



REGIONAL PLANNING COMMISSION

MEMBERS
Jim Newberg, Chair
Florence 'Marge' Frandsen, Vice-chair
Scott Barnes
Todd Brabbin
Kendall Mattina
Christy Magers
Marvin Moss
Dennis Romeo
William Weber
Rosanna Coombes, Interim Director

MINUTES
Regional Planning Commission (RPC)
REGULAR MEETING
Wednesday, 6:30 P.M., September 13, 2006

The Regional Planning Commission met in regular session in the Washoe County Commission Chambers, 1001 East Ninth Street, Reno, Nevada and conducted the following business:

The meeting was called to order by Chair Newberg at 6:30 p.m.

1. ROLL CALL

The clerk called the roll and the following Commissioners were present: Jim Newberg; Marge Frandsen, Scott Barnes, Todd Brabbin, Christy Magers, Kendall Mattina, Marvin Moss, Dennis Romeo, and William Weber.

Also present were: Rosanna Coombes, TMRPA Interim Director; Norman Azevedo, Legal Counsel; Connie Anderson, TMRPA; Patricia Rogers, TMRPA; and Paige Menicucci, TMRPA.

2. APPROVAL OF AGENDA

COMMISSIONER MATTINA MADE A MOTION TO APPROVE THE SEPTEMBER 13, 2006, RPC AGENDA, SECONDED BY COMMISSIONER ROMEO. THE MOTION CARRIED UNANIMOUSLY WITH NINE (9) MEMBERS PRESENT.

3. PUBLIC COMMENT

None

4. APPROVAL OF MINUTES

A. May 10, 2006

Commissioner Mattina clarified comments she made on page 12 of the minutes.

COMMISSIONER MATTINA MADE A MOTION TO APPROVE THE MINUTES AS CORRECTED FOR MAY 10, 2006, SECONDED BY COMMISSIONER FRANDSEN. THE MOTION CARRIED WITH SEVEN (7) IN FAVOR AND TWO (2) ABSTENTIONS BY COMMISSIONERS MAGERS AND MOSS.

5. CONSENT CALENDAR

- A. PUBLIC HEARING - Regional Plan Conformance Review, City of Sparks Master Plan amendment, Pawl Hollis (CR06-022), changing the land use designation from Medium Density Residential to High Density Residential on ±0.84 acres generally located 625, 639, and 639 1/2 5th Street, Sparks

COMMISSIONER MOSS MADE A MOTION TO APPROVE THE CONSENT CALENDAR, SECONDED BY COMMISSIONER MATTINA. THE MOTION CARRIED UNANIMOUSLY WITH NINE (9) MEMBERS PRESENT.

6. BUSINESS OF THE DAY

- A. Consideration of, and possible action on, RPC Resolution 06-11, resolution of appreciation for the service of Randy Baxley as Senior Regional Planner.

Rosanna Coombes, Interim Director of Regional Planning, read the resolution into the record.

COMMISSIONER MATTINA MADE A MOTION TO APPROVE RPC RESOLUTION 06-11, RESOLUTION OF APPRECIATION FOR THE SERVICE OF RANDY BAXLEY AS SENIOR REGIONAL PLANNER, SECONDED BY COMMISSIONER MOSS. THE MOTION CARRIED UNANIMOUSLY WITH NINE (9) MEMBERS PRESENT.

- B. PUBLIC HEARING - Regional Plan Conformance Review, City of Reno Master Plan Amendment, Granite Petersen Peavine - Cold Springs (CR06-021), changing the land use designation from Low Density Suburban, Medium Density Suburban, General Commercial, Tourist Commercial, and General Rural to Urban Residential/Commercial, Single Family Residential, Industrial, Unincorporated Transition, Public Facility and Parks/Recreation/Open Space on ±6,802 acres generally located north and south of US 395, in the vicinity of Cold Springs.

Connie Anderson, Regional Planner, stated that there is not a project associated with this request for land use changes. The Reno City Council approved this amendment on February 22, 2006. The Reno staff report indicates that the amendment site was annexed into the City of Reno on March 9, 2005, and further action had been delayed pending settlement of the Reno Annexation Program. Existing infrastructure is available in close proximity at Woodland Village and could be extended to the site as development occurs. Ms. Anderson stated that Regional Planning staff has no significant issues with this amendment request and recommends a determination of conformance, based on the findings beginning on page 35 of the meeting packet.

[The public hearing was opened.]

John Hester, Community Development Director for the City of Reno, stated that he concurs with the Regional Planning staff recommendation.

Tom Greco, Regional Transportation Commission (RTC), outlined additional regional road impacts with the approval of this development. Mr. Greco stated that the roadway improvements that are currently in the 2030 Plan are greatly under-assigned with this project.

[The public hearing was closed.]

Commissioner Moss asked Mr. Hester if he had responded to the report from the RTC. Mr. Hester responded that what they have identified are tentatively the road improvements that we will need to take to the 2030 plan update.

COMMISSIONER MOSS MADE A MOTION TO FIND THE GRANITE PETERSEN PEAVINE - COLD SPRINGS AMENDMENT TO THE RENO MASTER PLAN IN CONFORMANCE WITH THE TRUCKEE MEADOWS REGIONAL PLAN, BASED ON THE FINDINGS LISTED IN THE STAFF REPORT, SECONDED BY COMMISSIONER BARNES. THE MOTION CARRIED UNANIMOUSLY WITH NINE (9) MEMBERS PRESENT.

- C. PUBLIC HEARING - Consideration of and possible determination on a cooperative planning dispute appeal by the City of Sparks regarding action taken by the Board of Washoe County Commissioners on June 27, 2006, to adopt amendments to the Spanish Springs Area Plan (DR06-001-RPC).

Ms. Coombes summarized the nature of this appeal, identified the parties that will be before the RPC, and outlined documentation relevant to this matter.

Commissioner Brabbin disclosed that he has a business relationship with Robert Sader and Jesse Haw not related to this matter. Commissioner Brabbin stated that it will not influence his decision-making in this hearing.

[The public hearing was opened.]

Ms. Coombes distributed copies of a written comment submitted by John Parish.

[The public hearing was closed.]

Norm Azevedo, Legal Counsel, stated that the first issue he recommends that the RPC address is granting intervenor status to the two parties seeking intervention. Those parties are represented by Robert Cox and Robert Sader. Mr. Azevedo stated that the appellant, City of Sparks, and the respondent, Washoe County, have both agreed to grant the status of intervenor. The second issue to be addressed is splitting the process before the RPC into three distinct parts. If the RPC decides to accept splitting the appeal into three parts, Mr. Azevedo recommends addressing the first part tonight. The first part addresses the applicability of Section V, Subsection 4.a of the Regional Planning Governing Board (RPGb) Regulations on Procedures as to whether the City of Sparks complied with that particular regulatory mandate in filing this appeal.

COMMISSIONER MATTINA MADE A MOTION TO GRANT INTERVENER STATUS TO ROBERT COX AND TO ROBERT SADER, SECONDED BY COMMISSIONER MOSS. THE MOTION CARRIED UNANIMOUSLY WITH NINE (9) MEMBERS PRESENT.

Mr. Azevedo clarified that the motion grants intervene status to the entities that Mr. Cox and Mr. Sader represent. Chair Newberg responded that is correct.

COMMISSIONER MOSS MADE A MOTION TO ACCEPT THE PROCEDURES RECOMMENDED BY MR. AZEVEDO, SECONDED BY COMMISSIONER MATTINA. THE MOTION CARRIED UNANIMOUSLY WITH NINE (9) MEMBERS PRESENT.

Chair Newberg reviewed the order in which the hearing will proceed.

Petitioner

David Creekman, City of Sparks, stated that the plain language of article 5 of the Regulations on Procedures establishes that there are two ways through which a party aggrieved can come before the RPC. The City of Sparks concedes that the first period of limitations is locked. The second period of limitations requires that an appeal be filed within 7 days of the discovery of an action taken by a representative of a local government. Mr. Creekman stated that the phrase “representative of a local government” is undefined in the regulations. It is Sparks’ contention tonight that the phrase needs no definition beyond that which a reasonable person would come up with.

Respondent

Blaine Cartlidge, Washoe County Deputy District Attorney, the only issue before the RPC tonight is whether or not the City of Sparks filed on time. To adopt Sparks’ position and application of the discovery rule would mean that the 7-day rule imposed upon action by a local governing body is unnecessary. State statute states that the amendment of a master plan has to proceed within certain timeframes and then once adopted by a local governing body must go to regional conformance before the RPC. Once the RPC acts to conform it is a final binding decision. If a discovery rule is allowed to extend the time to appeal, that timeframe supersedes and surpasses the timeframe within which conformance must occur. Mr. Cartlidge stated that Sparks’ argument has failed.

Interveners

Robert Cox, Representative for Washoe Health System, stated that the sole issue before the RPC tonight is whether Section V, Subsection 4.a (i) of the RPGB Regulations on Procedures is applicable to this appeal. The Supreme Court has said that a statute must not only be interpreted by plain meaning but that meaning must be given to every word, every phrase, and every sentence in the particular document you are interpreting. This particular regulation sets out two ways an appeal can be filed and they are mutually exclusive. If they were not, there would be no meaning in this particular regulation and it would otherwise render meaningless Subsection 4.a (i). In this particular case the action taken by the Board of County Commissioners was on June 25, 2006. The appeal filed by the City of Sparks was on the August 24, 8 weeks later. The second provision for filing an appeal would only apply in a mutually exclusive way if for some reason action was taken by a representative of a local government. This does not apply in this case so the RPC really must focus on Subsection 4.a (i) and by admission of Sparks, they did not file in a timely manner.

Robert Sader, Representative for Spanish Springs Associates, stated that this is a clear issue from a legal point of view. The interpretation of the language before the RPC is clear to laypeople as well as lawyers. If it is an appeal of an action by a local governing body, a party has 7 days from when the action occurs to file an appeal. If it is an appeal of an action by a representative of local government, meaning someone other than the local government body, then a party has 7 days from when they discover the action. Mr. Sader stated that Subsection 4.a (i) applies and (ii) does not apply in this matter.

Rebuttal by Petitioner

Mr. Creekman referred to Mr. Cartlidge's comment indicating that there is no contradiction permitted of state statute and stated that during the settlement negotiations with Judge Hardesty, all the parties were expressly advised to work toward what was right and correct for the region without fear of violating state statute. Mr. Creekman referred to Mr. Cox's comments regarding giving meaning to all portions of the statute and stated that he concurs fully with him that that is a clear, concise, and correct representation of Nevada Supreme Court precedent. Mr. Creekman stated that Subsection 4.a (ii) constitutes a check on actions which might be viewed as an action which somehow might slip by, despite the strictest compliance with the notice provisions of Nevada law, in violation of the spirit of the settlement agreements promise of fundamental fairness and meaningful input for all the parties.

Chair Newberg disclosed that his brother is on the Board of Directors for Washoe Medical and that it will not burden his decision-making.

Mr. Azevedo requested a recess.

[Chair Newberg called a five-minute recess at 7:20 p.m.]

Mr. Azevedo stated that the issue before the RPC tonight is the interpretation of Section V, Subsection 4.a of the RPGB Regulations on Procedures and whether subsection (i) or subsection (ii) is applicable to the appeal filed by the City of Sparks. Mr. Azevedo stated that it is his recommendation that the appeal filed by the City of Sparks is governed solely by subsection (i). Subsection (ii) is limited to actions taken by a body other than the local governing body set forth in Subsection (i). Mr. Azevedo recommended that the RPC accept his interpretation of this regulation and that the appeal filed by the City of Sparks be dismissed as untimely.

Commissioner Moss asked who decides whether it is a cooperative planning effort. Ms. Coombes responded that through the settlement agreement there were certain designations of cooperative planning areas that were agreed to. If a property or an amendment applies within that area, it is classified as a cooperative planning effort.

Commissioner Moss asked for a definition of a cooperative plan. Ms. Coombes responded that would be a planning action taken on a parcel or parcels that are contained within a cooperative planning area.

Commissioner Moss stated that there should be at least two participants. Ms. Coombes responded that in this case there are two parties. Washoe County is the body that took action that related to a parcel contained within a cooperative planning area. The City of Sparks who has that particular area identified as an area of interest would be the alternate party to the cooperative planning effort.

Commissioner Moss asked if the City of Sparks should have been able to sit in counsel with Washoe County. Ms. Coombes responded that there are agreed upon procedures that occur as it relates to cooperative planning efforts and within those specific procedures there are requirements for Washoe County to allow the participation of the City of Sparks in a meaningful manner in terms of very specific requirements within the settlement agreement.

Commissioner Mattina asked about the spirit of cooperative planning and how much notification is the responsibility of the primary planner and how much is part of the participating

governmental agency. Commissioner Mattina asked if there is no requirement even in the spirit of fellowship to follow through and make certain that the participating group that is not the primary have some response. Ms. Coombes responded that what would govern the relationship or the communications mechanisms prior to the Board of County Commissioners' decision is adopted as an agreed set of procedures that the three local governments signed on to and it actually specifies notification requirements providing an opportunity for alternate parties to participate in the planning prior to it getting to the governing body.

Mr. Azevedo stated that there was no allegation that the processes or procedures were not complied with. Commissioner Mattina responded that it would make the case much more clear if there were some affirmative note that the City of Sparks did know and had an opportunity to respond and chose not to versus they did not know it was taking place.

COMMISSIONER FRANSEN MADE A MOTION TO ACCEPT MR. AZEVEDO'S RECOMMENDATION AND DISMISS THE APPEAL AS UNTIMELY, SECONDED BY COMMISSIONER ROMEO. THE MOTION CARRIED UNANIMOUSLY WITH NINE (9) MEMBERS PRESENT.

7. DIRECTORS, MEMBERS, AND LEGAL COUNSEL INFORMATION ITEMS

A. Director's reports:

1) Progress report on the 2007 update of the Regional Plan

Ms. Coombes stated that Regional Planning staff is working on preparing public open houses so that the community can begin to have a better look at the changes that are being proposed by the Technical Advisory Committee (TAC). The TAC meetings are open to the public at any time but this will pull all the issues together and presents it as a picture to the community.

Commissioner Brabbin asked what time of day the open houses will be held. Ms. Coombes responded that they are usually held from 4:00 to 7:00 p.m.

Commissioner Romeo asked if the TAC meetings are typically during the business day. Ms. Coombes responded yes. The TAC meetings were established in order to get maximum participation from the technical staff.

Commissioner Romeo asked if there could be an alternate meeting time once a month. Ms. Coombes responded that she will ask the TAC if they would be willing to participate out of standard business hours. There is probably only a handful of meetings left before the process will be complete.

2) Report on actions and agendas of the Regional Planning Governing Board

Ms. Coombes reviewed agenda items for the RRGB September 21 meeting.

B. Legal counsel's report:

1) Status report and possible direction to staff on Washoe County's petition for judicial review of the certification of Reno's annexation program as conforming with the Regional Plan and related settlement agreement dated August 23, 2005

- 2) Status report on Washoe County's request to initiate a possible amendment of the Truckee Meadows Regional Plan pursuant to paragraph A.1 of the settlement agreement (October 17, 2002) to roll back Reno's sphere of influence in the vicinity of St. James's resort and Pleasant Valley

Mr. Azevedo stated that he has been asked to prepare a status briefing to the court and that should act as a resolution of agenda items 7.B.1 and 2.

8. REQUESTS FOR AND POSSIBLE ACTION ON FUTURE AGENDA ITEMS

- A. Review of tentative calendar of agenda items

Ms. Coombes reviewed future agenda items for the RPC.

9. WRITTEN CORRESPONDENCE

None

10. ADJOURNMENT

Chair Newberg adjourned the meeting at 7:45 p.m.

Respectfully submitted by Christine Birmingham.

Reviewed by:

Approved by:

Rosanna Coombes, Interim Director
Truckee Meadows Regional Planning Agency

Jim Newberg, Chair
Regional Planning Commission

**APPROVED BY THE REGIONAL PLANNING COMMISSION IN SESSION ON
_____, 2007.**