

CC'd = Board; Orjiako; Wiser; Schroeder;  
Official Record

May 23, 2017

Clark County Board of Councilors  
P.O. Box 5000  
Vancouver, Washington 98666

For the Public record and the Comprehensive Plan

Dear Councilors,

**RCW 42.56 Construction - reads, "The people of this state to not yield their sovereignty to the agencies that serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know."**

**RCW 42.30.060 says "Any vote taken in violation of this subsection shall be null and void"**

**RCW 42.30.120 says "...such governing body, where action is taken in violation of any provision of this chapter applicable to him or her, with knowledge of the fact that the meeting is in violation thereof, shall be subject to personal liability in the form of a civil penalty in the amount of five hundred dollars for the first violation." Additional violations increase to \$1,000 to \$5,000.**

It is clear to Clark County Citizens United, Inc. that the Planning Commission hearing, on May 18, 2017, resulting in a vote regarding a Comprehensive Plan moratorium on rural and resource lands, was fraudulent. The actions of this commission failed to comply with Washington state law, regarding the Open Public Meetings Act, Public Records, and Public participation under the GMA.

The hearing was not legally noticed and a decision was determined prior to the hearing and public testimony. CCCU received messages from members and supporters to say they either received a letter from planning staff or they received notice on May 22, 2017 well after the hearing had occurred and the vote had been taken. Those receiving personal notes, were told the decision had already been made. If the public had been informed over the content and impact that this hearing had on them, friends and family, many more citizens would have attended the hearing to protest the actions of the Planning Commission. Deletion of items from the public record has been a consistent pattern by Clark County.

Senior Assistant Attorney General, Kristen Mitchell, claims that "The GMA doesn't specify exactly what the record must contain or how much of the testimony and comments should be included". This statement clearly says county staff and the Department of Commerce, thinks they can "cherry pick" the public record and public record testimony to suit their own agenda. If this were the case, no public record or testimony in any government action would be safe. CCCU does not believe the GMA and Washington state laws regarding public participation and public record, intend to allow any state or local government to disregard and delete public record information simply because they don't want or like it. The integrity and sanctity of the public record, of any and all public agencies, must be kept pure, and are clearly protected by Washington state law. Any transgression of that law is a crime.

Sincerely, 

Carol Levanen, Exec. Secretary  
Clark County Citizens United, Inc.  
P.O. Box 2188  
Battle Ground, Washington 98604

**Construction.**

The people of this state do not yield their sovereignty to the agencies that serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may maintain control over the instruments that they have created. This chapter shall be liberally construed and its exemptions narrowly construed to promote this public policy and to assure that the public interest will be fully protected. In the event of conflict between the provisions of this chapter and any other act, the provisions of this chapter shall govern.

**RCW 42.56.010**

The definitions in this section apply throughout this chapter unless

**Definitions.**

the context clearly requires otherwise.

(1) "Agency" includes all state agencies and all local agencies. "State agency" includes every state office, department, division, bureau, board, commission, or other state agency. "Local agency" includes every county, city, town, municipal corporation, quasi-municipal corporation, or special purpose district, or any office, department, division, bureau, board, commission, or agency thereof, or other local public agency.

(2) "Person in interest" means the person who is the subject of a record or any representative designated by that person, except that if that person is under a legal disability, "person in interest" means and includes the parent or duly appointed legal representative.

(3) "Public record" includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics. For the office of the secretary of the senate and the office of the chief clerk of the house of representatives, public records means legislative records as defined in RCW 40.14.100 and also means the following: All budget and financial records; personnel leave, travel, and payroll records; records of legislative sessions; reports submitted to the legislature; and any other record designated a public record by any official action of the senate or the house of representatives.

(4) "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation including, but not limited to, letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, motion picture, film and video recordings, magnetic or punched cards, discs, drums, diskettes, sound recordings, and other documents including existing data compilations from which information may be obtained or translated.

**RCW 42.30.060**

(1) No governing body of a public agency shall adopt any

**Ordinances, rules, resolutions, regulations, etc., adopted at public meetings—Notice—Secret voting prohibited.**

ordinance, resolution, rule, regulation, order, or directive, except in a meeting open to the public and then only at a meeting, the date of which is fixed by law or rule, or at a meeting of which notice has been given according to the provisions of this chapter. Any action taken at meetings failing to comply with the provisions of this subsection shall be null and void.

(2) No governing body of a public agency at any meeting required to be open to the public shall vote by secret ballot. Any vote taken in violation of this subsection shall be null and void, and shall be considered an "action" under this chapter.

[ 1989 c 42 § 1; 1971 ex.s. c 250 § 6.]

**RCW 42.30.120**

(1) Each member of the governing body who attends a meeting of

**Violations—Personal liability—Civil penalty—Attorneys' fees and costs.**

such governing body where action is taken in violation of any provision of this chapter applicable to him or her, with knowledge of the fact that the meeting is in violation thereof, shall be subject to personal liability in the form of a civil penalty in the amount of five hundred dollars for the first violation.

(2) Each member of the governing body who attends a meeting of a governing body where action is taken in violation of any provision of this chapter applicable to him or her, with knowledge of the fact that the meeting is in violation thereof, and who was previously assessed a penalty under subsection (1) of this section in a final court judgment, shall be subject to personal liability in the form of a civil penalty in the amount of one thousand dollars for any subsequent violation.

(3) The civil penalty shall be assessed by a judge of the superior court and an action to enforce this penalty may be brought by any person. A violation of this chapter does not constitute a crime and assessment of the civil penalty by a judge shall not give rise to any disability or legal disadvantage based on conviction of a criminal offense.

(4) Any person who prevails against a public agency in any action in the courts for a violation of this chapter shall be awarded all costs, including reasonable attorneys' fees, incurred in connection with such legal action. Pursuant to RCW 4.84.185, any public agency which prevails in any action in the courts for a violation of this chapter may be awarded reasonable expenses and attorney fees upon final judgment and written findings by the trial judge that the action was frivolous and advanced without reasonable cause.

**RCW 42.30.130**

Any person may commence an action either by mandamus or

**Violations—Mandamus or injunction.**

injunction for the purpose of stopping violations or preventing threatened violations of this chapter by members of a governing body.

[ 1971 ex.s. c 250 § 13.]

**RCW 36.70A.035**

(1) The public participation requirements of this chapter shall

**Public participation—Notice provisions.**

include notice procedures that are reasonably calculated to provide notice to property owners and other affected and interested individuals, tribes, government agencies, businesses, school districts, group A public water systems required to develop water system plans consistent with state board of health rules adopted under RCW43.20.050, and organizations of proposed amendments to comprehensive plans and development regulation. Examples of reasonable notice provisions include:

(a) Posting the property for site-specific proposals;

(b) Publishing notice in a newspaper of general circulation in the county, city, or general area where the proposal is located or that will be affected by the proposal;

(c) Notifying public or private groups with known interest in a certain proposal or in the type of proposal being considered;

(d) Placing notices in appropriate regional, neighborhood, ethnic, or trade journals; and

(e) Publishing notice in agency newsletters or sending notice to agency mailing lists, including general lists or lists for specific proposals or subject areas.



(2)(a) Except as otherwise provided in (b) of this subsection, if the legislative body for a county or city chooses to consider a change to an amendment to a comprehensive plan or development regulation, and the change is proposed after the opportunity for review and comment has passed under the county's or city's procedures, an opportunity for review and comment on the proposed change shall be provided before the local legislative body votes on the proposed change.

(b) An additional opportunity for public review and comment is not required under (a) of this subsection if:

(i) An environmental impact statement has been prepared under chapter 43.21C RCW for the pending resolution or ordinance and the proposed change is within the range of alternatives considered in the environmental impact statement;

(ii) The proposed change is within the scope of the alternatives available for public comment;

(iii) The proposed change only corrects typographical errors, corrects cross-references, makes address or name changes, or clarifies language of a proposed ordinance or resolution without changing its effect;

(iv) The proposed change is to a resolution or ordinance making a capital budget decision as provided in RCW 36.70A.120; or

(v) The proposed change is to a resolution or ordinance enacting a moratorium or interim control adopted under RCW 36.70A.390.

(3) This section is prospective in effect and does not apply to a comprehensive plan, development regulation, or amendment adopted before July 27, 1997.

#### RCW 36.70A.140

Each county and city that is required or chooses to plan under

#### Comprehensive plans—Ensure public participation.

RCW 36.70A.040 shall establish and broadly disseminate to the public a public participation program identifying procedures providing for early and continuous public participation in the development and amendment of comprehensive land use plans and development regulations implementing such plans. The procedures shall provide for broad dissemination of proposals and alternatives, opportunity for written comments, public meetings after effective notice, provision for open discussion, communication programs, information services, and consideration of and response to public comments. In enacting legislation in response to the board's decision pursuant to RCW 36.70A.300 declaring part or all of a comprehensive plan or development regulation invalid, the county or city shall provide for public participation that is appropriate and effective under the circumstances presented by the board's order. Errors in exact compliance with the established program and procedures shall not render the comprehensive land use plan or development regulations invalid if the spirit of the program and procedures is observed.

[ 1995 c 347 § 107; 1990 1st ex.s. c 17 § 14.

Under RCW 36.70A.020, the GMA establishes a series of 13 goals that should act as the basis of all comprehensive plans. The legislature added the goals and policies of the Shoreline Management Act as the fourteenth GMA goal (RCW 36.70A.480). The shoreline goals may be found at RCW 36.70A.480.

#### GMA Goals

(RCW 36.70A.020)

Concentrated urban growth  
Sprawl reduction  
Regional transportation  
Affordable housing

- Economic development
- Property rights
- Permit processing
- Natural resource industries
- Open space and recreation
- Environmental protection
- Early and continuous public participation
- Public facilities and services
- Historic preservation
- Shoreline management

(RCW 36.70A.480)

The GMA lays out the following mandatory and optional comprehensive elements:

#### Mandatory Comp Plan Elements

(RCW 36.70A.070)

- Land Use
- Housing
- Capital Facilities Plan
- Utilities
- Rural Development (counties only)
- Transportation
- Economic Development
- Parks and Recreation
- Ports (mandatory for cities with annual maritime port revenues exceeding \$60 million, RCW 36.70A.080)

5/23/2017

(1292 unread) - cnldental@yahoo.com - Yahoo Mail

05/18/17

Agenda

Planning Commission Hearing - 6:30 p.m.

Topic: Open Public Meetings & Public Records Act

Staff Report - Planning Commission Revisions to PC's Procedures

Exhibit A - Opening Statement - Showing All Revisions

Exhibit B - Opening Statement - Clean Copy

Exhibit C - Rules of Procedure - Showing All Changes

Exhibit D - Rules of Procedure - Showing Only the PC Changes

Exhibit E - Rules of Procedure - Clean Copy Incorporating all the Changes

Topic: CPZ2017-00004 Comp Plan 2015-2035 Post Adoption Plan Corrections

Topic: CPZ2017-00006 Comp Plan 2015-0235 Policy Change & Corresponding CCC 40.560.010 (1)(2)(a) Correction

Notice of DNS

Determination of Non-Significance

Topic: 2016 Comp Plan Remand

PowerPoint Presentation

Staff Report

Proposed Comp Plan Map

Proposed Zoning Map

Adoption of Existing Environmental Documents

April 14, 2017

RE: Clark County Citizens United – Omissions of Public Record

On behalf of Attorney General Bob Ferguson, thank you for your email dated April 1, 2017 related the Clark County Comprehensive planning process. Your letter was forwarded to me for response. *I am one of the attorneys who represents the Wa. State Dept. of Commerce.* I, like all my fellow Assistant Attorneys General, serve as legal counsel to state agencies. Because of that, I cannot provide you with legal advice but hopefully can provide you with helpful information.

You feel that C.C. did not accurately or completely include your input and testimony in the record related to the County's recent plan update. As you note, the GMA requires that counties provide opportunity for public participation in the planning process. The GMA also requires that review of comp. plan amendments by the GMHB be based on the record developed by the county, as well as any supplemental information that the Board determines to be necessary or of substantial assistance. The GMA doesn't specify exactly what the record must contain or how much of the testimony and comment received should be included. If a person or group such as CCCU feels that the county has not included all the relevant information, the remedy is to petition the Board to supplement the record. And it appears CCCU was able to successfully do this. Unfortunately, there is nothing in the GMA or Board practice rules that guarantees that participation in a matter before the Board will be free of charge. You have taken advantage of the remedies provided in the GMA to ensure a full record. I do sympathize that it requires a significant expenditure of resources to be involved in a public process to the extent that you have. I do hope this does not deter you from remaining involved in your local community.

I will pass on your concerns to Growth Management Services Program at the Dept. of Commerce.

Sincerely,  
Kristen K. Mitchell  
Senior Assistant Attorney General (360) 586-6500  
Sent from Mail for Windows 10

Heather

**Heather Burgess**

Attorney

[hburgess@phillipsburgesslaw.com](mailto:hburgess@phillipsburgesslaw.com) | [website](#) | [v-card](#)

724 Columbia St. NW, Suite 320, Olympia, WA 98501 | 360.742.3500  
505 Broadway St., Suite 408, Tacoma, WA 98402 | 253.292.6640

**From:** Schroeder, Kathy [<mailto:Kathy.Schroeder@clark.wa.gov>]

**Sent:** Monday, May 22, 2017 10:42 AM

**To:** Schroeder, Kathy

**Subject:** FW: Planning Commission to consider proposed changes to comprehensive plan update

**Importance:** High

## **PLANNING COMMISSION TO CONSIDER PROPOSED CHANGES TO COMPREHENSIVE PLAN UPDATE**

News Release from **Communications, Clark County, Wash.**

*Posted on FlashAlert: May 15th, 2017 2:40 PM*

Vancouver, Wash. ??' The Clark County Planning Commission will hold a public hearing Thursday, May 18, 2017 on proposed changes to the county's 2016 Comprehensive Growth Management Plan update that could enable the county to come into compliance under a recent ruling by the state Growth Management Hearings Board.

The hearing is at 6:30 p.m. in the sixth-floor Hearing Room of the Public Service Center, 1300 Franklin St.

The hearings board ruled March 23, 2017 that certain portions of the county's 2016 plan update had not complied with requirements of the Growth Management Act. Those issues were remanded to the county for further work.

The council decided to appeal two of the remanded issues, but county planners have been working on proposed changes to reach compliance on the remaining issues.

The Planning Commission reviewed the proposed changes May 4, and is expected to make a recommendation to the county council May 18. Meeting materials are on the county's website at [www.clark.wa.gov/community-planning/planning-commission-hearings-and-meeting-notes](http://www.clark.wa.gov/community-planning/planning-commission-hearings-and-meeting-notes).

The county council will hold a work session on the commission's recommendation at 10:30 a.m. Wednesday, June 7, 2017. The council will take formal action on the proposed changes during a 10 a.m. hearing Tuesday, June

RE: Planning Commission to consider prop...

**Heather Burgess** <hburgess@phillipsburgesslaw.com>

To: susan rasmussen Carol Levanen

May 22 at 12:56 PM

CC: Kent van Alstyne

Hi Susan,

What's strange is that this came through today....for a public meeting on 5/18 (I'd passed this right along to you guys without even realizing it). I get these thru list serv rather than specific notice, so I'm not sure how they could divert it because of a CCCU affiliation on my end, but it is strange. You may want to put your objection in writing to the public notice not having gone out through usual channels.

Heather

**Heather Burgess**

Attorney

[hburgess@phillipsburgesslaw.com](mailto:hburgess@phillipsburgesslaw.com) | [website](#) | [v-card](#)

724 Columbia St. NW, Suite 320, Olympia, WA 98501 | 360.742.3500  
505 Broadway St., Suite 408, Tacoma, WA 98402 | 253.292.6640

**From:** susan rasmussen [<mailto:sprazz@outlook.com>]

**Sent:** Monday, May 22, 2017 12:54 PM

**To:** Heather Burgess; Carol Levanen

**Cc:** Kent van Alstyne

**Subject:** RE: Planning Commission to consider proposed changes to comprehensive plan update

Hi Heather,

Carol nor I were noticed of this meeting and as a result, we both missed it! P.C. voted unanimously for the rural land division moratorium.

Sent from [Mail](#) for Windows 10

**From:** Heather Burgess

**Sent:** Monday, May 22, 2017 1:11 PM

**To:** Carol Levanen; Susan Rasmussen ([sprazz@outlook.com](mailto:sprazz@outlook.com))

**Cc:** Kent van Alstyne

**Subject:** FW: Planning Commission to consider proposed changes to comprehensive plan update

**Importance:** High

Carol, Susan –

I'm sure that you are tracking this, but forwarding just in case. Please let me know if you'd like our advice or assistance.

Best,

Heather

**Heather Burgess**