

Whatcom County Council Planning and Development Committee

**COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010**



Committee Minutes - Final

Tuesday, March 5, 2024

1:45 PM

Hybrid Meeting

**HYBRID MEETING - ADJOURNS BY 2:05 P.M., MAY BEGIN EARLY
(PARTICIPATE IN-PERSON, SEE REMOTE JOIN INSTRUCTIONS AT
www.whatcomcounty.us/joinvirtualcouncil, OR CALL 360.778.5010); AGENDA
REVISED 2/29/2024**

COUNCILMEMBERS

Todd Donovan
Ben Elenbaas
Jon Scanlon

CLERK OF THE COUNCIL

Dana Brown-Davis, C.M.C.

Call To Order

Committee Chair Ben Elenbaas called the meeting to order at 1:32 p.m. in a hybrid meeting.

Roll Call

Present: 3 - Todd Donovan, Ben Elenbaas, and Jon Scanlon

Also Present: Barry Buchanan, Tyler Byrd, Kaylee Galloway, and Mark Stremler

Announcements

Special Presentation

1. [AB2023-523](#) Presentation on the Voluntary Stewardship Program

This agenda item was WITHDRAWN.

This item was withdrawn from the agenda.

Committee Discussion

1. [AB2024-172](#) Discussion of proposed ordinance adopting amendments to Whatcom County Code Title 15, Buildings & Construction, to adopt by reference the 2021 Editions of the International Building Codes

Curtis Metz, Planning and Development Services Department, read from the staff memo (on file) and stated the effective date of the 2021 International Building and associated Codes was delayed, due to a contested section of the Washington State Energy Code (WSEC) and the Wildland Urban Interface Code (WUIC), and is now March 15, 2024. He gave the background of the Wildland Urban Interface Code and stated the Department of Natural Resources (DNR) is now charged with creating two new maps for the State to follow and until that happens, we do not have to do anything with the WUIC. But when it comes due, it would affect those houses in the urban interface areas which would be looking at doing construction with fire-resistive roof coverings, exteriors, and venting, and protection of appendages like decks and covered porches. There is no action to be taken at this time.

He answered a question about a law suit in California regarding their energy code which is similar to Washington's. The suit was from restaurant owners using natural gas for their cooking facilities and areas for heating and the state lost. At that time, the state of Washington put the brakes on their energy code to rewrite those sections so that Washington does not face the

same thing. He answered whether the Energy Code now reflects that cities or counties can or cannot regulate what buildings are getting natural gas and stated the code does not take out the use of natural gas so you can still use it.

He answered how big of an area the WUIC affects in Whatcom County and described the flexibility the new maps may provide once they are out. He answered how much cost the requirements would add to a new-build, and stated is not substantial but could be several hundreds of dollars. He answered how it would apply to someone doing an interior remodel, and stated they would not be subject to the requirements. It would apply, however, to an addition or to a full roof replacement.

James Dallas, Planning and Development Services Department, read from the attachment titled “Energy Code flow chart from 3.5.2024,” comparing the changes from the 2018 Washington State Energy Code (WSEC) to the 2021 energy code. The total credit requirements have gone up this year from six credits to eight but people are getting rewarded more for putting in heat pump systems so the credits really balance themselves out. However, this year they are seeing a bigger jump in baseline code compliance, which is the standard prescriptive design of homes. He described the requirements (including rigid continuous foam installation on exterior walls and upgraded attic insulation from R49 to R60) and he and Metz answered questions about the changes and how resulting costs apply to different sizes of homes.

Cliff Strong, Planning and Development Services Department, stated the related ordinance (**AB2024-173**) is on the agenda for introduction tonight with a public hearing at their next meeting and he asked whether they would like to have further discussion.

Councilmembers and staff discussed whether the new codes should be approved, the fact that these codes go into effect regardless of what the Council does and that the only thing the Council has control of is the administrative exceptions that are outlined in the staff memo, whether the permit expiration dates are adopted by reference to the fire code, whether the proposed permit language is making it so people have a little more flexibility if they do not get things done on time, and whether those changes are also going to happen regardless or whether there is more discretion for the County in terms of the permit time requirements.

Metz stated the Council has total control over that administrative provision code language (15.04.050) and he spoke about why they are proposing the

changes and what they are. This verbiage says that once you get your permit, you get two years. Once you hit the end of that two-year period, Planning staff will contact you and give an option for a one-year extension.

Donovan stated the ordinance says they are adopting the proposed code amendments by reference to the 2021 Building Code, but they are not adopting this part of the code by reference to the Building Code. He asked whether the title and whereas statements should be tweaked or whether that part should be done in a separate ordinance.

Councilmembers and staff discussed why the permit requester has a mandated timeline they have to meet but the Planning Department does not have a mandated timeline for issuing permits, the fact that state law is being changed so that the County will have 90 days instead of 180 days to issue a permit, that the most common reason for permit extensions is the cost of materials, whether anyone would have to pay extra if the process is generally taking two years under the new verbiage, whether the reference to the building codes and the amendments to administrative provisions should be separated, the fact that all the amendments are in the Whatcom County Code, and whether the reference to manufactured homes is tied to the energy code. Metz stated that is just another item that has been added to the Title 15 amendments.

Royce Buckingham, Prosecuting Attorney's Office, answered whether changes adopted by reference and changes not adopted by reference should be in separate ordinances or whether it might be a simple change to the title of the ordinance to say this is amendments to Title 15. He stated he thinks they could amend the title of the ordinance if they think it does not describe accurately what is in the ordinance.

Donovan stated he requests that Planning and Development Services Department comes to them with a tweak to the title of the ordinance adopting amendments to County Code Title 15 so it is not just saying, "to adopt by reference the 2021 editions of the International Building...Codes."

Strong stated he thought the clause at the end covered that. They are adopting all the codes listed by reference and then amending the administrative portions.

Councilmembers and staff discussed whether other types of permits will follow suit with the changes for building permit expirations, builder

frustrations with differing regulations in different jurisdictions and whether we are basically implementing the changes in the International Building Code in the same way as everyone else, what training there would be in the Planning Department if this is adopted so staff is aware of the updates and can give a common message to the public, what education would look like with the community so they are also aware of these changes, whether there is anything they are doing today that makes it quicker, easier, and less expensive to build here, a request that the Planning Department work with the Council if they identify code that may need to change because it could be done in a better way, and whether all the different elements of the ordinance should be separated out.

Donovan moved to recommend to the Council to hold this in Committee until the next meeting of this committee. He would like more time to discuss separating the ordinance or just get more clarity.

Metz stated in his mind it is still all one subject under Whatcom County Code Title 15.

Satpal Sidhu, County Executive, stated the views expressed by Councilmembers are very valid and he has discussed this with the Planning Department. He spoke about the Whatcom County code and how it has not been scrubbed in a long time. He has offered to the Planning Director that the Administration would put resources behind doing that and has asked the director to come up with a proposal for it.

Elenbaas stated what he is hearing from the committee is that they would probably like to see this broken out into two ordinances-- one that is the code updates that are mandated by the Building Code and the one that is code updates with efficiencies that staff are recommending.

Donovan stated that was not his motion, and that his motion was just to hold it and come back to it in two weeks.

Metz stated the international codes go into effect on March 15 but Whatcom County codes go into effect when Council approves them. He answered what would happen if the Council does not adopt the building codes and stated they are State law and go into effect.

Donovan withdrew his motion to recommend holding.

Buckingham stated if the Council does not adopt the codes he assumes the

County would continue to enforce State law.

Metz stated the County can have their own codes but it cannot be any less than what the State code is.

Donovan moved to recommend introduction to the full Council, *then he withdrew* his motion.

This agenda item was DISCUSSED.

Items Added by Revision

There were no agenda items added by revision.

Other Business

There was no other business.

Adjournment

The meeting adjourned at 2:52 p.m.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WA

Ben Elenbaas-via email 3/23/2024

Dana Brown-Davis, Council Clerk

Ben Elenbaas, Committee Chair

Kristi Felbinger, Minutes Transcription

SIGNED COPY ON FILE