

**WHITMAN COUNTY
PLANNING COMMISSION
WORKSHOP
December 4, 2019**

MEMBERS:

**Chad Whetzel, Chairman
Keith Paulson
Rusty Jamison**

**Brian Davies
Gary Moore
Dave Gibney**

Staff: Alan Thomson, Whitman County Planner; Katrin Kunz, Whitman County Assistant Planner; Elinor Huber, Clerk.

Audience: Ken Duft, Pullman; Carla Burton Kiefer, Pullman; Jim Burton, Pullman; Sandra Rhoades, Pullman; Kathleen Lloyd, Pullman; David Gang, WSU; Aaron Fosback, Pullman.

7:09 p.m. – Chad Whetzel opened the workshop. We can move on to our unfinished business, continuing our ordinance on marijuana. Did everybody get a chance to read the newest, latest, and greatest version? Does anyone need a copy? We have gotten through all of it. The changes that we requested are in red. I think the first part, there aren't too many changes in this.

Dave Gibney – It is mostly consistencies and Scrivener's.

Alan Thomson – There is one major part in the Applicability chapter, hemp.

Chad Whetzel – So why don't we just start here on page 1.

Dave Gibney – Wasn't that there last month?

Alan Thomson – I don't think so.

Dave Gibney – I remember it there.

Kathleen Lloyd – I have a couple of things I was hoping to talk about today but I will start with the beginning. As we go through this, I know there was a letter that was read out by an attorney Tom Mumford, talking about choices to give the commissioners. I was wondering as we are looking through this the final time there are quite a few specific areas where we said, "Should it be this, or should it be that, should it be this many feet away?"

Instead of making that decision here, I wonder if when we put it together we can add maybe with a slash all of the different setbacks or numbers that we have talked about and then have that means of helping the commissioners make these final decisions. If we are talking about a 20-foot setback or a 100-footback why don't we include that from the very beginning so it is easy for the commissioners to come in and make those final decisions? Because there are so many people that have so many different opinions about how it should end in the end. Really, we should make it easy for them to make those final decisions especially in the very beginning they were asking for choices. It is an easy way for them to make those choices if we build it into the draft itself.

Then my second thing that I was going to add was there is nothing here that really talks about water and I have something I brought that I could show you. I don't know if you want to hand it out now or at some point later.

Chad Whetzel – No, go ahead and give it to Katrin and we will see what we got there.

Kathleen Lloyd – Okay, just give me the ones that are left and probably a couple of people in the audience will want it as well. (Katrin hands copies to the Board members.) Maybe Alan can tell me for sure, but it was my understanding that the appropriate place for this would be in conditional use submittal requirements. I am assuming, and my question to Alan is, does the conditional use requirements apply to both indoor and outdoor grows or does it just outdoor because it is at the very end of the draft?

Alan Thomson – No, it is on both.

Kathleen Lloyd – Okay, good. Then I am assuming that this would be a good place for it but my request is to please add to the marijuana ordinance that the marijuana businesses prove that they have a legal water right that is adequate for the business. They have a license from the LCB to operate. For example, no more than 4 total tiers at any one site.

This information is from the government website fortress.wa.gov that talks about, you know, how to run information from marijuana businesses. But what is interesting is that the chart at the very bottom of the page, it is an estimate of how much water indoor grows use. A tier 1 which is 2,000 square feet of cannabis they are estimating 260 gallons per day. Tier 2, 1,300 gallons per day and Tier 3, 3,900 gallons per day.

We know that unless they have an actual water right they are not supposed to use more than 5,000 gallons per day. If we are allowing multiple licenses at one location, for example there is a place on Airport Road that I believe is the same location that has two Tier 2's and a Tier 3. Which according to this government website they are probably using more than that is allowed and because it is not metered currently, nobody knows.

So my question is, why don't we make as part of the conditional use permit that they show knowing how much water they will probably use according to the government website, that they are only allowed to have the number of permits that is appropriate for the water use at that location?

So my suggestion is for "Four total tiers at any site." For example they could have a Tier 1 and a Tier 2 or two Tier 2's. Because none of those combinations would go over the 5,000 gallons per day maximum.

Chad Whetzel – So, you are trying to say you want something in there that limits the number of Tiers for basically water consumption?

Kathleen Lloyd – Well, when you have a conditional use permit for example, they have to show a waste disposal plan that they are complying with all federal regulations. Why not have a water plan to show they are complying with the state regulations for water? We are doing it for everything else, why not water as well?

They are required by the LCB to have a security plan, well show us. Already you've written in that they show they are complying with light, security, chemicals, gasses, hazardous materials that are in compliance with other state agencies. The only thing missing is water. Why are we not having them show that they are, have access to the water that is appropriate for what they are asking to do?

Alan Thomson – Well, there is no other business in Whitman County that we put that kind of requirement upon because the State Department of Ecology is entirely responsible for water usage. Not the counties, not the cities, it is Ecology.

Kathleen Lloyd – So, I talked to a gentleman from Ecology today and he says otherwise. He is happy to come and talk to everybody about it. I can give you a name and phone number.

Alan Thomson – He said otherwise what?

Kathleen Lloyd – He says that the County should be involved in that and actually there is a new law that says they are required to. He actually said he has talked to the County about that. He didn't have a name.

Alan Thomson – Give me his name and his number because that is absolute news to me. Right now, as far as any business is concerned and any resident is concerned in the State of Washington, it is up to Ecology. We don't regulate that.

So what happens is a well driller comes and he is responsible for getting all the permits. They don't go the County for that. They go to Ecology. Ecology is responsible for, and that application will state whether or not they are going to go over 5,000 gallons a day, because you are right, that would require a water right which is done by Ecology. So now we are going to have to do Ecology's work as well?

I would like to hear directly from Ecology or the Legislature if that is the case. Because I am not aware of that. So, not only would we allow, we have a requirement in any conditional use permit the first statement says that if there are any other permits required by any other agencies such as Ecology, Fish & Wildlife and what not, you are responsible for that. This conditional use permit does not give you that right. You have to go to those agencies and get those permits from them. That is how we write up a conditional use permit.

Kathleen Lloyd – So, but we are doing the same thing for all the other areas. Why not do it for water too?

Alan Thomson – We don't regulate water.

Kathleen Lloyd – I guess Chad is in charge, though, right?

Chad Whetzel – Right,

Kathleen Lloyd – So, it is not for Alan to decide.

Chad Whetzel – Alan has more information on this, but the point is we don't regulate water for anybody in this County.

Kathleen Lloyd – So, it's not regulating it. It is just proving, showing that they have the right to the water that they will probably use. We are not asking to regulate it, but if you are going to approve a conditional use permit for business that is obviously going to be not in compliance with something else, why would we approve that conditional use permit? It's an easy thing to put in for them to just say, that yes, I am going to have a business that is not going to be using more water than I am allowed to have. Especially with the aquifer and so many other water issues going on.

There is no reason and the person from Ecology said he was happy to come. He's done it for Adams County and other places. I'll give you his name and phone number, to come and talk to us here and not get it through third party. It seems to make more sense, but why not as their conditional use permit why not show, yes, I have either a water right or not approve them for something that is larger than their approved water consumption. It just seems to make sense.

Chad Whetzel – Right, my personal issue with regulating water, any type in this County, it is primarily an agricultural county and there are a ton of water issues through agriculture. Lot of stock, the states try to regulate, try to take away any use of water for a lot of things. I don't want to see, it's coming eventually, I don't want to start requiring meters on every house in the County. It is a nightmare.

I think personally to start regulating one business it is going to trickle down rapidly and everybody in the County would be required to have meters. Then they will start regulating exactly how many gallons domestically you use in your household. How many gallons do some of these houses use on their lawns?

Kathleen Lloyd – So, we are not regulating water, we are regulating how many businesses we are allowing.

Chad Whetzel – No, that is what you are regulating. You'll be regulating the usage of water for everybody. You start with one business and everybody gets it. It is not something that I want to get involved with.

Alan Thomson – Like I said, with the CUP, it is covered under that one condition. That is the condition that is leveled on any permit, any CUP. You are responsible, the applicant is responsible for getting these permits, if they are necessary.

So, the well driller gets a permit from Ecology, from your house, for any business, including these businesses. They actually have a paper that says that I am allowed to withdraw 5,000 gallons a day. If there is no meter on that well, which is the case with most of the wells in this County, then I don't know how anybody is regulating that.

We cannot step in and start policing how many gallons you, Mrs. Lloyd, are using, or anybody else are using. That is not our job. Our job is to make sure that they get that from Ecology and if they don't then they are out of compliance and Ecology needs to step in. We can also step in if we are aware of something like that and bring them back into the BOA.

Dave Gibney – I think that another way of what you are saying is that that CUP in a case where they are going to need more than 5,000 gallons or water or even a new well, because there isn't any water there at all, is not going to be granted until that water is there. So, you're saying that what she is asking for is already in place in existing regulation.

Alan Thomson – It is. Ecology is not handing out water rights. Nobody is getting a water right now. So, if somebody wants more than 5,000 gallons a day, there is no use talking to the County. We're not the entity that would deal with that. That is Ecology and if they are not getting the water rights they are not getting more than 5,000 gallons a day.

Kathleen Lloyd – Why would we approve a business that we know is going to go over 5,000 gallons?

Alan Thomson – Okay, how do you know that?

Dave Gibney – The answer to that question is it is not going to get approved because they are not going to be in compliance and not going to get their CUP.

Alan Thomson – If they state that they need more than 5,000 gallons a day, is that what you were saying? If the business was stating they would have to come out and say, "Okay, we need a water right." If that is spoken to us in the County, I would stop it right there and tell them to go get one and then come back to me.

Kathleen Lloyd – I think they would be silent about it unless we asked them. If we are approving two Tier 3's then we know that they are going to be using more than 5,000 gallons, according to the government website.

Alan Thomson – We went in to the facility on Airport Road. There are four separate permits there. Four separate grow areas. They are not using more than 5,000 gallons a day for all of that plant.

Dave Gibney – And in reality a large percentage of that water was recycled.

Chad Whetzel – It is a closed system so it is all recycled.

Alan Thomson – So, your statement that we know that they are going to use more, it doesn't comply. It is not right. Also, how would you prove that? So, I just don't see that is necessary to do that because there are procedures in place, regulations in place. They should be looking at that. If someone is cheating, someone is cheating.

You could be using more than 5,000 gallons at your house for all I know and I wouldn't have a clue whether or not that's true. But that is the same, there is no meter on the well, nobody's is going to be able to know for sure. But we have those processes in place. It is covered under the conditions of the CUP in the first statement. If you need permits from any other agency, you are responsible for that. If you don't do it, we can take your permit away. That is already covered.

Kathleen Lloyd – Okay, again I just think it makes sense since they have to show a plan for all the other things it doesn't hurt to have a plan for water.

Alan Thomson – I'm going to ask them up front, you need to drill a well and the environment health is also involved in that and so the health department is going to be looking at that and asking how much water do you need? You know you will have to apply for an exempt well, if there is not already one on the premises. You need to go through Ecology for that. You go through a well driller and he applies for the permit through Ecology and that process is the same for any business.

We could have other businesses in the County that use a lot of water. Marijuana use is not necessarily the only business that would want to use a lot of water. We don't police that either. They could be cheating for all we know. But that is not how we regulate things in a CUP. If they get caught doing that then Ecology will come down on them and take away their permit for the use of water. There is no point in us going any further than that.

Rusty Jamison – If you do call Ecology and their department head is willing to loosen up their iron fist and give the County some authority to make water decisions,

Alan Thomson – Don't go there, don't go there.

Rusty Jamison- I was going to say, certainly I know that the ag community in WC would be interested in knowing what they are changing. I don't see them changing anything, but if they happen to decide that they are going to give authorities to the counties instead of keeping it at the State, a lot of groups would be interested in that.

Alan Thomson – I would like to speak with whomever this person is. Other directors need to know if there is a change going on and that goes through the Legislature.

Kathleen Lloyd – It was made in the Legislature in 2018.

Dave Gibney – Do you know the RCW?

Kathleen Lloyd – Yes, I left it at home.

Alan Thomson – Are you talking about the supreme court decision that was made a couple of years ago that changed the whole perspective of water?

Dave Gibney – They did re-do some of that.

Alan Thomson – They had to revisit that. So, it was a decision that came down from the WA State Supreme Court that said the way that you have been treating water in the past is not legal. It is not constitutional and it was Ecology that was the lead in that at that time. So that decision just threw everything upside down.

Dave Gibney – But it still left it in Ecology's hands.

Alan Thomson – They eventually, the Legislature had to go back and re-do things and re-think things and they finally brought it back to Ecology. It is their responsibility, not the individual counties. So, that decision was I think what you are talking about.

Kathleen Lloyd – He is the one who was explaining it to me. I would suggest we invite him here so we don't get it third party. He was very clear about what his perspective was.

Alan Thomson – I would like to speak with this person.

Kathleen Lloyd – Sure, let's invite him. He said he would come.

Dave Gibney – I am still confident that whatever water regulations may be there for marijuana growing or processing or any other business in the County, is sufficiently covered by the existing regulations. I think you need to find out what is being talked about but I don't see that that should delay our progress in this.

Alan Thomson – I agree. I will investigate that. I have a suspicion that I know what Mrs. Lloyd was talking about and I will verify that.

Sandra Rhoades – I just have a question about the tour that you did of the Airport facilities that they were recycling water and they were able to measure the amount that they used. I didn't understand that. Do they have special things in place?

Dave Gibney – I did not state that they measured what they used, I said that the,

Sandra Rhoades – It was something that Alan had mentioned.

Alan Thomson – They estimated how much they were using. They had an actual estimate. There were no meters there and that estimate was extremely low. So it was nowhere close to 5,000 gallons a day. It was in the 100-300 gallon range.

Dave Gibney – They are going to use to that ration.

Alan Thomson – It goes into a tank.

Chad Whetzel – They lose more in their swamp cooler than they lose with the plants. I took a different tour. Not the planning tour, I was with the Fire Department. They have a 250 gallon shuttle with an air gap so none of the water can ever syphon back into the water system. They fill that shuttle, mix in their fertilizer and then drip it into each individual point as it goes down the line.

Then on the floor, they have a catch basin so all the water that goes back, big chunks of dirt are filtered out and they pump it back into their system. So, they could probably pretty reliably guess what they are using. I don't know what that number is. I never asked them. I took the tour. This wasn't even on our horizon yet.

Sandra Rhoades – Okay, I was at a meeting where the fire department showed up and they had asked some of the growers if you could tell the smell was the same during harvest versus non harvest. He said that it was the same, so it was at the same party because obviously the smell is not the same, the smell is not the same during harvesting versus not harvesting and they told me it was the same. If it was that same party, I might take that with a grain of salt.

Chad Whetzel – No, that was not, I honestly don't know because I don't remember ever hearing them say that the smell is any different or whether they said it was the same before and after harvest.

Sandra Rhoades – This was a question that the Fire Department asked the grower in the meeting that I attended and they said there was no difference.

Chad Whetzel – I don't know I wasn't part of that meeting, apparently.

Sandra Rhoades – I thought that was interesting that they answered the question that way.

Chad Whetzel – I don't know. I have no idea.

Sandra Rhoades – If it was the same facility then obviously,

Chad Whetzel – I don't know. I can tell you, I've been unfortunately in and around marijuana fields for years, fighting fire and you can tell a difference. There is a different harvest, not harvest. I don't know what meeting that was or who said what but I know what I saw and where I was.

Alan Thomson – We had Brandon Woodland who is the owner of that parcel of land, he is not the operator of the marijuana operations but he is the owner and he is on record stating that the smell gets more intense during harvest.

Sandra Rhoades - (Inaudible)

Keith Paulson – I agree with that. The smell is different when it is growing versus when it is harvested. But they have so much that they are harvesting all the time. It is rotating.

Alan Thomson – Yes, so that is harvest smell. So, it is pretty intense.

Keith Paulson – So it is pretty much all the time. But it is different.

Chad Whetzel – Let's move down here to Section 19.64.020- Applicability. This is new. ***"The production of hemp is not included in this chapter."***

Alan Thomson – I just wanted to make it clear that this chapter does not regulate hemp.

Dave Gibney – Do you have somewhere the definition of hemp versus cannabis?

Alan Thomson – Yes, that is, we've already put that in under the definitions chapter. It is now under, it is part of, I'm going to add it in to Chapter 19.03, which is our definitions chapter in the big book. Those definitions actually add them into another compartment of the code. Right now, it is under the WAC and the RCW's. Those definitions are already there and we have reference them.

Dave Gibney – That is basically a cannabis plant with less than 0.3% THC.

Alan Thomson – Yes, because otherwise one could make the argument that this covers hemp.

Dave Gibney – And we don't want that argument.

Alan Thomson – Right, not at this moment in time anyway.

Sandra Rhoades – Mr. Zager spoke at a planning commission meeting. He was talking about the difference between hemp and marijuana and he said that in order to raise hemp you have to be like 3 miles away from a marijuana facility, otherwise the seeds will actually travel and fertilize each other. Is that being monitored now, is there I mean, or is hemp allowed within 3 miles within a marijuana facility?

Alan Thomson – He also went on to explain shortly thereafter, maybe Professor Gang can verify this, that not only the State of Washington but the federal government, one or the other or both, negated that. Took away that. That was there at first. There had to be a separation between hemp and marijuana fields. Apparently that disappeared. Is that true, Professor Gang?

David Gang – Correct.

Sandra Rhoades – So there doesn't have to be a separation now?

Alan Thomson – No separation now. And that decision was done at the federal level and the state.

Dave Gibney – What that comes down to is that we are not putting out regulations to protect hemp growers from cannabis growers and vice versa. Because it is the marijuana grower who does not want pollinated plants from hemp. So, the fact that there is no regulation that says you can't plant a field of hemp right next to the cannabis grower is a detriment to the cannabis grower.

Sandra Rhoades – So let's say you had a hemp grower and someone bought some land nearby and they were growing marijuana so that hemp grower would not be protected from the cross pollination.

Dave Gibney – It doesn't hurt the hemp. It hurts the cannabis.

Sandra Rhoades – Doesn't it make the hemp have higher levels of THC?

David Gang – A good question. The important thing to remember is that when they are producing cannabis as marijuana they only want female plants because the male plants do not produce the inflorescences that produce the buds that produce the THC. So they only want female plants, the male they call robes, they pull them out. They select very highly for that.

In hemp production there are different types of hemp. Some hemp is produced for CBD which is essentially a marijuana plant without the THC. So, it has the same chemical profile for the volatiles, has the same cannabinol profile most of the time. Except it has high levels for CBD cannabinol instead of THC.

If you are a hemp producer and you want to produce high CBD hemp you are just like a marijuana grower, you only want female plants. You don't want male plants. The male plants produce the pollen, the female plants don't. Cannabis plants are different from most other plants.

Most plants they have a male and female flower together, on the same plant but these cannabis plants are separate. They have separate sexes and yes, the pollen is a windblown pollen and it can spread. We don't know how far that goes. It is at least a few miles, it could be 20 miles. Nobody knows how far the pollen could spread and it is a problem especially for CBD hemp producers or marijuana producers if there is a male plant nearby.

If you are producing hemp for fiber you don't really care. So fiber producers will produce a mixed field and those fields will be a problem for marijuana growers like we just heard, as well as for CBD hemp growers. If you have a male plant, if it pollinates the female plant, what happens is that they start to reseed and the level of the THC or the CBD or any of the other cannaboids drops off precipitously and

they usually get a 90% reduction in yield. That's why it is really bad for them. They really don't want male plants around.

Sandra Rhoades – So, in this meeting we're not putting those into this ordinance. Am I correct?

Alan Thomson – Not putting what into the ordinance?

Sandra Rhoades – Like just the cross-pollenating risk between the cannabis. Okay.

Alan Thomson – No.

Dave Gibney – Again, it is not our business to protect the growers from themselves.

Alan Thomson – That might be a restriction for cannabis growers, for marijuana growers, is we don't know how much hemp is going to get grown in WC. We have no clue right now, but it is probably going to happen. It already has happened. Maybe marijuana growers will be very cognoscente of that and keep away from where hemp is being grown. I don't know. That seems like a self-imposed restriction right there.

David Gang – That is exactly right. In fact a lot of places around the country where they are starting to produce a lot of hemp all of the marijuana growers have gone indoors. It is too high of a risk for them to have their plants be outside. If there is any growing hemp plants in the area it could ruin their crop.

So, in Oregon they are changing that and in Montana and in other places they are already moving in that direction. There is no interest in having the plants, the other thing, the change in the law was in the recent the 2018 Farm Bill, the Agricultural Improvement Act, that changed hemp requirements, that changed the definition of hemp and it also eliminated that was required.

We are going to get a lot of rules coming from, the WA Department of Ag has followed the state legislature, has passed the laws that basically mirrors the federal laws and we are going to see hemp regulation in the state follow the state regulation. The WA Department of Ag has everything lined up. So as soon as the federal government says that they have initiated, which should be this coming year in time for this next planting season for hemp, everything will be lined up for hemp to be grown in the state commercially, no longer under the 2014 Farm Bill which was called industrial hemp and there were more restrictions on it.

Those restrictions are mostly being lifted. Hemp fields produce a lot of odors. One of the questions that was asked of us before was could we measure these things, and Tom Dopson, I'll tell this real quick, he went out with these canisters that he takes out and measures volatile compounds in the air. He is able to do that in the hemp field. He can't go do that in the marijuana field because at WSU you have to be careful about following federal law, not state law. So we can't go do research on it in an area where they are breaking federal law. So, if you're growing marijuana plants it is breaking federal law so we can't do that.

He was able to go out and monitor levels of compounds in a CBD producing hemp field about a week or two before harvest. He was pretty surprised the level of emissions. The major compounds that were produced were very typical of what you see in a marijuana plant immersing the biggest alpha pinning, a

bunch of others you know about, and they were all about 1,000-fold higher in terms of concentration compared to what he sees in anything else that he measures. He was really surprised.

So he says the next thing we need to do is measure emission from individual plants and then we can calculate how much you are going to get if you are downwind from it. That is something that is going to take a while, it's kind of expensive. We didn't have any money to do this. It was on the side but we were asked to that. Yes, we can measure those things and what that leads for health, again I'm going to repeat what I said a number of months ago. These compounds, we don't know what they do to human health, despite what my co-workers said a while ago, they are not GRAS.

GRAS is a special category of compounds that have been approved by the federal government to be used in human food consumption. It has nothing to do with what is in the air and what you breathe in. We don't know how safe these things are at different levels for humans to breathe them in. We really don't know that, so that it could be safe, it could be not safe. We really don't know at this point in time. It is something everybody needs to be aware of.

So, when you are making regulations about this you are making regulations about something that is an unknown entity. Do you want to be conservative or do you want to not care? That is something you need to think about. Or maybe somewhere in between. I don't know. But it is something that we don't have any research. It hasn't been done. Nobody knows the answers to these questions.

Dave Gibney – Our regulation here is intended to have significant odor reduction filters and stuff and would that probably also pull most of those terpenes and whatever out of the air?

David Gang – So, if you have an indoor grow facility and you have carbon filters those would do a very good job, yes. That's has already been demonstrated by the industry in the US and Canada, and they are effective. I have no idea how you would be able to do that outdoors. If you have an indoor grow, yes, that technology exists.

Dave Gibney – As I read our current odor restrictions, and as you are talking about the hemp pollination, I suspect that the outdoor grow is not going to be very frequent under these regulations. I also would speculate that the hemp grown for CBD is going to predominately move indoors also since is it also adversely affected by being pollinated by hemp.

David Gang – You might think that if you have states like, even Washington State the Department of Ag had request for close to 6,000 acres of industrial hemp to be grown this year. In Oregon, it was over 20,000 acres. In Montana it was over 40,000. In Kentucky, nobody knows, it is somewhere around 80,000, probably. They are expecting 10 times that in Oregon next year and probably the same in Washington.

It is hard to imagine how you can get all of that in grow facilities. A farmer can grow 40-acres, there are several places where they have that, or 160 acres in the field. There is a place north of Pasco. That's where Tom did this measurement. You all know where that lovely Mercantile place is on the way to Pasco, right next to that is the hemp field where he measured. That was 160 some acres, I think. Putting that in a building that is a very large, very expensive building.

Chad Whetzel – I guess for me, and maybe I’m looking at this wrong, but if theoretically, if there is going to be that much hemp being grown outdoors and the smell is no different from hemp to marijuana, doesn’t even make sense to regulate the smell at all.

David Gang – I think what we are going to find is we are going to have a serious odor problem.

Chad Whetzel – Right, but we can’t do anything about industrial hemp. That is federal law.

David Gang – The State can regulate odors. Yes, they can, so the State can and counties and local communities can regulate odors regardless of whether something is a legal crop. It isn’t like wheat which really doesn’t smell.

Chad Whetzel – Yes, it does. Wheat has a very strong smell. I love the smell of wheat but it has a very distinct odor. Almost every crop does.

David Gibney – We have digressed again. We are not talking about hemp in this ordinance. It is also abundantly clear to me if we put before the BOCC an ordinance that doesn’t have anything to do, doesn’t attempt to regulate odor, they are not going to accept that. Because that’s the basis that brought the whole issue up. So, whether it is effective or not, or whether it is going to be a moot point, when the 160 acres of cannabis industrial hemp come in should not delay or stop or adjust this ordinance. Hi, Matt.

Matt Sutherland – (On the phone) Thank you. Sorry it took so long. I think I gave you the wrong number.

Chad Whetzel – Thank you for joining us. We will move on. We are down to Agricultural Activity, we have struck some words there in red on Page 1, Section 19.64.030 – Definitions. I don’t see any problem with that.

On to Page 2, under *Indoor production, processing and retailing*. We added the **Planning Department** instead of planning staff to keep it consistent.

Down under #6. We changed “is” to “**are**.” For grammatical clarity for those of us who speak English.

Kathleen Lloyd – When I read the transcript from the last meeting, Alan said something along the lines of if there is any smell we will go out and shut them down or, basically if something is smelling they will call the planning department and Alan or somebody will go and take a look at it and the language was, if we smell it we will cite them somehow. My question is why don’t we have the ordinance actually reflect that by putting a period at the end of, “....*beyond the lot lines of the facility.*”

Chad Whetzel – Where are you?

Kathleen Lloyd – On #6 on the second line. “....*detectable at or beyond the lot lines of the facility.*” If you can smell it, that’s it. Instead of “....*in such a concentration or duration to cause a public nuisance, or threaten health or safety or to unreasonably infringe upon the use or enjoyment of neighboring uses.*”

That opens the door to somebody’s interpretation. Well, I don’t think that is enough to bother you. I don’t think that should infringe on your enjoyment. There is room for negotiation in adding that

language, where if we just say, period, if you smell it, it's not okay. So, my suggestion is why do we have the other language there? Just delete the rest of the sentence.

Chad Whetzel – I think part of it from what I remember, we've had lots of discussions so maybe I am a little bit foggy on this but we had discussed some of that stuff. There will be times maybe inadvertently if somebody leaves a door open you get a smell, a business shouldn't be shut down for something they can fix immediately. Right?

Kathleen Lloyd – Either you can smell it or not and they need to be taking care. If it is really a door that is open, nobody is going to smell that for that 30 seconds.

Chad Whetzel – So, that was just part of the discussion on that. I don't know if anybody else has any,

Alan Thomson – Chad, keep in mind that this is indoor grow. So, it is supposed to have an air-tight building with filtration systems in there. If there is a smell coming from outside of that building and it goes across the property lines, and we can verify that, my reaction to that is this needs to be fixed right now. I'll give you X number of days to get that done and then if it's not done you're going to have to figure a way to get it done, otherwise your permit is in jeopardy. So, this is a new facility and it should be air-tight because it is going to have to have an engineer licensed in the State of Washington. So, hopefully, that engineer does a good job.

Kathleen Lloyd – But that is what you are saying, how you would handle it? Why do we have to have this extra language here that has room for negotiation?

Alan Thomson – The negotiation would be with me and I'm telling you right now there isn't going to be any negotiation if I can smell it.

Dave Gibney – You are arguing her point.

Alan Thomson – Yes, I am telling you how I would react to that. If I can smell it beyond the properties,

Kathleen Lloyd – Right, but if we are making rules here for the next who knows how long, let's say it is another member of the planning staff or maybe the person who owns the facility says he doesn't think that should impact their enjoyment. I mean there is room for discussion with the extra language and if you really feel that if you smell it, period, it shouldn't be there and you'll go and talk with them. Why don't we actually have it say that in the ordinance?

Dave Gibney – I would think you would want to run such a, what is being suggested is that we strike all the language after, "*beyond the lot lines of the facility.*" And add, basically, if the odor is there it is a violation. I think you're going to want to run such a specific thing past your prosecuting attorney and legal advice. I think that as you were saying, if at one time or another somebody goes up there and the doors are opened or it is smelled and that's the only time it only happens, it's going to be hard to legally enforce and that's why we have some of the other things in your strength of why you're going to, but I don't know.

Chad Whetzel – The other thing I can think of, one of the things that gets regulated heavy and had a lot of problem in Western Washington with dairies and their effluent ponds. They are designed by engineers, approved by the State and everything and yet if something goes wrong with them the dairy is

held responsible for that. Even though they have been designed and everything should be good. Something could go wrong. I can also see the time where even with filtration systems something could go wrong with it. Motors break, bearings go out things don't go well. But what you are saying with your wording there now, is if they have an issue they are done.

Kathleen Lloyd – All I'm saying is that what Alan is saying how he would handle it is actually reflected in the language of the draft. Because if there is a violation then Alan will go out and say you're not supposed to. You are supposed to fix it within seven days so there is room to fix all of that. They are not just shut down, because it already says how is handled.

All I'm saying is that the language in that section reflects how Alan says he is going to treat it. Alan says if I smell it, it is a violation. I'll write them up, I will tell them they have seven days to fix it. Why not actually say that in the ordinance?

Alan Thomson – I really don't have a problem with that actually. That language in the indoor grow came from another ordinance and we changed it in the outdoor grow. We crafted our own verbiage to the outdoor grow. It originally had the same language in it. Seven days is mentioned in the outdoor grow and it is not mentioned in the indoor grow but if I am called out there, I will have to make a determination. If I can smell it, you have to fix it. So I'm not that troubled with striking the rest of the sentence. I think it accomplishes the same thing. It takes the confusing language out.

Chad Whetzel – So, to carry on with what Kathleen was saying, the one thing is it does not have a specified time period. Should we put in somewhere about,

Alan Thomson – We can match it with the outdoor grow, seven days.

Chad Whetzel – Seven days or whatever the planning department decides, because some might be very major and need to be fixed now and some can be given more time. Or how do you want to word that?

Dave Gibney – I would point out that you do have the similar public nuisance threaten safety in the outdoor production, it's what you have later is what the county planner, is the actions. I would suggest we add that language, the actually starting from Page 4 on B. #4, the sentence starts, "*The County Planner.*" The language that is in the outdoor production starts at that sentence which is on the fourth line of #4, "*The County Planner may issue a written notice.....*"

I think all of that language would be properly incorporated in the indoor #6. Actually, if I was doing that I would put that in there at the same place and the I would split #6 starting with, "*The applicant shall install...*" making that a new item and separating the requirement for the exhaust system and I might move the requirement for the exhaust system prior to the #6.

Alan Thomson – So, you would put the exhaust system in a different section, different number?

Dave Gibney – Yes, I would make it 5.1 starting with, yes, in Section A. on Page 2, #6 the sentence beginning, "*The applicant shall install...*" would be separated out into an item 5.1 or new #6. Then the equivalent language over here on Page 4, B. about the actions "*The County Planner may issue a written notice....*" put that language in the current #6 of the indoor.

Alan Thomson – And keep the “...in such a concentration or of such a duration as to...” and keep that in there and mirror #4 in the outdoor grow?

Dave Gibney – I hear her points of allowing more wiggle room but I guess I’m undecided as to whether that is a good or a bad thing.

Alan Thomson – I’ll just tell you up front, if I’m the person out there, I’m not going to be a complete, “get it done right now or I’m shutting it down.” So the language in here in the outdoor grow gives me the latitude to say they have a few days to fix this.

Dave Gibney – The other part of it is there could be a neighbor or someone who is making the complaint and then you go there and conditions have changed such as it is not at that moment, the complaint comes back, the complaint is repeated and conditions reoccur, I think some of that language gives you more,

Alan Thomson – Yes, and I’m okay with that. Having the language in the code is helpful. That language right there, I’ve had to go out and negotiate with neighbors on quite a few occasions and try to figure out a solution to a problem. That’s how I envision applying the code, the law. That language gives me that ability in the code to back that up. So, I’m okay with that if you are okay with that.

Chad Whetzel – That works for me.

Alan Thomson – So, thank you, Kathleen.

Jim Burton – I’ve got an issue now on that. What makes you the expert on odors? What makes you say that your nose is a (inaudible) nose? Let me explain why I asked that. The other night when I happened to drive by the facility on Country Club Road, foggy night, things were a little stagnant but there was a yellow cloud above the facility.

My nose told me that as a kid I had my boots too close to the fire and they were smoking. I’m not a marijuana expert, but that was a real stink. When that goes out I don’t know what it’s doing to me. I have to go by, you guys live in Albion, Johnson, and wherever you are living you are not going by it. It’s the same thing that is happening on Airport Road. The neighbors are complaining, it stinks. We don’t know what percentage it is. Your expert just told us that the stuff smells bad. What makes you the expert?

Alan Thomson – I know what marijuana smells like.

Dave Gibney – The alternative is either is our planning director and his staff or it is no one. There is no other authority in the County that is going to enforce planning ordinances.

Alan Thomson – The BOCC are not going to fund an independent air quality entity. I already know that. We have already had that conversation so your BOCC will not go there because it will cost a ton of money. So, you are stuck with staff, having to make those decisions. As it is with a lot of other counties in the State, and also other states, this is the planning staff that has to make those decisions.

Jim Burton – They’ve already permitted it. It is done. This committee is trying to catch up on a mistake, in my opinion, so quit watering down. Quit watering it down.

Alan Thomson – Are you suggesting, I'm trying to understand what you are saying. Are you suggesting that we need to regulate the facility on Airport Road?

Jim Burton – On all of them. If you are going to permit them somebody has got to do some regulating.

Alan Thomson – Well, that is what we are doing, but I just want you to be absolutely clear, and we've gone over this numerous times, the businesses that are in existence right now are grandfathered in. This will not apply to them.

Jim Burton – I understand that.

Alan Thomson – So, the new businesses that come in will have to comply with this code if it passes. That means the smells will be contained, which is what you want. Correct? So that's what we've done.

Jim Burton – We can't go back and say oops we're not going to have it. Is that what you're telling me?

Alan Thomson – What I'm telling you is as best as an ordinance can accomplish we have the means here to prevent odors from going across their property lines. That's what we are trying to control. That is what this ordinance is doing. If the smell goes across their property lines and you can smell it on the road that is a violation.

Carla Burton Keifer – So, what I'm saying you're not going to do anything about the ones that are existing because they are grandfathered in.

Alan Thomson – That is correct and that should be clear to everybody.

Carla Burton Keifer - I know I understand that because it was allowed to go through. It was a mistake. Who is going to also make sure that you're following through? Are you going to write it down and document it that each time someone complains or everyone is going to take the ability to do it?

Alan Thomson – No, you don't have to trust me or distrust me. There's going to be a record because if this has to go back to the BOA they will need to see a record.

Carla Burton Keifer – I was upset because we have pictures from the other night and I have several nights I've gone through the Country Club Road and Selway is letting it out and you can smell it, it stinks. I know, I used to live where a dairy was and the dairy was there when I moved out there. So I know what you are saying there is nothing you can do about it.

Alan Thomson – There is no sense in going over that again and again.

Carla Burton Keifer – Because it is upsetting that it was allowed in the first place.

Alan Thomson – Understood, but what's done is done.

Carla Burton Keifer – Well, no that is not the case.

Alan Thomson – That is the case, legally.

Aaron Fosback – Just on that same topic of things being grandfathered in, I think there is legal precedent that should be looked at for establishing or rather terminating non-conforming uses. I would ask the planning commission and possibly Denis Tracy to look at the Northern Cinema versus Seattle court case and it looks like there is a precedent for terminating non-conforming uses.

Dave Gibney – Today there are no non-conforming uses. If this ordinance as we finish it is passed by the BOCC, then there may non-conforming uses and the suggestion of looking at terminating those legally is something that can be brought up. But today, there are no non-conforming uses in WC.

Aaron Fosback – Correct.

Rusty Jamison – I just want to say one thing, too. You brought up the point that the duty that Alan is going to have to go out and monitor this stuff. He didn't really ask for that. It is something new that was put on his shoulders by the State. I would like to say this, though. I trust that he is going to do the best job to his ability. I also can sit here and say that we are all going to retire someday. And there will be somebody else in his position at some point in time. And you the public need to be very aware that when these positions in the County change, can you be involved? Because if you get somebody in his position in the future that doesn't want to do the right thing, it could be a real problem. Keep that in mind.

Matt Sutherland – On an earlier conversation I think it is fully within the planning staff purview to be looking at whether or not some of the violations of the ordinance especially the smell part of it. I think that would be kind of interesting to defend any other group doing it and I think keeping it with the planning staff makes (inaudible) sense to me just in addition to what has already been said.

Chad Whetzel – Thank you.

Kathleen Lloyd – On #8 of the indoor production, I missed the last meeting, I was unavailable, but the last meeting I attended in October, there was a fair amount of discussion about the minimum 20-foot setback. We decided, or it was decided that we would think about it and bring it up at the next meeting. When I read the transcript I didn't see that it was actually brought up and discussed again. I did read the transcript and there was a fair amount of discussion for the outdoor grow section where it discussed that. I think in #7 in the outdoor grow area you added a 500-foot setback from existing houses.

When we talked about it before I was suggesting it would be similar to the viewshed where it was 1,500 feet from an existing home. I think that got misinterpreted that it needed to have 1,500 feet from every single property line which would make a grow have to have 200-300 acres for that to happen. But that is not what the viewshed ordinance, at least the way I understand it worked.

It was if there was an existing home then a new operation could not go in closer than 1,500 feet which means, if it is an open field, just be 1,500 feet from the existing house and you could have a ten-acre parcel or whatever that doesn't have their facility closer than 1,500 feet from an existing home. It really protects existing homes from having these indoor-outdoor right next to them mirroring what we already have for the viewshed for new residences.

So I would suggest that we discuss again in #8 of setbacks should be no less than a minimum of 1,500 feet instead of 20 but mirror the language that Alan put in in #7. That, marijuana facilities to residences existing and when we get to that I was going to suggest based on the discussion last time from the

transcript, or platted home sites at the time of an application for a marijuana facility to be, well, he wrote 500 feet, but I again want to take it back to the viewshed of 1,500 feet setback to be measured from the foundation of the residency to the fence of the marijuana facility.

Can we please talk about putting that in #8? Basically, if you are there first, if you are a residence there first, please have a new facility at least 1,500 feet and residences already can't be closer than 1,500 feet. Why not a marijuana facility do the same thing? I think the last time you discussed how already like a 1,000 feet for quarries and 1,500 for something else.

So, can we please have that for the indoor grows as well, please give some buffer space to existing residences? Doesn't need to be a 200-300 acre parcel. Ten acres is fine, just don't have it next to somebody's house that has been there forever. Please.

Dave Gibney – If I remember right, we at the meeting you were here, we did discuss the #8 on indoor and pretty much came to the conclusion of where we are at. One of the things that the viewshed stuff only applies to residences. It does not apply to any business marijuana or otherwise. We should not be singling out specific businesses. If we don't do it for any other business in the County, we shouldn't do it for this one. That 20-foot setback on the indoor, we talked about it for a long extent and I'm pretty sure we agreed pretty much where we are here. The same on the #7 in the distances on the outdoor we talked about that at length and came to the conclusion as it is written right now.

Kathleen Lloyd – No, we tabled it to talk it about the next time which was November and it wasn't brought up.

Dave Gibney – The stuff in outdoor #7, specifically that red within the 500 feet, we spent a significant amount of time last month on that. I don't believe we did table the distances on #8 on the indoor. I believe we had that discussion,

Kathleen Lloyd – Oh, yes, we did.

Alan Thomson – The reasoning is, and these buildings are supposed to be airtight. You can have businesses doing all kinds of things that could potentially be cause odors. Not necessarily marijuana businesses. That's what Dave is saying. That we don't regulate them any differently because they could be just as obnoxious as a marijuana grow operation. But this is supposed to be an airtight building, we are treating it like any other business.

But also, the BOA is given, the Hearing Examiner or the BOA is given the authority to take each case as they are individually. If there are some circumstances that might warrant it being pushed further back they have the authority to do so, but that case would need to be made to the BOA.

Here is the reason why we would like this to be further away from our property lines. So, that is the job of the BOA. The reason why I think we didn't want to have any more discussion about this is because it is supposed to be an airtight building. There should be no impacts to the adjoining landowners. If there are, then they are in violation of their permit and we can take them back to the BOA. I think we've got that covered. The outdoor grow is entirely different from indoor.

Kathleen Lloyd – So, to respond to that. A marijuana business is different than any other business.

Alan Thomson – In your mind.

Kathleen Lloyd – The State says so. It had all sorts of rules that any other business in the State does not have. A thousand feet from a school, a part, it is different and many, many people feel that way. To have the possibility that somebody could put it 20 feet away from their existing home that was there first, is not fair or appropriate. And to have to go in and fight the BOA to try and push it out is not fair or appropriate to existing homeowners that you should be protecting and to say it shouldn't bother them.

It bothers a lot of people and to say that it doesn't bother me, so it shouldn't bother you is not okay. It is a different business, already we have had people come in and say they don't want a house twenty feet from my house out in the County. Fifteen hundred feet was appropriate, it should be appropriate for this too, even though it is a business.

It is different than any other business. It should be 1,500 feet at least and if anybody wants it closer then neighboring homeowner can sign off and say that he doesn't mind, let it be 20 feet. But the protection should be at least 1,500 feet unless somebody says it's fine to be closer. It really should be to be fair to existing homeowners and in the letter last month from Williams, I think that he reflected that same feeling. Existing homeowners don't want things 20 feet from their home.

Chad Whetzel – So, part of it goes back to, it's not going to be 20 feet from their homes because the way that the codes are written and setbacks for houses buildings and everything. But one of the things you said is to be fair to existing houses. We are not trying to be, we are trying to protect everybody. The property owners, the existing property owners and with houses buildings and the new people building houses.

There is always somebody, this is WC. I've been here for 25 years and in my neighborhood I'm still the new guy. These guys have been here for generations. Did they like it that I put a house there? Some of them maybe did, some of them maybe didn't. But there is always going to be change. So, to go back to and say that we are only going to protect the people that are already here, yes, we do have a responsibility but we have a responsibility to all landowners. It is not any one person.

Dave Gibney – For the most part, that existing residence is going to be, what is it, 200 feet from the adjoining ag use?

Alan Thomson – For any new ones after 2007, yes, there is a setback. Previous ones to that, there is a 20-foot setback.

Dave Gibney – So, it is going to be two setbacks. Whatever building there is going to be at least two setbacks between them.

Sandra Rhoades – So I just, I'm trying to understand the logistics behind this, because we had a representative from WSU who just said that we are not aware of the harmful emissions that come from a cannabis plant yet. That is going to take years for us to figure out and then you guys are still saying that we will treat it like any another business. Well other experts are saying that we don't know the harmful effects that this plant could potentially entail, but you are still saying let's treat it like any other business. Can you please explain the logistics behind that so I can understand that yes, you are looking out for the protection for the members of your community as well?

Dave Gibney – We actually do know the things like gasoline, there are regulations in place for the indoor and outdoor business, (Matt, excuse me,) the indoor grow that we are talking about as again all of those air quality, it is not going to be producing the potentially unknown harmful gasses. No more than you are allowed to put up a deep fat frying chicken producer or anything else. Barbeque, the same set of regulations that protect the existing residence from somebody putting a garage or a lentil toasting business right next door are there for this business also.

The outdoor stuff is different but the indoor as we beat it quite a bit, there is very little difference aside from maybe some definitions or some state law, but physically or practically there is no difference between somebody growing marijuana inside and somebody growing tomatoes inside. The same sort of volatility or whatever is going to be there.

Sandra Rhoades – But there is a difference. You have neighbors that said they were absolutely affected by someone who had an indoor facility that was releasing emissions.

Dave Gibney – An unregulated indoor facility that is allowed to emit the odors which is not the kind of facility that will happen under this ordinance, if we pass it. A facility that occurs once this ordinance gets passed will not be allowed to do that.

Sandra Rhoades – But those on Airport Road and they aren't protected.

Chad Whetzel -Those are old facilities and we can't change that.

Dave Gibney – That has no bearing on, the existing facilities have no bearing on the law as we are trying to make it. In fact, there is nothing we can do that is going to say to the, in this law that says they have to move, we can't tell them they have to move 40 feet that way, because they are too close to the edge. Their building is already there.

Rusty Jamison – I'd like to say something. First off, this Board is going to be determined in the future whether these decisions that we are making are correct or incorrect. Right or wrong. We could sit here and argue all we want. But we're not really any more expert about this than you are. But the thing is we are up here in these seats and we have to make a decision. Number 8 we already agreed on, and that's kind of the why it really is final.

If you want to go and make a statement to the BOCC before they put their stamp on it, you have the right to do that. But we have a limited amount of time here that we have been given to do this. When it's all done we are not, anyone of us, going to say that it was perfect. Because it will not be, but it has to be done. We don't want to argue with you anymore about it.

I want to point out to the chairman, too, this was tabled and it hasn't been pulled out from the table. If you look at Robert's Rules of Order, we shouldn't even be discussing this. But he gave you the leeway for us to hear what you have to say. But we need to move on, because we have already decided. I'm sorry, that I had to say it that directly, but we have to move through this and we can't haggle over every little detail. We've got to make decisions.

Kathleen Lloyd - I completely agree with you, we should move on and making the decision is hard. So I would suggest that we kick the can down the road and not have to make the decision by saying 20/1,500/1,000 feet in red so that the BOCC see that there are choices and they can make that choice.

Alan Thomson – That is exactly what is going to happen. So, to your point right at the beginning of tonight, there is going to be a report which is ongoing right now, it is nowhere near completed. That is going to be a part of that report. There will be a range. The BOCC read these minutes. They know there is a discussion about distances. The planning commission has made a decision on 20 feet. We are not the final arbiters.

So, in that report there will be 20 feet, is what we think right now, but there could be other possibilities because you guys are the ones that make that decision. That's going to be pretty much for any number that is on this ordinance right now. It is up to the BOCC to make that decision, whether they accept that number, whether they want to push it out, push it in, or reject it completely.

Kathleen Lloyd – So, it will be on the draft?

Alan Thomson – Not on the draft, it will be on the report, the Planning Commission's report. We've been tasked to give a report to the BOCC about how to deal with this question, this whole issue. The Planning Commission is going to come up with a suggestion here, which is the ordinance. They will come up with some numbers which we are doing. But that is not the final decision.

The report will reflect that if you and the BOCC decide that you want to push that number further out, that is up to you. We will give them that option. That's what they want, options and they will get those options.

Rusty Jamison –If you don't like the numbers that are on here then you need to go to that meeting and argue with the BOCC.

Alan Thomson – It will be reflected in the report.

Kathleen Lloyd – Will the report be available for people to see?

Alan Thomson – It will be once it is done. It is nowhere close to being done right now. And this body has to debate that. Once I put a draft together, it will go to the Planning Commission and then it is their report. It is their report, it is not my report. I will give them the bare bones of it and then they make the decision on how that report finally looks.

Dave Gibney – As I pointed out after Guy's letter last time, one of the options in that report is going to be "No more marijuana businesses in WC."

Alan Thomson – Yes, you're right.

Dave Gibney – Another option in that report will be this ordinance, with the variations where that discussion has happened. And another option that is obviously there is to continue the status quo. I don't believe that is what is going to happen but that is an option.

Kathleen Lloyd – But the choice of can't be actually in the draft.

Alan Thomson – This is a draft that the Planning,

Dave Gibney – I honestly think that would be more confusing to have a range of numbers in these places. I do know that the BOCC read the minutes of these meetings and they do take our discussions seriously.

Chad Whetzel – They hear the comments that you guys are making and all of us. I talked with the BOCC on various things and they know,

Alan Thomson – This is what the Planning Commission is deciding. They will make a recommendation to the BOCC. We have debated this. We've heard a lot of input from a lot of people. This is our best guess, our best choice as to what we think would work. That is going to be written up the way that they determine how they write it up.

Those numbers, 20 feet, 500 feet, 1,500 feet, whatever it is that we have decided on. But the report is going to give the BOCC some ranges to think about. They will have gotten all of these minutes and then they have to make a choice as to which direction they will go. But the Planning Commission will probably make a recommendation and I would guess the recommendation is whatever they decide with the ordinance.

Matt Sutherland – I think the BOCC are more involved than your average bear and I think they are very well aware that they will be looking at options. For the public, they already know that they have a moratorium on the table and they already know they have (inaudible). Something I said last time is that this effort to create an ordinance is sort of trying to take from the viewpoint from the community and from experts and from staff to try to come up with something that is workable that can take all this into consideration.

Which is one of the reasons at the end of the day we need to recommend whether an ordinance that we got with deliberate numbers that we end up having or setback or what have you should be what we are comfortable with. In my opinion, I think having this kind of compromise and this kind of work and this kind of research going into creating an ordinance will be a service of that effort and not recommended, (Inaudible)

Rusty Jamison – I want to make clear that you understand that once this is recommended you still have the right as a citizen to go to the BOCC when they have their meetings and you can argue your point. You have that right and if you feel that strongly about it you need to make sure you are there. But to argue with us or try and convince us to change this document we need to keep moving and you need to kind of say you didn't win this one and you're going to try it with the BOCC. I don't really know how any better way to say it.

We are only here a certain amount of time and we are all volunteers. When we make a decision right or wrong, we made it and we need to keep moving on. I respect what you are saying but I don't want to argue with you anymore, and I don't think any us want to. Save your argument for BOCC.

Chad Whetzel – The one thing, Rusty, I would say, we have made a ton of changes in this document according to what people say. So, we do appreciate the discussion but,

Dave Gibney – It could well be that because there was nothing in this section in red last month, we remembered that we had pretty much agreed with what was here.

Alan Thomson – Well, we had. The Board had.

Dave Gibney – We had pretty much agreed the indoor was pretty much where we wanted it to be and we did mostly on the outdoor. In the interest of that, I would like to move on to Page 4 where I believe the two items are just tidying up.

Keith Paulson – I would like to say on Page 3, on #10, letter “i,” it says, “Churches.” Then on Page 5, #9, Letter “i,” it says, “Churches with licensed day care centers.”

Chad Whetzel – If I remember correctly that discussion was to strike the day care centers, because churches covers the whole thing.

Keith Paulson – Some churches have day care centers, some don’t.

Chad Whetzel – Right, but it is still a church so what does it matter if it has a day care center or not.

Keith Paulson – I’m fine with either one, I’m just saying that should we have one or the other on both?

Chad Whetzel – Right, they both should be the same.

Dave Gibney - The other part of this is child care center in both places.

Alan Thomson – Yes, it is duplicated so we should strike ~~“with licensed day care centers,”~~ in Page 5.

Dave Gibney – I believe that we don’t have any reason not to have full consistency between those two.

Keith Paulson – Some churches have licensed day care centers.

Dave Gibney – I think that #10 of indoor and #9 of outdoor should match all the way down.

Chad Whetzel – Okay, on to Page 5. Any issues with the cleanup we have there?

Dave Gibney – I believe that this is what we came up with a conclusion after discussion last month was to do that 200-foot setback and to do the minimum setback from an existing building. I did hear Kathleen mention something about a plat already. I believe we did discuss that if it’s the cluster development or if we know where the building is going to be but it’s not there yet, it should still, that’s a valid setback should be in place.

Chad Whetzel – That is platted and that is where the building is going so that is why we did not feel the need to put the rest of that in.

Dave Gibney – This one right now presumes the existence of a foundation.

Break - 8:43 p.m.- 8:46 p.m.

Dave Gibney – Alan, I think I mentioned this last month, too. We’ve been doing all this in basically the workshop with all kinds of lots of public input and that’s what we should be doing now. Before we send this to the BOCC we do have to have a formal public hearing, or do we not?

Alan Thomson – Potentially, but right now, I think our task is to come up with a report to the BOCC and then we are going to have a joint meeting with the BOCC to go over that report and if the BOCC need to give us feedback.

Dave Gibney – Then well we do some more, but if the BOCC decision is to adopt the ordinance, this one or a variation of it then at a point after that joint meeting, we will be having a formal public hearing to adopt and recommend the ordinance to the BOCC.

Alan Thomson – Right.

Dave Gibney – So, we are not all that close to the end of this process, yet?

Alan Thomson – Not quite. The finish line just moved a little further away from us. I have a suggestion for a change on #7. That is new so you need to talk about that one. We are now inserting setbacks to residences for outdoor grow and right now, the number is 500 feet which is up for debate. I had a thought after I wrote this. So, how that setback distance is measured, from the foundation of the residence to the fence of the marijuana facility. I thought about why not put it to the parcel property line of the marijuana facility? Which gives them another additional setback. So, instead of the fence line the actual property line of the parcel.

Dave Gibney – Basically, if I have a large parcel with a house on it and I want to sell to a marijuana producer, I have to set that parcel line at least 500 feet from my residence.

Alan Thomson – Right, from the property line not the building. So, that gives them another couple hundred feet.

Dave Gibney – So, that's on the marijuana side, not the residential property side.

Alan Thomson – Right, then of course you have the setback from the actual facility, the buildings to their own property line. Right how it is 200 feet. So, that is not just 500 feet, it would be 700 feet.

Chad Whetzel – The only thing, I'm just playing the devil's advocate, is you get a guy who has a couple thousand acres and as part of their enterprises decide they want to grow marijuana on that and but they want to grow it on the far end of that property, it is all joined, so theoretically they couldn't do it if the properties butt up. No matter how far that distance is.

Alan Thomson – Right now, even though they own one large parcel they still have to create a 10-acre parcel. They have to short plat it. We don't have language in here that allows them to put something on 160 acres or 600 acres. They have to create a 10-acre piece. That is the way it is written.

Brian Davies – Create a separate designated parcel.

Keith Paulson – So how did you come up with this 500 feet?

Dave Gibney – That's what we said last time.

Alan Thomson – It was a suggestion. It was a number that flew out from you guys.

Keith Paulson – Right, but it got changed to 200, I was just questioning, you are just suggesting it to be 500.

Alan Thomson – That is a suggestion, that's all.

Rusty Jamison – But there still is a chance if a house builder wanted to build their house within 20 feet of this, not after the facility is already in place. If they came and said that we aren't worried about the odors and we want our house right next to the line, about 20 feet or whatever it is, you could still get residences in the future that are right next to the boundary line.

Dave Gibney – You could but that is going to end up with one of the declaration of ag use that, the person who puts the house on the land afterwards has to sign off and that goes with the property.

Rusty Jamison – I was just envisioning here, you could have this business going and they have complied with all the rules for the setback but if somebody said, that I'm going to buy this property because it is not as valuable as a mile down the road, and they want to have someone build a house there they could do that as long as they signed and say that I'm not ever going to bother this business. Isn't that right?

Alan Thomson – We already discussed that one. About putting houses on,

Dave Gibney – Didn't we come to the conclusion that we wanted to put language in here similar to the certificate of agricultural use?

Alan Thomson – Now that you mentioned it I think that needs to happen because marijuana is not considered an ag use. So, that waiver would not work.

Dave Gibney – We need to add into this ordinance or you need to add that into the residential ordinances.

Alan Thomson – Right.

Rusty Jamison – The reason I bring this up is because if I sold this piece of ground to the business then I just made the value of the ground 1,000 feet basically worthless around this business. Unless I'm just going to use it as agriculture. If these facilities were closer to a town and somebody wanted to build a house there, right now they wouldn't be able to. Is that correct?

Alan Thomson – If the facility is there first?

Rusty Jamison – Yes, the facility is there first. And they want to build a house right up to the line.

Alan Thomson – That is their choice. Remember we talked about all those businesses in #9 elementary schools, playgrounds, etc. if somebody chooses to build a school we already talked about that. That is their responsibility.

Dave Gibney – We got close to that certificate of Ag but it would be a change to the residential zoning laws. Not the marijuana laws.

Alan Thomson – That would have to be added into 19.10 the Ag district for residential use.

Rusty Jamison – The other thing I see here, say somebody built this house thinking that they weren't going to be bothered by it, and they signed all the paperwork and then they decide to sell the house in 5 years after they lived there for that period.

Then a new buyer comes in they really are upset with this business, if they are calling all the time and you are going out there, and you are saying I know there is a smell but I'm sorry because you bought this house under these conditions, there is nothing I can do. I guess I'm wanted to make sure in the future that these new owners would understand what they bought or we simply say that houses can't be built. I don't think we can do that.

Alan Thomson – That would be a change to the residential code and that may be something to consider.

Chad Whetzel – Would you write that down and get back to us, Alan?

Dave Gibney – We did have some of that discussion last month. I am pretty sure the conclusion was something of the equivalent of the affidavit of Ag use the clusters that other people already have to sign. If you put a house out in Ag you have to sign the fact that you recognize this is ag land, and they can't complain about ag activities.

Alan Thomson – And that goes with the title and stays with the land.

Dave Gibney – Something similar has to be in place prior to anybody putting a house up to a licensed marijuana business.

Alan Thomson – That needs to go into Chapter 19.10. Okay.

Chad Whetzel – So, moving along to Page 6, #14, we have this 1,500 feet half mile thing.

Alan Thomson – Here's what I am thinking. This is the cluster setback to municipal boundaries such as Pullman, Colfax, etc., Uniontown, Steptoe, it is unincorporated as well. We have the cluster residential zone which is one-half mile from any set quarter section that touches half mile from the boundaries of Pullman. I'm just going to throw that out there. How about using that and mirroring, we already have that mapped out on our maps, that half mile limit. No marijuana facilities, outdoor grow facilities, within the half mile?

Chad Whetzel – What does that do, obviously the ones that are existing would be grandfathered in anyway. What does that do to the ones that are existing? Are there already ones within half mile?

Alan Thomson – Not outdoor grows that I am aware of. It is just outdoor grow. Just the problematic one. So we could match the half, the cluster residential boundary.

Dave Gibney – You do have that 1,500 foot under in Section 19, under indoor grow also. On Page 4, #15.

Alan Thomson – That would be indoor grow.

Dave Gibney – I'm fine with the half mile. I've said before I have no problem with it being closer, but we probably ought to be consistent.

Alan Thomson – That just takes out processing and production, not retail. Retail is in a different zone. So, processing and production, 1,500 feet, so whatever decision you make, whether it is 1,500 feet or half mile, make that the same.

Dave Gibney – Half mile is fine.

Brian Davies – Half mile.

Dave Gibney – Especially if it is already mapped.

Alan Thomson – The majority of housing is within that area around Pullman. Not all of it, but then with the 500 feet on top of that away from the house, it pushes that boundary even further. The main area with all the housing is close to Pullman. This can always change. Revisit it in the future if necessary but for right now the boundary of the cluster residential zone.

Chad Whetzel – Okay, we can do that. On, Section 19.64.060 we are just changing cannabis to marijuana.

Dave Gibney – Everything else is tidied up for consistency.

Chad Whetzel – I think that gets us through it. So, I guess the timeline on our report and the joint meeting with the BOCC.

Alan Thomson – I was hoping to have the report done soon, a draft of it, but then we need to meet again in order for you to go over it. Probably is going to push us back a little further. So, the beginning of the new year is the next time we meet and look over that report. I will send it out to you prior to that. Then meet again in January to discuss that because you need to make that yours.

January 1 is the first Wednesday so I don't think that will work. How about the next Wednesday, the 8th? Does that work for everybody?

Katrin Kunz – We might have to move the public hearing for the zone change on that date, too? That should be a quick one.

Chad Whetzel – Here is a question for the group, if we do go ahead and put that meeting on the 8th usually if we are going to have a secondary meeting we do it on the third Wednesday which would be January 15th. January is a long month on Wednesdays that year.

Alan Thomson – Let's shoot for January 8, 2020.

Dave Gibney – If you have other business for us to do, we could get bogged down in editing a report if we aren't careful. I think if you have a zone change, business in Lacrosse.

Alan Thomson – It shouldn't be controversial. It should be quick.

Dave Gibney – We still probably should do January 8 and January 15.

Alan Thomson – We can do that. So, let's definitely shoot for January 8 and you will get the report ahead of that time so you can start thinking about how you want that to be in the final. I'm just giving you the framework and you have to put your own signatures on it. Craft it the way you want it to be. It might take a bit of effort to put this together.

Chad Whetzel – So, everyone is on the consensus of January 8 for our next meeting? Okay.

Keith Paulson – I do have a question. Maybe I'm just being naïve on this but on Page 6 #14 we just went to 1,500 or half mile and then you go down to the next section to #2 and then it drop back to 1,000 feet from the perimeter. What is the difference on that? Am I not seeing something there? Are there two different things we are talking about?

Dave Gibney – That is the location. It is going to be significantly away from, half a mile is a little bit over, but not quite twice 1,500 feet, so,

Keith Paulson – It's 2,500 feet.

Alan Thomson – The reason that is in there is we want to be assured it is at least 1,000 feet from all the schools, playgrounds, churches, etc. everything that is listed here that is a must. We need to know there is nothing on this list within 1,000 feet because that is part of the code.

Keith Paulson – So on #14 is between unincorporated so that is bit different. I just wanted to make sure I was understanding.

Chad Whetzel – Anything else?

MOTION by Keith Paulson and seconded by Brian Davies to adjourn. Motion passed.

Adjourned - 9:06 p.m.