

>>> "Wendy Harris" <w.harris2007@comcast.net> 4/9/2011 11:13 PM >>>

I have attempted to review the 2011 draft Public Participation Plan. The County website contains a copy of the 2010 Plan and the proposed 2011 draft, but there is no version that indicates what changes are being proposed. Exactly how is the public to comment without any document that sets out the proposed changes? I am sure that the County has circulated an edited draft showing the proposed changes among its Staff and a privileged few members of the public. The County's failure to post a Plan that reflects draft changes speaks volumes regarding the County's true attitude toward public input.

At a minimum, the County needs to have, on its web homepage, a hyperlink to a calendar with every single Council, Committee or other type of meeting subject to the Open Public Meetings Act easily displayed, with information regarding time, location and agenda. Few people are aware of when the Hearing Examiner conducts hearings, or when the Agricultural Committee, Surface Water Committee, Lake Whatcom Joint Policy Group, or other groups reflected in Table 2.1, meet. Unless you already know about these meetings, and have asked to be on a notice list, or know where to go on the many different County website pages for information, it is difficult to keep track of all the opportunities for public participation, even if this only consists of the right to attend. The public should be able to find out what public meetings are being held each day of the month by going to one site.

Level 1, 2 and 3 issues are not clear cut and easily defined. There are always unexpected twists and turns that can not be predicted in advance, (i.e., procedural errors, important consequences not obvious at first, etc.). This Plan would preclude appropriate levels of public participation based on changes in facts and circumstances. The categorization of issues was made subjectively. Concurrency changes should certainly be classified as level 3.

Why does 2.3.D-4 refer to capital facilities in the Birch Bay and Ferndale UGA's when this is still an unresolved matter of pending litigation before the Growth Management Hearings Board? If the County was truly concerned about public input, it would secure a resolution first, before attempting to proceed with matters reflected in the Public Participation Plan.

Section 2.4 has been removed, although not all UGA issues are resolved, and as result, this reduces the public's right to participation. It should be noted that the County has tried to avoid almost any public right to participate in UGA settlement resolutions, contrary to state and local law. As this is an issue that may arise with regard to other Comp. Plan amendment issues, public participation on GMA matters under litigation should be addressed and clarified. We must avoid future situations where the County relies upon the flawed advice proffered by developers' attorneys to limit public participation.

Additional clarification is needed for the County's policies regarding the exceptions to the Open Public Meetings Act and executive session. Executive session is held as a routine matter, without justification or due cause, severely curtailing public participation in matters connected to the Comp. Plan. For example, the current Council Agenda for 4.12.11 notes that there will be an executive session for "pending litigation" on rural land use planning, with citation to RCW 42.30.110. What litigation is "pending"? The rural element update is not even complete. It is being sent to the Planning Commission for review and a future public hearing. Nor does the County provide a citation to the dozen subsections within RCW 42.30.110, all of which provide different grounds for exceptions.

Does the County interpret RCW 42.30.110 to cover every single matter which is the potential subject of future litigation? Such a broad scope could place virtually all planning matters outside the scope of public participation. What standards does the County rely upon in determining that executive session is necessary to prevent harm to the County's interest, as required under the OPMA? Currently, the County fails to make even a prima facie case, and deems a general citation to RCW 42.30.110 adequate evidence in and of itself. The enormous impacts of the County's liberal use of OPMA exceptions must be reflected in the Public Participation Plan for purposes of clarity and to solicit public input on this policy.

The Public Participation Plan should be redrafted to reflect the purpose and goals of the County Charter, as reflected in the preamble:

Treasuring the many wonders of our unique environment and realizing that the power and duty to govern and protect this region is inherent in its people, we, the citizens of Whatcom County, in order to have a government which advances justice, inspires confidence, and fosters responsibility, do adopt as the foundation of our government, this Charter.

However, the PPP does not sufficiently emphasize the preamble goals of treasuring and protecting the environment. In fact, it does not even reflect a fair balance between the environment and development. As reflected in Sec. 3.1, the first defined sub-group of "the public" are property owners and developers, who are identified by concerns relating to property rights and development. (Sec. 3.1.1). Those with an environmental agenda are lumped in with all "community organizations", and their values and concerns are not defined. This does not reflect the reality of most planning issues, where developers and property owners, supported by the current County Council and the increasingly obsequious Planning Department, are opposed by the public at large, who are concerned about environmental and quality of life issues. In other words, the Public Participation Plan is being used to inappropriately forward a political agenda, and this should be prohibited.

I do not believe the 2011 draft complies with the GMA and request that consideration be given to my above concerns.

Wendy Harris

4.9.11