

**Members**

Jeremy C. Doty, Chair  
 Thomas C. O'Connor, Vice-Chair  
 Chris Beale  
 Peter Elswick  
 Donald Erickson  
 Sean Gaffney  
 Scott Morris  
 Ian Morrison  
 Matthew Nutsch



# Minutes

## Tacoma Planning Commission

**Community and Economic Development Department**

Ryan Petty, Director  
 Peter Huffman, Assistant Director  
 Charles Solverson, P.E., Building Official

**Public Works and Utilities Representatives**

Jim Parvey, City Engineer/Assistant Director, Public Works Department  
 Heather Pennington, Water Distribution Engineering Manager, Tacoma Water  
 Diane Lachel, Community and Government Relations Manager, Click! Network, Tacoma Power

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**(Approved as Amended on 5-4-11)**

**MEETING:** Regular Meeting & Public Meeting

**TIME:** Wednesday, March 16, 2011 4:00 p.m.

**PLACE:** Council Chambers, Tacoma Municipal Building, 1<sup>st</sup> Floor  
 747 Market Street, Tacoma, WA 98402

**Members Present:** Jeremy Doty (Chair), Thomas O'Connor (Vice-Chair), Chris Beale, Peter Elswick, Donald Erickson, Sean Gaffney, Scott Morris

**Members Absent:** Matthew Nutsch, Ian Morrison

**Staff and Others Present:** Donna Stenger, Jana Magoon, Steve Atkinson, Brian Boudet, Cheri Gibbons, Ian Munce, Shirley Schultz, Diane Wiatr, Lihuang Wung (Building and Land Use Services); Shelley Kerslake (legal counsel); Kim Van Zwalenburg (DOE)

Chair Doty called the meeting to order at 4:10 p.m. Chair Doty suspended the rules and switched the order of the General Business items as appeared on the agenda and considered the "Master Program for Shoreline Development" first.

**GENERAL BUSINESS****1. Master Program for Shoreline Development**

Mr. Stephen Atkinson facilitated the Planning Commission's review and discussion of three topics relating to nonconforming uses and structures, log rafting and storage, and the designation of Wetlands of Local Significance.

Mr. Atkinson discussed public comments expressing concern that nonconforming status can affect a business' ability to rebuild, add to cost of doing business and limit future economic use of the property. There also are concerns for safety when allowing nonconforming uses and structures to rebuild in unstable areas and concerns of constitutional takings when conformance cannot occur. The City's approach for addressing these concerns was to define nonconforming uses and structures, apply restrictions where appropriate but avoid using "nonconforming" classifications, and maintain consistency with the zoning code. Mr. Atkinson presented recent



guidance from the Department of Ecology Shoreline Handbook and several policy options that had been developed in accordance with the approach. Discussion ensued. The Commissioners indicated a general preference for the policy direction that would declare all structures to be conforming but to keep in place a threshold, over which a rebuilt structure would have to conform to the code, and to let the use aspect drive the restrictions. The Commissioners expressed concern about classifying uses as conforming in name, while applying nonconforming standards. The Commissioners also suggested language deletions where standards were duplicative.

Regarding log rafting and storage, Mr. Atkinson indicated that the proposed development regulations would allow said operations and facilities in the S-10 Port Industrial Area Shoreline District and adjacent waters, and would include development standards to achieve no net loss of ecological functions, such as: siting the use to avoid grounding and impacts to the nearshore; prioritizing long-term, permanent storage of logs to occur in upland locations; providing appropriate stormwater facilities; prohibiting the free fall of logs into the water; and the development of a management plan to address ongoing impacts from accumulation of debris. The Commissioners concurred with these additions.

Regarding the designation of Wetlands of Local Significance, Mr. Atkinson indicated that Wapato Lake is currently the only wetland designated as a Wetland of Local Significance within shoreline jurisdiction and that the designation includes a 300-ft wetland buffer. He pointed out that due to requirements that local jurisdictions incorporate all associated wetlands and their buffers into shoreline jurisdiction, a 300-ft buffer would expand shoreline review and permitting beyond the standard 200-ft shoreline jurisdiction area, which would bring additional developed properties particularly along Alaska Street under the purview of the Shoreline Management Act and the Master Program. Staff proposed that the designation of Wapato Lake as a local Wetland of Significance be maintained, but reduce the buffer to 200 feet and define Alaska Street as the buffer edge on the west side. The Commissioners concurred.

## **PUBLIC HEARING**

### **1. Billboard Regulations**

At approximately 5:05 p.m., Chair Doty called to order the public hearing on the proposed code revisions pertaining to billboards. He explained the public hearing procedures, stated that written comments will be accepted through Friday, March 25, 2011, and called for staff presentation.

Ms. Shirley Schultz, Building and Land Use, gave a brief overview of the proposed revisions and the process followed to develop the proposed changes to the billboard regulations. There was a correction on the staff report of Exhibit 2 concerning the number and some of the locations of billboards to be removed and there were corrections to some of the language in the staff report and accompanying exhibits. No changes had been made to the public review draft of the proposed code amendments.

Ms. Shelley Kerslake, attorney for the City on this issue, briefly reviewed the history of billboard regulation and the lawsuit resulting from the 1997 amortization clause, and the decision to enter into a Settlement Agreement. She discussed the intended outcome of the agreement and noted that it would result in a significant reduction in the number of billboards within the city should the agreement be fully implemented. She described the Settlement Agreement with Clear Channel,

noting that there were some items purposely left vague in the agreement and it was up to the determination of the Planning Commission to make recommendations to the City Council on how to address these items. She noted that the full execution of the Settlement Agreement would not take place until after code changes are adopted by the City Council. She further clarified that the public hearing on the draft code revisions was the Commission's responsibility and settling lawsuits was the Council's responsibility and that the Commission could recommend code changes that differ from the framework in the settlement agreement, at which point the City Council will decide if they want to adopt the recommended changes that may result in continued litigation.

The Commissioners asked for clarification on the size of digital billboards that Clear Channel could put up under the terms of the Agreement. It was clarified that the first ten are intended to be up to 672 square feet. Ms. Kerslake confirmed that the maximum of 300 square feet proposed in the draft code for digital billboards after the first ten did not appear to be a critical point for Clear Channel.

Chair Doty called for testimony. The following citizens provided comments:

**(1) Kevin Freitas:**

Mr. Freitas spoke in opposition to proposed changes to sign code and the related settlement agreement with Clear Channel. He asked the Commissioners to require Clear Channel to follow our current sign code requirements and not to make an exception because they are a large corporation. He asked the Commissioners to stand up for Tacoma and enforce current laws. Once the digital billboards go up, they will never go away. He also suggested using sunrise and sunset for when the digital images could be displayed.

**(2) Britton Sukys:**

Mr. Sukys is a property owner opposing a new digital billboard near 6th and Division intersection. He opposes placing a digital billboard at this particular spot because of its proximity to his home (within 200 feet), near school zone, and a major intersection that already has hazardous driving conditions occurring. He stated that digital billboard light would be a distraction to drivers and a safety issue. He appealed to the Commissioners on a personal level when he explained if the digital billboard was placed where Clear Channel is proposing the light would shine directly into his living room and bedroom and would be intolerable. He said that putting in a digital billboard will only make matters worse in his neighborhood and he was more than willing to have the current billboard remain in its current spot.

**(3) Jori Adkins:**

Ms. Adkins lives in the Dome District and she spoke from a viewpoint of a property owner with an existing billboard. She said that Commissioners should find another way to deal with the lawsuit. She asked that Commissioners take the "high road" and say "no" to billboards and "no" to digital billboards. She said that the City Attorney should work with property owners who have a lease with the billboard company to help get them out of these leases before they expire.

**(4) Susan Cruise:**

Ms. Cruise opposes digital billboards. She will submit a detailed written report to address the inconsistencies that she has found among staff report, Settlement Agreement and actual code revisions. She sees this as a legal nightmare that will have future litigation as the outcome. If Clear Channel is allowed to have non-conforming billboards what is to stop other companies from asking, "I too want to have non-conforming billboards within your City," and that the City cannot just arbitrarily decide that only one company will be allowed to do this. Ms. Cruise stated that some of her objections are that digital billboards are not "pedestrian friendly"; they are not consistent with the standard quality of life that the citizens of Tacoma deserve. She cited the Federal Highway Administration study underway concerning driver safety issues.

**(5) Sharon Winters:**

Ms. Winters said that public process was not followed and not enough notification was allowed prior to decision on settlement agreement. She expressed several objections to putting up digital billboards: (1) visual blight; (2) safety issues; (3) environmentally unsound; and (4) size, mass, and scale. One point Ms. Winters stressed was that billboards are expensive to construct, therefore, they will be expensive to take down and if at some point in the future they were no longer viable the result could be that they would be left up to become "eyesores" and blight in the neighborhoods.

**(6) Douglas Schafer:**

Mr. Schafer is a board member of the Central Neighborhood Council as well as a practicing attorney. He raised strong objections to the adoption of this amendment. He feels that some information has not been disseminated to the public and all the pertinent facts concerning the lawsuit settlement has not been clearly explained to the public. He has set up a website on information regarding the material that pertains to the original lawsuit with Clear Channel. He noted that it was in the Commission's prerogative to recommend to the City Council to not allow the code amendment to pass.

**(7) Kendall Reid:**

Mr. Reid objects to having electronic billboards being erected in Tacoma. He offered a commendation to the City for the original decision for decreasing the number of billboards placed in the City in the current regulations. Mr. Reid stated that if digital billboards were allowed to be erected, they would be in opposition to the City's goal on making Tacoma a pleasant place to live and contrary to planning for mixed-use centers. The placement of electronic billboards in mixed-use districts as proposed in the receiving areas is counter-productive to the goals of the Comprehensive Plan.

**(8) Marshall Hampton:**

Mr. Hampton is opposed to passage of billboard amendment as it is the "wrong way to go". The City should challenge the lawsuit and not simply give in to the pressure from Clear Channel but to move ahead with the lawsuit and to reject the proposed code changes.

**(9) Chris Tubig:**

Mr. Tubig supports the Central Neighborhood Council's opposition to passage of the digital billboard amendment. He believed that the Commissioners based on their personal experience in their professions in real estate, planning and land development would not find it acceptable to put a large LED panel on a building because it would affect the architecture and property value. He asked the Commission to not allow digital billboards.

**(10) Stacey Weiss:**

Ms. Weiss stated four reasons to reject the proposed code revisions: (1) aesthetic reasons; (2) safety reasons (i.e. extreme distraction for drivers); (3) environmental concerns and energy usage; and (4) light pollution, which affects the health of people and wildlife.

**(11) Jill Jensen:**

Mrs. Jensen read a letter to the Commissioners. She said that she was shocked to find out that the City Council and City staff had "kowtowed" to Clear Channel's lawsuit rather than uphold the City's code. She feels that the citizens of Tacoma were not given a fair chance to have a public hearing before there was a drawing up the agreement. She feels that the City landscape will be permanently marred by these oversized structures. She voiced her concerns that the public meetings were not adequately planned to get input from citizens that work full time. She suggested new meetings be held in the evening and weekends. Ms. Jensen will be filing a request with the City for more information and is requesting an extension to the public comment period to file her objections with the Commission.

**(12) Rob Jensen:**

Mr. Jensen objects to the allowance of electronic billboards for aesthetic reasons. He spoke at length regarding the many areas that make Tacoma a beautiful place to live. He said that the billboards were "monstrosities" and "cheapen the perception that this is the City of Destiny". By allowing the passage of this amendment, the City is allowing "big business to hold sway". He would like the Commission and City Council to take a more definitive look at this proposal because of the environmental and safety issues.

**(13) Tricia DeOme:**

Ms. DeOme, Chair of Central Neighborhood Council, opposes the passage of the proposed code revisions and cited data that showed safety issues with electronic billboards. She stated the billboards are inconsistent with the values of a clean, safe and attractive city. She asked that staff review the studies that are being conducted by Federal Highway Agency. She stated the proposed amendments are not consistent with the Comprehensive Plan and the plans that the Mayor has outlined for the City. She asked that the City place a moratorium on new billboards until more information is available. Ms. DeOme feels that the City would win the lawsuit with Clear Channel if they would continue it before the courts. There is nothing in the law to make Clear Channel comply after removing first ten and remove the remainder of the nonconforming billboards.

**(14) Patricia Menzies:**

Ms. Menzies sees billboards as hazards both physically and aesthetically. She does not personally care for advertisements and believes society is bombarded with advertisements to buy more and more. A digital billboard at 6th and Sprague would be a traffic problem for Jason Lee students. She has heard that light bleed affects the nitrogen in the atmosphere which aids in cleaning up pollution. If the digital billboards are put up, it could have adverse effects on the environment.

**(15) Sandra Johanson:**

Ms. Johanson objects to digital billboards from the basis of her daily driving experience. She has found that digital billboards are a major distraction. It is impossible to not be distracted by the messages that flash on the signs. Ms. Johanson also noted that it would seem to be at cross purposes to allow digital billboards to be erected when the City has recently spent much effort, money and time in the beautification of neighborhoods to have large signs detract from this purpose.

**(16) Jason Atherton:**

Mr. Atherton said that if the proposal passes there will be three digital billboards placed in his neighborhood and he does not want to see that happen. He stated there are laws that putting up signs on telephone poles is illegal and it would seem that putting up digital billboards fall under a like category for blighting a neighborhood. He believes that the City should not make a settlement agreement with Clear Channel to avoid being sued.

**(17) Brian Jacobs:**

Mr. Jacobs objects to the passage of this amendment and agreed with all the salient points the presenters who came before him made. He believes that the safety needs of the community are not being addressed. He asked the Commission to reject passage of the amendment.

**(18) Audrey Jensen:**

Ms. Jensen has lived in Tacoma for six years. She feels that the beauty and uniqueness of Tacoma will be ruined if the digital billboards are allowed to be put up. She emphasized that she agreed with the speaker who spoke before her on the danger of the digital billboards being traffic distractions and she stated people already have enough distractions when driving and it will only get worse if this amendment should pass.

**(19) Denny Faker:**

Mr. Faker lives in the North End and is a businessman in North Slope community and is opposed to the sign code. He has spoken to his neighbors, fellow community members and did informal surveys of his customers at his business and he stated that not one single person that he has spoken to approved of the placement of digital billboards in Tacoma. He urged the Commissioners to not turn the City into a "Reno" as would be the case if digital signs were allowed to be placed in the City. He strongly encouraged the Commissioners to have the City Council seek another solution to the issue with Clear Channel.

**(20) Kirsten Lawson:**

Ms. Lawson opposes the passing of the amendment and stated the signs are ugly, distracting, garish and are meant to grab your attention and in doing so they pose a safety issue. She stated that Tacoma should keep the 1997 Ordinance in place and be willing to fight Clear Channel in court rather than allow the settlement agreement to take effect.

**(21) William Dickson:**

Mr. Dickson is a contractor who does quite a few demolition jobs for the City. He indicated that there are currently six signs on his property at South 56th and South Tyler Street that he would like to be left on this site rather than be taken down. The City is negotiating only with Clear Channel and not keeping property and business owners apprised of what is happening in regard to sign code changes for their property. He feels that keeping the current signs in place is good for business. His request is for the City to realize that attention should be given to what is good for property owners and not just what is good for Clear Channel.

**(22) Eric Heller:**

Mr. Heller opposes putting up digital billboards and agrees with all the speakers that came before him. He loves Tacoma the way it is. He said digital billboards are just “too much advertising in your face”; not safe; and they are too large and are not in keeping with the values that Tacoma stands for. Mr. Heller also said that Tacomans are noted for fighting for their City and he would like the City Council and all the committees to stand up and fight for the citizens of Tacoma on this issue.

**(23) Joni Rasmussen:**

Ms. Rasmussen was born and raised in Tacoma and she is opposed to having the digital billboards. She said that both she and her neighbors do not want the digital billboards in their neighborhood. She believed that the City was going to uphold the regulations of removing the billboards under the Ordinance that was passed 10 years ago. She believes that there is no reason for the City to go back on their original plan and that no compromise should be made with Clear Channel.

**(24) R. R. Anderson:**

Mr. Anderson would like the City Council to uphold the laws that were passed in 1997. He said it is the right thing to do and “just say no to digital billboards”. He said also that we are trying to advertise that we are going “green” in our City and digital billboards will have a negative impact for living up to that advertisement.

**(25) Erik Bjornson:**

Mr. Bjornson, Chair of North End Neighborhood Council, said that their council members have not voted on this amendment yet but that most of them opposed allowing digital billboards and that the Commissioners could expect to get a letter that states this. Hundreds of cities nationwide are fighting to keep digital billboards out of their cities. He

urged the Commission as an independent appointed body to ban the blight of billboards (both regular and digital) for the City of Tacoma.

**(26) Rick Jones:**

Mr. Jones' objection to the code change was short and to the point and was put in the form of rhetorical questions to the Commissioners. He asked: (1) Is this the best we can do? and (2) If it's not, why are we doing it?

**(27) Raquel LaPointe:**

Ms. LaPointe, a South Tacoma resident, objected to making a deal with a large corporation because they were suing the City and feels that the City is giving into intimidation by Clear Channel. She believes that we should stand up for the visual appearance and integrity of our City and that it is wrong to give into a large corporation.

**(28) Paul Bert:**

Mr. Bert lives in the Wedge District that is trying to have the neighborhood become a historic district. His neighborhood faces the challenges of opposition from MultiCare and others in being able to establish a historic district; billboards have not been removed from their neighborhood; and zoning has not gone through that once was anticipated. Mr. Bert feels that the City should be amenable to bringing about the changes that were once in the plans for his neighborhood.

**(29) Louise Hull:**

Ms. Hull and her husband are not citizens of Tacoma but had an interest in what would happen with the billboard amendment. She said that in her experience of driving on I-5, the digital billboards are distractions that bombard you with frivolous messages that demand your attention, thereby creating a safety issue. She stated that digital billboards have that neon, glittery look that is blight on the landscape and that she hopes that Tacoma will say no to this.

**(30) Diane Walkup:**

Ms. Walkup lives in a neighborhood trying to become a historic district. She briefly spoke regarding MultiCare putting up objections to becoming a part of the historic district and therefore hindering the process for other neighbors being a part of a historic district. She is pleased to see that people still speak out and believe that they will be heard. She acknowledged that we live in hard economic times, but feels that this should not be a license to give into the corporations and businesses to support saving the economy. She concluded with the thought that protecting the rights of the people (citizens) in the long run will result in protecting and saving the economy.

**(31) Victoria Hankwitz:**

Ms. Hankwitz lives in the North Slope, and uses a busy intersection at North Eighth Street in the City. She explained how many citizens use alternate transportation and how dangerous for pedestrians to have a sign that distracts drivers at a busy intersection. She was very concerned that on one hand laws are put into effect that says it's against the law



to text and use of cell phones while driving, and on the other hand allowing a sign to be put up that will be a major distraction and cause havoc. She also let it be known that she was an advocate for her neighbors, for her community and for Tacoma and felt that everyone had a short window to respond.

**(32) Scott McElhiney**

Mr. McElhiney lives on the edge of Tacoma near Midland. He spoke regarding the hazardous conditions that occur when digital billboards are put up. Drivers' attention is drawn to digital billboards and that the pictures change every few seconds "almost like a animated movie" and drivers can't help but be distracted and this in turn is a dangerous situations. He also stated that Clear Channel is a national major corporation that really does not improve the local economy in a large way. He explained that the advertising profits made by these billboards for the most part do not benefit the City of Tacoma and are being drained off to an out-of-state corporation.

**(33) Edie Cooke**

Mrs. Cooke recently moved from California and she and her daughter live in the Hilltop neighborhood. She had heard derogatory things about Tacoma, but when she moved here she found that it was an up and coming city, a beautiful place to live and rich in history and that she enjoys living here. She would like Tacoma to remain as she found it and not change to the "armpit of Seattle". She gave the comparison of "hating what had been done to Las Vegas" and was hopeful that Tacoma would not turn into a City that it should not be.

Chair Doty concluded by thanking everyone for their comments and stated that all written comments will be considered until March 25, 2011 and that all comments will be duly considered. The public hearing was closed at approximately 6:37 p.m.

**GENERAL BUSINESS (resumed)**

**2. 2011 Annual Amendment – Review of Testimony**

Ms. Donna Stenger provided an overview of the public testimony received at the Commission's public hearing on March 2, 2011, concerning the 2011 Annual Amendment to the Comprehensive Plan and Land Use Regulatory Code. Twenty people testified at the hearing and 25 pieces of written comments were received through Mach 11, 2011. Most of the comments were concerning the Historic Preservation Plan and Code and the Intensity and zoning change at S. 49<sup>th</sup> and Pine Streets. Ms. Stenger distributed a document that compiled all the comments received and stated that the Commission is scheduled to review the comments and the corresponding staff responses at the meeting on April 6, 2011.

**COMMUNICATION ITEMS**

Chair Doty acknowledged receipt of the following:

1. E-mail from Maryanne Bell on March 3, 2011, concerning the proposed Old Town Historic Overlay District

## **COMMENTS BY LONG-RANGE PLANNING DIVISION**

Mr. Brian Boudet stated that some of the Commissioners had received an inquiry about allowing chickens in the urban environment. He indicated that this matter is not referenced in the current Land Use Regulatory Code (Title 13 of the Tacoma Municipal Code) and not under the Planning Commission's purview. The matter is governed in Title 5 Health and Sanitation and under the purview of the Health Department. Chickens are allowed but must be kept at least 50 feet away from the neighboring residences or upon written consent of the surrounding residential owners that are within 50 feet of where the chickens are kept and such consent is filed with the City Clerk.

## **COMMENTS BY PLANNING COMMISSION**

The Commission discussed the public testimony and the proposed billboard amendments further. A key question was whether or not the City Council made an agreement that is contrary to adopted regulations and policy, and, if so, what the Commission's responsibility was to act in that situation. Mr. Boudet went over what is written in the Code regarding the allowance of billboards in the City and stated that he will return with more information as to what is in the Comprehensive Plan regarding billboards. Chair Doty expressed how well informed and knowledgeable the presenters were. The Commissioners also noted that a lot of people care and are concerned about passage of the billboard amendment.

Another concern was raised regarding whether or not an agreement with a specific company was giving them an unfair advantage, and, conversely, whether other companies could try to enter the digital billboard market. Further information will be provided in response to this concern. Ms. Stenger stressed several times that new billboards are currently prohibited. The existing code allows existing billboards to be relocated but only within four zoning districts (C-2, M-1, M-2 and PMI) and only if they met the dispersal and buffering requirements. She noted that very few boards had been relocated since this provision went into effect. There will be further discussion of these issues at the next meeting on April 6, 2011.

## **ADJOURNMENT**

The meeting adjourned at 7:10 p.m.