federal folks are too interested on getting on the states for allowing marijuana production. Many states have adopted it since Colorado I think was one of the first to, or right up there. Alaska, California, and it keeps growing. So, it's kind of a green revolution, if you will, for some folks.

I'm open to questions if you have any.

Chad Whetzel – Are there any questions from the Board?

Dave Gibney – So, you mentioned the Hearing Examiner, does Spokane only use the Hearing Examiner for conditional uses?

John Pederson – Yes.

Dave Gibney – Okay, because we have, I believe in Whitman County, if there is cost, or it has to exceed a certain cost, under our current conditions.

John Pederson – We have a Hearing Examiner who is an attorney, he's appointed by the Board of County Commissioners, he serves directly under the Board, he doesn't report to us. He is licensed in the State of Washington and he is the sole enforcement who has that decision making authority. He does not, any appeal of his decision go direct to the superior court. They do not go to the Board of County Commissioners, and it does not go through the Planning Commission at all. The Planning Commission has the role of recommending changes to our zoning code, to the Board of County Commissioners, as I assume you guys do. And that is their role in looking at this and they were heavily involved in this because every time we looted our zoning code, we had to go through that step of going through the Planning Commission, public process, they correct the litigation to the Board and the Board, and County Commissioners has

the option of accepting that recommendation or they can hold their own public hearing. And between multiple steps at that time, is when you have that interim process and that public input about, how do you do this?

Alan Thomson – That is a major difference between a fully planning and partially planning counties. We are partially planning and we don't typically use a Hearing Examiner. We have created exceptions there, but normally it goes through our Board of Adjustment. But, I think that all fully planning counties go through a Hearing Examiner and they are subject to the Growth Management Hearings Boards and the Pacific Northwest, the Central and the Eastern areas all have their own Hearings Boards.

Dave Gibney – And if we were to go to requiring conditional uses for the marijuana industry or production, we could also add in there, that is would be the Hearing Examiner path rather than a Board of Adjustment path?

Alan Thomson – That is a possibility, but the exceptions in Whitman County code puts the burden on the applicant...

Dave Gibney – Today.

Alan Thomson – Today, to pay for that process. If the County had to pay for that, I don't think that would fly.

Dave Gibney – Another thing that is newer, since you went through this process, is the recent farm bill legalizing and classifying as agricultural, is hemp.

John Pederson – Correct.

Dave Gibney – Non-THC carrying cannabis. What are your plans on hemp?

John Pederson – We haven't taken any steps at this time on hemp. They are very similar, but one has the THC and one does not.

Dave Gibney – Both have odor.

John Pederson – True, but we haven't had anybody come forward yet, and kind of put that out there for public consumption. Is hemp something that we're going to dive into, I don't know. But, again, I suspect we may take a similar path as looking at this as an agricultural product. Lavender is another agricultural product that has a smell. Other agricultural things, like dairy farms, generate smells 24/7 so we may get there, we just haven't done it yet. It's probably on the horizon.

Brian Davies – That was going to be my question. Have you had any farmers put in acreages of industrial hemp?

John Pederson – Not that I know of. I haven't heard of anything, I haven't heard any complaints of that. You might want to check MRSC to see if other jurisdictions have kind of dove into the hemp business. I haven't heard of anybody, large scale or complaints, at this point of hemp being, kind of an off-shoot and what are you going to do about it?

Russell Jamison – With regards to your growers that were grandfathered in under your old policies and stuff, how have you been able to work with them to control their odors and things like that? Are they voluntarily controlling it?

John Pederson – Some do. If they want to expand beyond their scope and scale of what they were vested under, then our view would be, if you're going to expand, then you need to comply with the new rules. If you're going to stay as you were, as a fairly small Tier 1 or Tier 2 grow, we can't go back and take away those rights so to speak, but I think what we found was that the majority of the complaints were from the few bad apples, so to speak. A couple of growers caused most of the concern. And they were in the area which was fairly rural, but had some allotted residences in some areas and it was kind of localized. So, I think a fairly small percentage of the growers caused 95% of the problem that led to the new regulations. The rest of them were more rurally located away from residential enclaves if you will, and didn't cause any problems. Or they chose to site someplace where there wasn't a lot of people around them, so they wouldn't have that kind of concern.

Keith Paulson – Have you issued very many permits since you've adopted all of these regulations?

John Pederson – We have issued a lot of building permits, at first, for the indoor production structures. Since we adopted the new zoning code amendment I think we've had two conditional use permits. One was for a gentleman who bought kind of a defunct complex of greenhouses and because the changing (inaudible) was a greenhouse, but it wasn't producing marijuana. He came in and was successful in obtaining a conditional use permit. But I think the industry has kind of slowed down since the initial wave of people wanting to get into the business. It's kind of hit a peak. And then again, I think some of those people have died off on getting notices now where they've discontinued their license. So, we're not seeing that under our current rules the kind of growth that we had back when this was first legalized.

Keith Paulson – I was sort of hoping that you would have done a lot of permits and then you could see a difference as to whether your regulations were helping with complaints or not as many.

John Pederson – I can tell you this, that the complaints that we had are gone. We had a very active neighborhood, we're not getting those complaints now. So, I think they got the message across that the folks needed to do some mitigation.

Brian Davies – So, they either did mitigation or they went out of business.

John Pederson – Or they moved indoors. Much easier to mitigate when you're indoors, as opposed as to which way the wind blows, outdoor mitigation is tough.

Brian Davies – Yeah, you said predominately your complaints were from outdoor grow.

John Pederson – Correct, and I think a lot of folks have chosen to go indoor. One, because it's more economical, you can get more crops inside than you can in our climate, you're not going to get too many rotations outside. So, I think it almost forces them to go inside to have a viable business. That is what we heard from the folks that were from the industry. You're going to see this happen over time. I think it happened in Colorado, same thing, you had a lot of folks get into it and then it takes a lot of horse power and knowledge to do this indoors and do it successfully.

Brian Davies – And money.

John Pederson – Yes, that too. It's takes a lot of capital up front.

Dave Gibney – Speaking of money, do you have any statistics as to the number, economic impact. I'm not really talking about the actual sales or the revenue from the sales, but the jobs and transportation and things like the number of employees that these outfits might have?

John Pederson – I do not, but I do know that at one time, Spokane County had, if you go to the LCB website, we had the most production licenses in the State, in Spokane County. So, I think beyond that, it generates, it's not just the folks that tend the plants or people that are very skilled at trimming, it kind of goes with the turf. So, I think it does generate some kind of economic impact but I can't give you any kind of data that would be useful. It's more anecdotal. Yeah you're going to have people that need to be there, they need to tend the crops, they need to take care of it, they need to process, they need to ship it, it has to be transported, then it's sold, so yeah, there is a chain of events that generates income for the State and generates jobs. I just don't have any data. LCB may have some, of what they are seeing.

Russell Jamison – How is Spokane County handling the sale of these operations, if a small grower chooses to sell to somebody else that is larger? Are you allowing them to continue the operation under the old set of regulations or at the time of the sale, do they have to abide by the new regulations?

John Pederson – That gets into somewhat of a legal issue. It kind of gets into what we call a non-conforming or grandfathered land uses. You guys are probably familiar with that term. These licenses are transferable, you can buy a license and then go to that place and do that activity. As long as it's within the scope and scale of the initial license, they're not expanding the activity. They're vested and they can go ahead and transfer a sale. They're not making someone else a better farmer, they can go ahead. But, if they said that I've got a 2-acre field and I want to go to a 5-acre field or expand it, they would have to comply.

Russell Jamison – Or if they actually move the operation, they would have to go through the permitting?

John Pederson – Yeah, if they move it physically from point A to point B, that's a new license, that's a new application. They have to comply with the regulations, the new regulations requiring that public hearing process. I haven't seen a lot of that.

Russell Jamison – Okay.

Dave Gibney – So, is your law enforcement noticing any increase or decrease in questionable activities, more burglaries of these places or a shift in controlled substance use?

John Pederson – Not that I am aware of. I think there was a lot of testimony to that effect when we started to go down this regulatory path. There was a fear of an increase in crime, but I can tell you, if you look at the licensing standards, there are cameras everywhere. And so you would have to be kind of silly to break into one of these places because you're going to be on camera. Wherever this is done, security is pretty tight. I don't know from a law enforcement perspective if they're seeing things increasing. I'm not hearing about it, it's not in the paper, not in our news that there are break-ins at production facilities or retail sales. They seem to be pretty well self-regulated and the retail areas I think are very security conscious and I think they have some of the same standards from licensing about having cameras everywhere. If you're in a building whether it's a production facility or retail sale, I think you're on camera 24/7.

Chad Whetzel – Are there any other questions from the Board?

John Pederson – I'm going to leave Alan with some things. I didn't bring the whole regulatory packet, because it would have killed a bunch of trees, but I did bring you some, a staff report, for example, from our last zoning code amendment. Our policy and also our Board of County Commissioners' findings of fact and conclusions of law. It kind of really outlined the whole process from point A to point B, about starting with the policy. And whenever we adopt a regulation, the Board adopts very specific findings. We rate these in conjunction with our legal staff and in here you can see that process that began with I-502. How we started this journey in 2013, the whole slew and chronology of regulations on these internal ordinances and it was why they got to this point, was that the variables regarding odor during production and it was in the best interest of public health, safety and welfare, to take these steps to limit it as a conditional use permit. That is a tremendous amount of difference from where we started. We regulate a lot of uses in Spokane County with a conditional use permit. Dog kennels, mining. When you say mining and dog kennels, you can fill up a room with people at a conditional use process. Now if you add marijuana, you're going to have a room full of people that are going to come and testify on the impact. But, I think it was the best way we found to look at the site specific issues on each case, because each site is not the same. You can have a site in the middle of a 40-acre parcel, there's nobody around, maybe nobody shows up at the hearing, but if it's a 10-acre parcel

surrounded by a bunch of 10-acre tracts, you're probably going to have a whole lot of public input about I don't want that in my neighborhood. The Hearing Examiner gets to make that decision, so it takes it out of, I guess you would call it, the political environment, puts it into a legal environment for the Hearing Examiner to make very specific legal findings. We've had the Hearing Examiner for about the last 15-20 years and it's been a very welcome addition. It cut down on appeals to court and it cut down on the matter of the work load for the Board of County Commissioners, who used to have to go through this process and hear the appeals from land use decisions by the Planning Commission or what we had then was a Hearing Examiner Committee, which was made up of what used to be the Planning Commission.

Dave Gibney – Prior to I-502 there was legal medical marijuana in the State of Washington, what kind of regulations of that had Spokane in place before I-502?

John Pederson – None. We didn't have any regulations on the whole medical scenario. It was a little bit of a separate animal and we chose not to go in that regulatory path.

Brian Davies – So, that was all State controlled?

John Pederson – Yes.

Alan Thomson – John, you mentioned earlier in your talk there, about masking the smell of marijuana with other plants, did you say you can't do that in Washington?

John Pederson – As I understand it, that's prohibited under State law, that you can't mask it by introducing mint or peppermint into a venting of marijuana.

Chad Whetzel – But you could plant trees that might help with that?

John Pederson – Absolutely. In fact I did some research on that, looking at some hog farm examples, where they vent exhaust from hog farms through certain kinds of trees that help absorb some of that smell. There are others, like charcoal filtration systems. I think if you, and from an indoor structure, that is a way to confine it as opposed to what we were seeing, is people would open up the sides of a plastic structure and just let the wind take it. It's a little tough to mitigate when it's just, swish, how the wind blows. But, if you're going through some kind of charcoal medium or something else that will control some of that odor. And that is allowed, but just masking it, which kind of surprises me that they don't allow that to occur.

Alan Thomson – And with your Air Quality regulatory body there, do they have regulations about taking care of odor, in these facilities?

John Pederson – Yes they do. And that is part of our conditional use permit standards. So, that review process that we go through when we consult other agencies and the conditional use permit will require, we're going to send this application with that condition to the Clean Air folks. They're going to look at it and say, what are you doing

to comply with our regulations? They will then send our Hearing Examiner conditions or permit authority say, they need to do A; B; C; and D and those are imposed as conditions of approval on a conditional use permit.

Alan Thomson – Who runs that operation? Is that the County or the State?

John Pederson – It's kind of its own public facility district, like the Regional Health District, they're kind of an offshoot of County government. They have that certain task. They are the ones that issue all the septic tank and well permits and Clean Air was kind of an offshoot of that and they are run by their own board. And our regulations actually cite a specific section of their regulations for emissions of air containment.

Dave Gibney – So what is the State enabling laws that provide for such a board?

John Pederson – The Clean Air Board?

Dave Gibney – Yes.

John Pederson – I would have you talk to those folks, that is kind of out of my area of expertise.

Brian Davies – Is that sort of like a taxing district?

John Pederson – Yes, somewhat. A special purpose district.

Dave Gibney – So, like a Port district.

Alan Thomson – And Spokane County did not ban outdoor grows.

John Pederson – We did not. You can have indoor and outdoor grows, but it still requires that conditional use permit. What we are seeing is the industry moving to more of an indoor grow, just because you get more of a rotation, more crop and they need that to be profitable.

Alan Thomson – So what has your Hearing Examiner done regarding conditions for outdoor grows? If you get complaints, can you pull the permit?

John Pederson – Yes. The Hearing Examiner has the authority for non-compliance, to revoke a conditional use permit. Hasn't happened very often, because most folks want to be in compliance, but that is part of his charge, is that, if you're not in compliance that conditional use permit can be revoked. It takes a lot to get there, but it can be done.

Russell Jamison – Well will you be able to do the same thing with hemp?

John Pederson – Possibly. We haven't gone down that path yet.

Russell Jamison – I understand, but I'm just kind of looking into the future for us, because it sounds like the cannabis, if the industry is more towards the indoor grows, then the filtration systems that they can use will alleviate the odors. But, if you have a lot of these open fields, it's going to be a bigger problem with the odor.

John Pederson – Definitely.

Brian Davies – Also if commercial hemp comes in, it's going to mess up the whole pollination question.

John Pederson – There are issues about separation, because of the cross pollination between the plants.

Brian Davies – The cross pollination and it would put the recreational growers out of business, probably.

John Pederson – I'm not a botanist, but I do know that all the marijuana plants are female.

Brian Davies – Yeah.

John Pederson – So, there are issues about spacing between these kind of two different crops.

Dave Gibney – On the other side of that, requiring extensive charcoal filtration or some such thing, is an added expense to the industry and to the business.

John Pederson – Definitely. So I think it does, it has a little bit of the effect of the smaller growers not being able to compete and being able to go through this process. So the CUP process in Spokane County, we're not talking a \$ 200.00 permit, this is more like \$ 5,000 - \$ 10,000, by the time you're done with this process.

Brian Davies – And the facility.

John Pederson – And that is looking from processing fees or revenue funds, so that has nothing to do with setting up the business, that is going to go into the permitting process.

Brian Davies – Well I was pretty impressed with just the security and the camera network infrastructure in the one facility that we toured. It just looked very expensive, like they had a ton of money sunk into this, just to be compliant.

John Pederson – Yeah, true. Thank you for having me here. It was a pleasure to do it and thank you to Alan for inviting me down. I hope that was helpful and if you guys have any other questions down the road, just let us know. And all the stuff we talked about tonight, you can find on our website. I'm going to leave this with Alan and all

those numbers I gave you, with the dates and the interim resolutions, all those resolution numbers you can get from our commissioners' website and you can just pull them right up and kind of see how we got there. But, I do want to tell you I didn't want to inundate you with paper.

Alan Thomson – Thanks John.

Dave Gibney – Are you willing to stay?

John Pederson – I will stay for a little bit longer, I planned for about an hour.

Chad Whetzel – Yeah, we'll take a few questions, let's try to keep it to 3 minutes, if we can. Please grab a microphone, state your name and we'll go ahead and take a few questions.

Ken Duft – I reside in rural Whitman County. Very quickly I would like to create for you a scenario that looks like this. We have four farmers operating side-by-side, Farmer A goes ahead and decides to produce vintner grapes and process that into wine; Farmer B decides to produce hops and process that into beer; Farmer C decides to produce malting barley and process that into beer; the fourth farmer now decides he's going to produce cannabis and process that into marijuana. In Spokane County, how do you legally differentiate the differential treatment between the four farmers? That is the first part of my question and secondly, to the extent that they are treated differentially, how does the County withstand charges of arbitrary and capricious treatment?

John Pederson – That is a good question. We allow a whole variety of land uses in our zoning code. We've got very explicit matrixes that define certain kinds of activities. We allow agricultural production. We look at, if someone wanted to grow grapes for a winery, we would say, yes you can do that. A winery is more than, we get this question a lot, we want to start a winery. And we ask, so what do you want to do? I want to have a tasting room. A tasting room is not a winery. If you want to be a winery you have to be involved in some element of the wine making process, either by growing the grapes, bringing the grapes or the crush to you, producing that, crushing it, fermenting, bottling, labeling, and we allow that in our agricultural zones. Some uses require more scrutiny than others, we're not saying for Farmer D, they are disadvantaged, it just means that that particular kind of activity may have more impact than Farmer A; B and C, whose going to grow barley. Maybe he wants to do a distillery and make spirits and the other guy wants to make wine and the other guy wants to make apple juice. Great, agricultural production and processing, we allow. But currently, if the impacts are not equal then we have the ability to regulate that and RCW's give the counties full range of land use authority to regulate, as long as you're not engaged in taking of rights, you have the ability to regulate them. So, we treat different regulations differently. We regulate schools, we regulate animal keeping. You can have, say, X amount of dogs, but if you have 30 dogs, that is a different impact than having 4 in your house as pets. If you want to have 30, that's a kennel and that requires a conditional use permit. So, that is kind of how we go about that business. You can see the difference. If I have a couple

dogs, they're my house pets, but if I have 30 and I'm doing commercial boarding, that's a whole different ballgame, different level of noise. That's another one that you could fill a room up with.

Dave Gibney – But to be clear, you have to have a defensible structure of regulations set up to do such things.

John Pederson – Absolutely, and it's based upon public health, safety and welfare. A reasonable argument that says... Again I could show you our zoning code and you could see that we regulate a whole raft of activities. (inaudible) issued a site, a residence that is a jail, so the regulation for a jail were a whole lot different than they are for a single-family residence. Regulations for a shopping center or multi-family are different than for a single-family. Is there anyone else?

David Gang – Thanks John for coming, we really appreciate your comments. I'm at Washington State University, I'm in the College of AG and I want to address the issue about hemp, a little bit. The reason you haven't seen anything is, because in the last, hemp has been much more highly regulated in the State than marijuana has been. You can only grow it under the 2014 Farm Bill, if you get a special license from the State Department of Agriculture. In 2018 they only issued 8 of those licenses and you can't grow it for commercial use, you can only grow it for research purposes. So, nobody is growing it in the State to sell it, at least currently. That changed this last year with the 2018 Farm Bill. We're going to see a huge jump in interest and probably in growth and production across the State because it's now become legalized as an agricultural commodity and the rules have completely changed. The only acreage that was grown in 2018 was by the Confederate Colville Tribe, they have 142-acres and that was the only hemp that was grown last year. So there is a big difference and that is why we haven't seen anything yet or heard anything about it. In Oregon they have over 7,000-acres that were grown, which is a big difference over Montana, which had over 30,000-acres grown. In Oregon you can look, there's lots of print about the smell of it. It hits the news all the time. So, we're going to start seeing this, this next year as it starts to become legal to grow it in the State.

John Pederson – Yeah, in fact I, just based upon your comments, I went back and looked at our last resolution that the Board of County Commissioners' adopted and it talked about that House Bill 2064 of 2017 and it precludes that from the definition of a controlled substance, but the LCB, Liquor Control Board, is still developing some rules to regulate that. So, I think it's going to be much like...

David Gang – The Liquor Control Board has no jurisdiction to regulate it, it's 100% regulated by the State Department of Agriculture. That is what the law says. So marijuana is to be regulated by the LCB, but hemp will not.

John Pederson – Again, I think it's one of those things that is on the horizon and it will come, it will come to a head and we'll probably have to take some steps to see how we're going to go there and regulate it.

David Gang – It will be interesting to see how it goes.

Chad Whetzel – Is there anybody else? Thank you very much John for taking the time to come down and all of the information that you have given us.

Alan Thomson – Thank you John.

John Pederson – You bet, glad to be here.

Dave Gibney – I would like to talk a little bit about the tour that we did, that some of us took. I found it quite informative and very useful and I would just really encourage those of you who did not go to it, to take advantage of Alan getting it set up. It is not your hippie's closet pot farm. It's quite an operation and as Art even said, very well regulated and controlled. They didn't let the minor on the premises, who was with us.

Brian Davies – That was the test.

Alan Thomson – There are only three members from the Planning Commission, who have not done that tour yet. And I'm trying to get them to do that, but I don't know if your timetable is going to allow you to do that, Rusty, but if you can squeeze off some time, it would be really nice for you to do that.

Brian Davies – It was very informative.

Gary Moore – But now, a quick question. The main odor problem comes at harvest, is that the way I understand it?

Alan Thomson – Yes.

Gary Moore – And we were not there during harvest, so we did not function with that, so we haven't been exposed to that.

Alan Thomson – We haven't been there at the stinkiest of times.

Dave Gibney – On the other side of that, the odor was pronounced, outside and towards Pullman road from that place, when I was on the wrong road, before I got there.

Gary Moore – Yeah, but at that time it was very minor. That was one of my fears, was is this a big smell or is this a little smell?

Keith Paulson – I didn't think it was just at the harvest time, I thought it was just in the growing period, at certain stages.

Brandon Woodland – We have a harvest every three weeks. So, when you were there, harvest was a week away. So, the different rooms harvest at different times.

Keith Paulson – So, if we had gone there a week later, would the smell have been stronger?

Brandon Woodland – No.

Chad Whetzel – Some of it is different, because I've driven Airport Road and sometime you go past it and it's pretty negligible and other times it's pretty strong. Does some of that have to do with the temperatures outside? And pulling in fresh air to cool things and blowing more air out?

Brandon Woodland – Stagnant odor travels better than humidity odor (*his comments are inaudible, he needed to keep the microphone close to his mouth*) This industry, the legal marijuana industry in the country employs more people right now than the entire coal industry does. In 2022 the legal industry is predicted to employ 25% more than the aluminum and steel industry in the entire State. The other thing, across the country this industry pays their employees 10% more than the average and it's having the effect of raising wages across the board, because we're employing people at a higher wage, creating competition and a labor pool. So there are some benefits, economically to a community.

Jim Burton – I've been listening and I have a little trouble with asthma, so I'm not too aware of how bad the dairy smells or how bad marijuana plants smell, but the thing I am concerned about is waste regulation. What happens, has anyone addressed the waste from these facilities? Where does it go? I look at the one that I am familiar with, out by the WSU dairy and the dairy has a settling pond to take care of cow manure, what does the marijuana industry have to take care of the waste? I have not heard any of those addressed at all.

Chad Whetzel – I will also differ to some of the other people in the room who know a lot more about it than I do, but from the tour I took with the fire department, any waste that comes out of there has to be accounted for. They have to weigh it all and report it and then all that has to be composted and it has to be mixed with , I don't know, some other types of dirt that are inert. And if one of them knows, I would take somebody who knows a lot more about it than I do. At this point, that is what I know about it so far.

Brandon Woodland – Green waste is composted and mixed 50/50 with inert dirt and is composted just like your compost pile in your garden. Waste water is collected in a tank and reused. Other than that, there are no, for our facility we use (*inaudible*) spray, there is no residual, no peripheral emissions from any petrol chemical type of product that we use.

Jim Burton – No other chemicals?

Chad Whetzel – The green waste, don't forget, as far as I know, no or very, very minimal THC in the rest of the plant. All that stuff is what they are composting, there is no concern, and I guess it would be on par with composting grass, your lawn clippings.

Brandon Woodland – Correct, its THCA

Chad Whetzel – Right and then as far as the chemicals, on one of the facilities that I was at, everything is, it's not in the water system, it's not hooked to a hydrant or anything, everything has air gaps and you can't recirculate back into the well in any way, shape or form. And the chemicals that they use are equivalent to/or less than what you would find in any swimming pool. They use some Ph. balancers and basically Miracle Grow. That is about the equivalent of what they have.

Brandon Woodland – Miracle Grow is probably a little harsher.

Chad Whetzel – But, everybody knows what Miracle Grow is. As far as, like from the fire department standpoint, when we looked, the dangers of the Ph. balancers are next to nothing. And the quantities they have are probably less than what anyone who owns a swimming pool has on hand at any time.

Carla Burton Keifer – My concern is, are you on a septic tank?

Chad Whetzel – So, we don't regulate.

Carla Burton Keifer – I'm not really worried about yours, I'm worried about the one on my road.

Chad Whetzel – Please address the Planning Commission. That is regulated by the Health Department, septic tanks are?

Alan Thomson – Yes.

Chad Whetzel – And when these growers are, anything they have has to be weighed and accounted for. They can't walk out, even with a leaf in their pocket, they've got to account for everything. So, the fear of something going into a septic tank, I mean, unless you have an idiot who's going to get fired very quickly, because he's on camera and they saw what happened...

Dave Gibney – Aside from what gets processed through the humans that are there and the natural purpose of the septic tank, there is no farm product going into the septic tank.

Chad Whetzel – Right, exactly.

Carla Burton Keifer – I'm not against it, I'm asking, I just want regulations and I want proven regulations to see, because I'm down the waterway and so I'm concerned, to be honest. I just worry about that, because I have so many regulations on my cattle and our farm and I just wanted to make sure that there were regulations on everything else.

Chad Whetzel – Yeah, and again, the Health Department is the one that regulates septic's, the County does not regulate septic's, whether it's in your private home or business, that's not something that we want to get involved with, either.

Carla Burton Keifer – I'm just concerned about the water, waterways coming through, is what I'm concerned about.

Alan Thomson – So, ma'am, there is no connection between the septic system in this case and the runoff from the plants. The runoff from the plants are in a completely different, separate system. So, there is nothing that goes into a septic system except waste water from the sinks and humans. That's all that goes in there. So, another system not connected to that is where the waste water from the growing goes, into a tank and then it is reused. There's no connection between the two.

Carla Burton Keifer – I was just going to ask though, as a person who is living by these places, can you make sure that we can also follow it as well? I know (inaudible) I just want to be able, we all didn't know that that was coming in and we just wanted to make sure that it's kept up on, that everything is kept up on, as far as, so we could see what was going on.

Chad Whetzel – Can you slow down a little bit, because I'm having a hard time keeping up with you.

Ginny Rumiser – She needs to quit flinging the microphone around, you have to keep it very still in front of your mouth or I'm not going to get anything you say on tape.

Dave Gibney – And be specific about what you are talking about and what's coming in, because I don't think you're discussing the growing operation near the Airport.

Carla Burton Keifer – No, I'm not.

Alan Thomson – What are we talking about?

Carla Burton Keifer – I'm discussing about the one on Country Club Road. I was just wondering about that water system.

Alan Thomson – There is no operation on Country Club Road, yet.

Carla Burton Keifer – Okay.

Alan Thomson – And there may never be, we don't know that yet. So, that is not something that we can discuss, because it doesn't exist yet.

Carla Burton Keifer – I'm just concerned about regulations, since they are already grandfathered in and I'm discussing them having regulations.

Alan Thomson – They would be the same regulations that any other operation would be subject to do.

Dave Gibney – And it would be the same, in terms of the septic and water runoff, it would be the same as if somebody wanted to put a house there.

Alan Thomson – Yes.

Chad Whetzel – Or, what it was originally was a research facility, along the lines, Dow, I believe were the ones that built it. Just like they can't pump chemical into the septic, no one else can either. And the systems are not connected. Are there any other questions on that?

Aaron Fosback – I am also a resident for unincorporated Whitman County. My question is, regarding water consumption. Is that regulated at all?

Alan Thomson – Just the same as for your house. Exactly the same. You're on an exempt well and you're allowed to withdraw up to 5,000 gallons a day and any other facility, such as what we're talking about, would be under the same jurisdiction, that the Department of Ecology regulates water use in the State. And they have to get a well driller to go out there to drill a well, so it's all controlled by the State. It has exactly same regulations as your well for your house.

Aaron Fosback – So, are those facilities, is their water metered then?

Alan Thomson – It is not metered, neither is your well metered. So, that again is a State decision, not a local decision and we cannot impose on that. That is the Department of Ecology's jurisdiction, not Whitman County or anybody else.

Aaron Fosback – Well, my concern is, it's probably unlikely that a residence would use 5,000 gallons of water per day, but I don't know how unlikely it would be for a marijuana production facility to use that much.

Alan Thomson – Again out of our purview.

Dave Gibney – And just to be clear again, they reuse a substantial amount of their water in the grows that we know of. And the State could decide, and it's not entirely out of the realm of possibility, of asking all wells to be metered and that cost is not going to be borne by the State, it's going to be borne by the well owner.

Alan Thomson – Right. It's entirely possible that the State of Washington is heading that direction, but again that is not within our control.

Beno Mohr – A question (inaudible) so Alan had given us an example (inaudible) You had put on there that you were going to (inaudible)...

Brandon Woodland – The outdoor...

Ginny Rumiser – Mark, that microphone is cutting out, I'm only getting about every other word or every third word. I'm sorry.

Mark Storey – Why don't we have them come up to the panel.

Ginny Rumiser – I think that will be for the best. I'm sorry gentlemen, our system here isn't the best.

Mark Storey – It should have been replaced 10 years ago.

Beno Mohr – A question was for Mr. Woodland. So, on their form it had listed 76 gallons of anticipated waste and this was before you guys were operating, and so my question was, since they recirculated a lot of that water, how much did they actually end up spreading out over the acre, which is their mitigation plan that they had? And I have just another comment. Is that the Department of Ecology this comes from. We talked about the water conservancy the other day. Ecology has estimated water uses for Tiers of growers that they use to estimate what the water requirement would be. So, if your industrial exemption ends at 5,000 gallons, so and I can't remember the numbers off hand, but it seems like if you are at a Tier 3 combined with a Tier 2 you would be pretty close to needing to transfer a water right and then anything beyond that probably would. So, there are no new water rights being issued in Whitman County, so you would have to transfer water rights from somebody else.

Brandon Woodland – I don't know about the second question. But in our facility we reuse it. We don't have as much runoff as we anticipated when we filled out that form for DOE and LCB also requires for you to define how you're going to reuse it or mitigate it. We reduce our water through automation. So the water, we've dropped our water consumption even from when we were originally doing the paperwork and planning and designing.

Keith Paulson – So, when we were at your place, I never saw any water tanks or anything, other than what you were feeding the plants in that one room.

Brandon Woodland – They are in between the buildings, as per code.

Keith Paulson – Right, I never saw any so I was just curious.

Brandon Woodland – Oh, yeah. Between two of the buildings you have the tank, they're concrete, septic tank style with a little green lid. But, they're all right between the buildings there.

Keith Paulson – Which we didn't really go between the buildings, I believe.

Brandon Woodland – They're just to the left of the front door that you walked in.

Keith Paulson – Okay.

Chad Whetzel – Alright, thank you. Are there any other questions right now?

Kathleen Lloyd – I've been reading some of the transcripts and I wanted to just have a couple of follow up comments from things that I saw in some of the other workshops. One of them is the question of how is marijuana different than any other crop and the gentleman who spoke earlier did mention it, but I wanted to also make sure that everybody understood that marijuana is considered a uniform controlled substance, scheduled and controlled substance along with heroin and LSD, which is high potential for abuse. So, it is different than other agricultural products and does warrant being treated differently. And the other thing I noticed, when I read the transcript from the last workshop, is I was under the impression from John Ashby's comments that the Planning Committee felt that any kind of lawsuit, basically they would lose anything that happened if they decided to ban it or put regulations on it, that that was a threat to the County, that we would lose a lot of money. And I was thinking about it and I actually made a couple of phone calls and wanted to at least let you know that I talked to Chelan County and they asked, because they put very stringent regulations, recently they have been dealing with it and I asked if this was something that was a concern to them and bottom line, they said that none of their cases had gone to court, at this point. Many are slowly going away, withdrawn or settled. And I said settled, does that mean you guys have a payout and she said no. That means they are finding terms that were agreeable with both sides. No cash was necessarily involved. And so, she was like this has not been an issue for us. And so if this was an additional concern, I would suggest maybe we should have Chelan County come and talk to us or Yakima or some of the other County's that have had either bans or strict regulations come to talk about their experiences as well, so that we don't make a decision based on concern about litigation. Thank you.

Chad Whetzel – Thank you. Anyone else?

Brandon Woodland – The lawsuits were based on landowners suing cannabis companies for the nuisance. Nuisance, there has to be an illegal activity, so it's not a nuisance. So, those homeowners, landowners sued under RICO (Racketeer Influenced and Corrupt Organizations Act). All of those lawsuits have either been dismissed or ruled in favor of the cannabis companies, both in the 9th Circuit and the 10th Circuit. That is what he was referring to. It wasn't threatening. You guys had asked what were the outcomes of those lawsuits? Those were not suits with counties and cannabis companies. Those are suits brought by homeowners against cannabis companies.

Chad Whetzel – Thank you. Anyone else.

David Gang – There have been three of those lawsuits, just so you know. And one of them was dismissed by the judge because in the 10th Circuit, which is Colorado, and the 9th Circuit, which is California, they're viewed very differently. And the 10th Circuit it didn't fit with the land use regulations in the State. And RICO, if you remember, that's to

deal with being able to go after the mob, right. The landowners thought that was an appropriate way to attack this, is what they were trying to do.

Brian Davies – Organized crime.

David Gang – Right, organized crime. But the reality is, is that it is not an organized crime activity in those States now. So, going after it as organized crime, when it's not organized crime, obviously you're not going to win. So, there have been other cases in our State, in Clark County and others, where the County has won and the regulations have gone through both the lower courts and the higher courts and they've been upheld. So, there is a lot of legal landscape there that you need to be aware of and those three cases that Mr. Ashby talked about are the only three. So, you need to be aware of that. It is something that we were concerned with at Washington State University because of the dairy. Is this something that we need to be aware of and we found that, yeah the legal landscape is... I think it would be a good idea to get other legal counsel to come and talk to you guys about what your options could be and talk to somebody who is not representing the cannabis industry, somebody who is representing the State might be a better idea.

Alan Thomson – We've been talking with WSU AG's office.

David Gang – Okay.

Alan Thomson – And we have made several requests to them and we have not gotten a response yet. But our legal counsel is asking...

David Gang – Can I ask, is that Nathan Dean?

Alan Thomson – Asking WSU to actually step up to the plate and get involved in this conversation. So, we are waiting.

David Gang – So, Nathan, I talked to him just the other day and he said that he has been waiting for... Nathan has not had an actual request to come and talk here.

Alan Thomson – No.

David Gang – And he would be happy to do that if you guys invited him.

Alan Thomson – Well actually the request is, that was iterated by Denis Tracy, our Prosecuting Attorney, to Nathan, have WSU step up and make some sort of statement and then back it up legally. So, Nathan was looking into that, and I don't think he will appear unless he has something to tell us, something to say about that. You should maybe talk with Nathan a little bit more about that one.

David Gang – I will do that.

Alan Thomson – We've asked him to show up and we would welcome that. We want him too, but WSU has to maybe clarify their position and maybe defend their position legally speaking. Is what we are asking them to do?

David Gang – So, Nathan has told me that he has not actually received an invitation to come talk here. I asked him that on Monday.

Alan Thomson – We have not asked Nathan to come here, we've asked Nathan to talk with WSU to answer our questions and then if you have those answers we will invite you to come and speak with us.

David Gang – Okay.

Alan Thomson – So, he hasn't gotten the answers he's asking for, yet.

Chad Whetzel – Dave, did you have a question?

Dave Gibney – At least one of the previous emails that we've seen or letters had Nathan's signature or was from Nathan.

Alan Thomson – Yes.

Dave Gibney – But I understand there is a difference between coming here and talking to us and coming here presenting, this is WSU's legal position. And we would undoubtedly prefer the latter.

David Gang – Okay, so that is good to hear. I will talk to him about that tomorrow. Thank you.

Chad Whetzel – Thank you.

Mark Storey – Just to remind the Board and everyone else, when we have an attorney or legal people here, they are guest speakers, not legal counsel to anyone on this Board or to the County Commissioners. We have one legal counsel and that is Denis Tracy. So, all of this is information, not legal advice. We're just finding out information and it's Denis Tracy's job to sort that out in a legal framework for the Board of County Commissioners. I just want to make sure that everyone understands that on both sides of this, or all sides. That is the only legal counsel that we have.

Chad Whetzel – Thank you. Any other questions?

Beno Mohr handed out a packet of information to the Board members.

Beno Mohr – So, this is just follow up from last week, as Dr. Gang said, and Josh Ashby seems like a great guy and if I was starting a marijuana business, I would certainly hire him. He seems like he is the marijuana industry. I think there were some questions left, at least for me, after we got done talking. There was a lot of questions about liability,

risk of litigation with enacting any kind of restricting ordinance. I think we started with Mr. Davies asking some good questions about ordinances and it ended up with Mr. Jamison being concerned about his retirement, which is never a good position to be in. I think probably the Feds and the IRS are probably the biggest risks there. So, there are a couple things here and the first is just some talking points. The second are minutes, just some excerpts from the minutes that kind of just showed that progression and how we got there. What I really want to talk about, was this page, which is just a map from MRSC and just some comments from counties and so the question about litigation and restrictive ordinances, and I called these counties just to talk to them. So, I called the counties that are in red, folks who have prohibited it through different means and at different times. So, I'm just going to run through this quickly and these are in the order that I actually talked with the folks. So, it was a very good talk from Spokane County, they are 10 times our size, so they have 500,000 folks and we have 50,000. So our situations are a little different. So, if you look at the whole center region, Walla Walla, Franklin, Benton County, they all have similar characteristics. So, Benton County, as you see the context there, it's prohibited, they've not had any litigation. That first (inaudible) took no action, similar to Whitman County. They had a lot of complaints, kind of the usual stuff about smell, appearance of facilities and things like that and they enacted a moratorium and really the discussion where they didn't feel it was a benefit to them and it's not what their citizens wanted. So they took the approach of prohibiting new business. The folks that were there, they grandfathered them, the one thing that they did not allow for continuation of outdoor grows, however they had to move indoor. And the one land use that they allowed, at that point, was building to move your grow indoor. They enacted property line regulations, similar to what is on our code it looks like for home based businesses. There is property line for sight, smell, sound and that is strictly enforced.

Chad Whetzel – Beno, do you have a quick comment or question, I mean we got all of the literature and I'm not trying to rush you, but we did put a 3-minute time limit on. But if you've got something more, that's fine.

Beno Mohr – Yeah, is that of these the only County that had litigation was Yakima County. The guy I talked with there was their senior counsel for civil affairs. They had marijuana grows that got rolled into recreational use in 2016 and so they are currently pursuing those guys, they gave them cease and desist letters to be out by March 1st 2019, not all of them have gotten out, so they are actually suing the growers to leave and even document that they have ceased operation. So, that really is the only...He said, no we're not really worried about it, we've won 10 of the 20 and the other ones will be done by the end of the year.

Russell Jamison – That's in Yakima County?

Beno Mohr – That is in Yakima County. But in the other one, just to accurately reflect Dr. Gang's comments about the RICO cases, the racketeering involved crime organization, which is what he was talking about, those don't have anything to do with county and the one that he talked about in Snohomish County, was interesting in that, is

that suit brought against the growers alerted the County to the fact that they hadn't gotten any permits or licenses and so they were shut down by the County before the suit actually went to court. It was dismissed because it was not appropriate under RICO, because they weren't organized crime. They had to pay \$ 415,000 in taxes. The guy who owned the land, as part of the settlement, had to include with the deed that it never be used for cannabis again. So, although it was dismissed, it didn't really have anything to do with the nuisance ordinance and then they were allowed to go ahead and sue if they want to in Superior Court. So, it's a very different picture. Okay, then all the other cases, that I have provided, the cases in there that we talked about, LaGrange versus Walla Walla, Clark County and recently Kittitas. Any questions for me?

Dave Gibney – Thank you for the summaries.

Chad Whetzel – Thank you. I know that the legal issues are kind of vague, but I think for most of us on the Board, I'm going to speak for myself, but we understand that there is a difference between what we can do to regulate things, whether we want to or not, on any end of it, we have the right to do whatever we want. The other legal cases were between landowners, so I don't think that it's something, yes we do want to come up with code that's legally defensible no matter how we go, but I don't think that is our overwhelming concern whether or not we're going to be sued per what we decide. I think the impression that I have gotten from everyone, we're willing to come up with a regulation that works for our county.

Alan Thomson – So that segway into my question to the Planning Commission, what do you want to do now? Do you want to pursue putting something together on paper?

Gary Moore – I think it's time.

Chad Whetzel – I think we can, at least, come up with a framework, personally, and we can start haggling over things and at least get an idea of where we want to go.

Keith Paulson – Do you want to start that process tonight?

Alan Thomson – Not tonight, no. But if you give me your direction, then staff will start putting something together, if that is what you want to do. And then we can start the process of shaping that.

Chad Whetzel – I think that is kind of where we're at right now, unless somebody has an objection.

Brian Davies – No, I think we could sit here and listen to hours and hours of testimony and I think we just need to, it's got to go through the public review process, so let's just get started with it.

Russell Jamison – Yeah, I'm ready to do that.

Gary Moore – It's time.

Russell Jamison – I also think that we should set some guidelines, as far as, deadlines and try to keep this thing moving, even amongst ourselves, we may not all agree, but on what to do, but we're probably not going to and we just need to be able to have a direction and a goal and a timeline, that you need to set for us.

Chad Whetzel – Well, and memory serves me correctly, the Commissioners' asked also, they didn't necessarily want us to come up with a specific, one specific line, come up with some options and give them some answers on what we think.

Alan Thomson – Some recommendations.

Chad Whetzel – Yeah, I think they are willing to run with what we come up with.

Brian Davies – Based on what was filed in Superior Court, for the moratorium, how is the clock ticking on that?

Alan Thomson – Well, the moratorium was for six months and I believe its September 11th that it's over and they have, the Commissioners' have the option of doing another six months.

Brian Davies – So, starting April 1st or there a bouts?

Alan Thomson – Well it would start when this one ends, September 11th.

Brian Davies – So, a six month moratorium?

Alan Thomson – Another six months is a possibility. If we haven't gotten things finalized.

Chad Whetzel – Technically right now we've got two regularly scheduled meetings, we have July and September.

Alan Thomson – Typically in August we don't meet, because everybody is working, but if we can get together in August, maybe we should.

Gary Moore – I think so, if we can get a quorum.

Chad Whetzel – I don't know that I could make that.

Dave Gibney – We've been known to do working groups without a quorum.

Alan Thomson – Right, we could do that.

Dave Gibney – So, in terms of direction, all the experience that I have had on this commission so far, is that we try to do what we can and strongly for the health and public safety, but also a strong concern about not interfering with any individual landowners right to do with what they wish to do with their land and I think a similar thing should apply here. We should do good stuff, technical work, to protect and alleviate the issues that are coming before us, but I don't think we're anywhere close to an outright ban, is what we want to be doing, but that's my opinion.

Russell Jamison – If we give a set number of options or ideas to the Commissioners' the decisions on what to write or what they want to do for the County, is really their decision. We're just giving guidance to them, isn't that correct?

Alan Thomson – Yes.

Russell Jamison – So, then how much guidance and details do they really want from us, because we don't want them to send it back to us saying it's incomplete?

Alan Thomson – Then I would suggest that the County Commissioners' need to be involved in this process too. So, there will be reports to the County Commissioners' and they can give us input.

Russell Jamison – Okay.

Alan Thomson – And then staff will be talking with them and they will help guide us through this process too, because they're the decision makers.

Dave Gibney – In the end, this is going to be textural changes to the zoning ordinances of Whitman County and usually it's been us who have been holding the public hearings on those and SEPA and that stuff. Is that what we still expect? Do the text amendments to the code start here?

Alan Thomson – That is what I am thinking, but of course the County Commissioners' will have to guide us a little bit on that too. So, staff reports to them and we get feedback and so if that is what the Planning Commission is deciding, that you're giving staff direction to start putting some ordinance together, then we will talk with the Commissioners' and make sure that is what they want us to do. It's kind of a recommendation right now and they have input. So, I will let you know the next time I see you.

Russell Jamison – Okay.

Chad Whetzel – When is the next meeting?

Alan Thomson – July.

Dave Gibney – The 4th.

Alan Thomson – Is it the 4th? Well, that's probably not going to work then, is it? So, it's the 1st and 3rd Wednesday's.

Katrin Kunz – So that would make it the 17th of July.

Alan Thomson – That is a long ways away. What is the 3rd week in June?

Dave Gibney – The 19th. That's two weeks away. So, the 3rd of July is a Wednesday? So the following week would be the 10th. That would not be a normal day of meeting for the Planning Commission, so we would have to probably advertise that, if we can make it on the 10th, we would need to make sure that we could get this room on the 10th and then put an ad in the paper if everybody is willing to do that, if we can get a quorum for the 10th of July.

Chad Whetzel – I won't know until the 9th.

Brian Davies – I'll be here.

Dave Gibney – I'm quite likely to be here.

Chad Whetzel – I may be leaving the 9th.

Alan Thomson – Okay.

Chad Whetzel – Usually after the 4th I'm gone.

Alan Thomson – Right. Keith?

Keith Paulson – I probably can.

Russell Jamison – I think I probably can.

Alan Thomson – Okay, so right now we're thinking of the 10th of July, to meet next.

Keith Paulson – It is getting to be harvest time.

Alan Thomson – Okay, it will be close to harvest. We could make it, maybe the end of June. It's going to be an odd time for it, so what's the last Wednesday in June?

Brian Davies – The 26th.

Alan Thomson – How about the 26th of June?

Dave Gibney – I could end up having a Pullman Planning Commission meeting on that evening.

Alan Thomson – Alright, tentatively let's think about the 26th of June for the next time we meet, because I think we need to get going on this and staff needs to start putting something together and that is not going to take a short period of time. So, tentatively June 26th then.

Russell Jamison – And then for those of us who missed that tour, do we need to get in touch with them?

Alan Thomson – No, you need to let me know and then I will arrange it. If you have a time frame that you are available and it could be pretty much any time of the day. I think Brandon is very flexible, so you just need to let me know. Matthew Sutherland needs to come along as well and his schedule is pretty tight, so I would like to coordinate you and Matthew. Guy is not here, he is in Oregon, so I don't think he's going to be able to make it. What times do you think you are available, Rusty?

Russell Jamison – Well, why don't I try to do it before the next meeting. I'm still doing field work, which I know, but once I get that done, then I will have a lot more flexibility.

Alan Thomson – You let me know when you're available and then I'll make it work.

Russell Jamison – Can you schedule it pretty quickly or is this something they have to...

Alan Thomson – Yes, Brandon has been very accommodating, so hopefully that will continue.

Chad Whetzel – Okay, nothing else? Any new business that we need to discuss?

Alan Thomson – I just want to mention the Board of Adjustment again. The Commissioners are going to try hard to find people to replace people on the Board of Adjustment. A criteria that I think is important is, person or persons who have experience with government, like the Planning Commission for instance. That has been forwarded as a possibility, is there anyone on the Planning Commission, I'm just going to throw it out there and you don't have to answer it right now, anyone of you being interested in being on the Board of Adjustment? And of course we would have to replace your position if that happened. I want you to think about that one. There are two places open on our Board of Adjustment that we need to fulfill as quickly as possible. And experience, I think, is a good thing to have here, because the Board of Adjustment deals with quasi-judicial situations, which requires a little bit of understanding of how land use planning works and how the courts work.

Dave Gibney – Is it more or less frequent than this Board?

Alan Thomson – Less frequent. It's just whenever a case comes up. So, you might have months where nothing happens and then you could have a couple back to back. So, they meet on Thursday nights, the 2nd and 4th Thursdays of every month. But, they

don't happen very often. Conditional Uses and Variances are the two things that the Board of Adjustment deals with.

Keith Paulson – I think I heard that Guy was interested in that.

Laughter from the panel.

Alan Thomson – Thanks Keith.

Keith Thomson – Just a thought.

Alan Thomson – So, think about it and if you're interested let me know.

Chad Whetzel – Okay, anything else?

Alan Thomson – That's it.

Chad Whetzel – I will entertain a motion to adjourn.

Motion by Dave Gibney and seconded by Keith Paulson to adjourn.

Motion carried.

8:52 p.m. – Adjourn.