

MINUTES
ORANGE COUNTY PLANNING BOARD
JUNE 2, 2010
REGULAR MEETING

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MEMBERS PRESENT: Brian Crawford (Chair), At-Large, Eno Township; Judith Wegner (Vice-Chair), Bingham Township Representative; Larry Wright, At-Large, Cedar Grove Township; Tommy McNeill, Eno Township Representative; Peter Hallenbeck, At-Large, Cheeks Township; Earl McKee, Little River Township Representative; May Becker, At-Large Chapel Hill Township; Mark Marcoplos, At-Large, Bingham Township; Rachel Hawkins, Hillsborough Township Representative

MEMBERS ABSENT: Mary Bobbitt-Cooke, Cheek Township Representative; Samantha Cabe, Chapel Hill Township Representative; Jeffrey Schmitt, Cedar Grove Township Representative;

STAFF PRESENT: Michael Harvey, Current Planning Supervisor; Tom Altieri, Comprehensive Planning Supervisor; Tina Love, Administrative Assistant II

AGENDA ITEM 1: CALL TO ORDER AND ROLL CALL

AGENDA ITEM 2: INFORMATIONAL ITEMS
a) Next Regular Planning Board meeting scheduled for Wednesday, July 7, 2010
b) Planning Calendar for June and July

AGENDA ITEM 3: APPROVAL OF MINUTES

MOTION made by Earl McKee to approve the May 5,, 2010 minutes. Seconded by Larry Wright.
VOTE: Unanimous

AGENDA ITEM 4: CONSIDERATION OF ADDITIONS TO AGENDA

Michael Harvey: Mr. Chairman, I would like to advise the Board that the Commissioners approved Larry Wright as the Planning Board representative for the Board of Adjustment.

Brian Crawford: Congratulations Larry.

Mark Marcoplos: I have one item I would like to discuss regarding the process of approving items such as the Davis property on tonight's agenda.

Brian Crawford: When we get to that item lets discuss it.

AGENDA ITEM 5: PUBLIC CHARGE
Introduction to the Public Charge

The Board of County Commissioners, under the authority of North Carolina General Statute, appoints the Orange County Planning Board (OCPB) to uphold the written land development laws of the County. The general purpose of OCPB is to guide and accomplish coordinated and harmonious development. OCPB shall do so in a manner which considers the present and future needs of its citizens and businesses through efficient and responsive process that contributes to and promotes the health, safety, and welfare of the overall County. The OCPB will make every effort to uphold a vision of responsive governance and quality public services during our deliberations, decisions, and recommendations.

60 PUBLIC CHARGE
61 The Planning Board pledges to the citizens of Orange County its respect. The Board asks its citizens to
62 conduct themselves in a respectful, courteous manner, both with the Board and with fellow citizens. At
63 any time, should any member of the Board or any citizen fail to observe this public charge, the Chair will
64 ask the offending member to leave the meeting until that individual regains personal control. Should
65 decorum fail to be restored, the Chair will recess the meeting until such time that a genuine commitment
66 to this public charge is observed.
67

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69 AGENDA ITEM 6: CHAIR COMMENTS
70

71
72 AGENDA ITEM 7: REZONING AT 3300 NC 54 WEST:
73 To make a recommendation to the BOCC for the rezoning request at 3300 NC 54 West heard at the
74 May 24, 2010 Quarterly Public Hearing .
75 *Presenter: Michael Harvey, Planner III*
76

77 MOTION: Mark Marcoplos made a motion to recommend approval of the proposed zoning atlas amendment and make a
78 recommendation for the approval of Attachment(s) Two, Statement of Consistency, and Three, Resolution of Rezoning Petition
79 approval, for the item. Seconded by Rachel Hawkins.
80 VOTE: Unanimous
81

82 Mark Marcoplos: We discussed for another lot 200 yards up the road from this one about a storage facility. It was apparent
83 there was no problem among the Planning Board members and we didn't need to take another month to look at it so I made a
84 proposal to the Board of County Commissioners that if it was a no brainer, let's save the time and paper and turn it right back to
85 them. Alice Gordon, with her focus on due process said she was uncomfortable with that kind of quick turn around. Bernadette
86 Pelissier came to me after the meeting and gave me an idea, why don't you turn it back to us if there are no questions and you
87 feel there are no problems and we can approve it at the next meeting which means it may be a week or two rather than months.
88 That would be my motion. We need to be on the same page and have read the information and even if we have to take a few
89 minutes at the public hearing to confirm we are okay. We don't want an issue to move ahead if there is a legitimate reason
90 discuss it further so if we can be prepared to take an action on these issues and send it back to the Board of County
91 Commissioners then at their next meeting that gives the public that little extra time.
92

93 Brian Crawford: I think I heard from Alice that she was also concerned about the public's opportunity to make additional
94 comments. This proceeding is the public's opportunity to make additional comments before it goes back to the Board.
95

96 Mark Marcoplos: It was unclear what she really wanted because the Public Hearing is the opportunity to make their comments.
97

98 Brian Crawford: Technically this is a public hearing.
99

100 Mark Marcoplos: It is a judgment call. They could come back to the Board of County Commissioners meeting and ask a
101 question.
102

103 Larry Wright: You two have had experience on this Board and there are things that come before us that people do come and this
104 current Board, the new members, have not really seen much of this but there are issues that come before us that people do
105 come in and make comments and comments to us as well as to the Board of County Commissioners.
106

107 Brian Crawford: Comments that have also swayed some of the Board members decisions in here.
108

109 Larry Wright: I would be hesitant to push something through like that because we are here to represent the people not just as
110 Planning Board members. We have a charge.
111

112 Judith Wegner: I would take what Mark said to be if you don't have any more comments or complications we should refer things
113 at the first available date to the Board of County Commissioners and not assume there has to be two or three months because
114 during that period, it is not like anyone is getting more information.
115

116 Mark Marcoplos: In both of these incidences no one thought there would be any problems. If there is any hint of a problem, I
117 would say we defer for further discussion but both of these incidences, we came to the meeting with no discussion and it was a
118 no brainer.

119
120 Judith Wegner: I have never understood the cycle of what we hear when the hearing date is set up months ahead of time. If it is
121 unclear to me you can imagine how it is for a citizen. In some way, it seems we should be consistent about these timeframes.
122 We should ask ourselves what the point is of the extended period. There have been times where we have had pressures with
123 changing documentation when we had the Buckhorn situation where we had things thrown at us at every meeting while we were
124 working on the comp plan and other things. It was very frustrating because it was as though we were being forced to act more
125 quickly than warranted. Whereas if things are simple and we have the documentation what is wrong with moving ahead
126 promptly.

127
128 Larry Wright: Let's say we chose to get out heads together after the Quarterly Public Hearing and we did choose to consider an
129 equipment building or something. Who registers, who voted and who descended and that sort of thing?

130
131 Judith Wegner: I think we can't literally decide that if this is a hearing opportunity we have to honor it and see if anybody comes
132 to it; but we can have our own understanding and when we prepare for the next meeting we can take that into account.

133
134 Brian Crawford: It has to be in the public. The question is, we deliberated first and made the recommendation to the Board of
135 County Commissioners and have the public hearing. The public hearing is closed. I don't know if there is anything in the law
136 that prevents us from deliberating that night at the public hearing for referral to the Board of County Commissioners at their next
137 scheduled meeting as opposed to coming back here and then missing another month.

138
139 Judith Wegner: We are not set up in that meeting to have someone to take our comments or be on the record. Either way the
140 deliberations need to be recorded and we need to be clear about that and decide we will have a meeting that we stay longer.

141
142 Michael Harvey: There are reasons the process operates the way it does. A lot of it has to do with staff's responsibility in getting
143 memorandums, documentation completed and into the queue to be reviewed by the County attorney, manager and planning
144 director, etc. I don't disagree with Mark that there may be a better way to do this. My fear is over making the decision that a
145 particular item was a "no brainer" and what items are not potentially puts this Board at a disadvantage or a situation where they
146 are making judgment call. Applicants can then argue that they should have been 'fast tracked' or neighbors could argue we did
147 not give an item proper review. It is a catch 22 when we try and determine what items are and are not a 'no brainer'. Staff has
148 certain obligations from an administrative processing standpoint to get things done in a certain manner of time so they can be
149 reviewed by all necessary parties.

150
151 The ordinance guarantees the Planning Board 90 days of review time on a given item. If you don't make a recommendation in
152 90 days, it goes back the Board of County Commissioners without recommendation. It is very rare that I have seen this Board to
153 take the full 90 days if they are comfortable with what has been presented. Buckhorn was an exception that took longer because
154 the Board requested more time. My concern is that it puts the Board in an awkward position of determining what constitutes and
155 easy application to review and comment upon.

156
157 Mark's suggestion has a lot of validity. You could discuss this matter further with the Board of County Commissioners when you
158 do your annual retreat on how you can speed the process up. That fits in nicely with the next phase of the UDO that is starting
159 sometime this fall and early spring.

160
161 Brian Crawford: For instance, would we have been able, through Mark's process, would these have been able to be ready for us
162 to decide. Given what you said, would this have been available to use the evening right after the public hearing.

163
164 Michael Harvey: That is a form that you plug additional data into. It is really the question of completing the whole abstract
165 package for internal and external peer review and comment. After you make a recommendation, it goes back to the Board of
166 County Commissioners it is technically the manager's office making the recommendation of what to do next, not the zoning
167 officer. Planning has already made their recommendation. One of the reasons we have that delay is to allow that time for the
168 County Manager to articulate and certify his recommendation to the Board. The direct answer is that a lot of the stuff we produce
169 here is a form. We are plugging in data into existing forms the County attorney has already blessed.

170
171 Another reason for the delay is the fact that we are obligated to adjourn the public hearing to a specific date and time for it to re-
172 convene. We need to build time into the process to allow you the opportunity to review and comment on a proposal and meet all
173 of our regular deadlines for abstract submittal for review and comment so that the item can be brought back to the County
174 Commissioners for their final action.

175

176 Judith Wegner: Let me ask this. I think when we first saw this we thought it was going to be non-controversial. If we had a
177 consent calendar, we could recommend an expedited process because it is consistent with what has come before. Staff would
178 be aware of it if they thought it wasn't suitable...is it complicated or is it simple.

179
180 Brian Crawford: Much like the Board of County Commissioners have.

181
182 Mark Marcoplos: I think it is key to see who shows up at the public hearing.

183
184 Judith Wegner: Sure.

185
186 Mark Marcoplos: To me, that is the test. If someone steps up and has a legitimate or even a whiff of controversy, we don't do it.
187 Only those items where there is no controversy. That is the final step for me is to hear what people say.

188
189 Brian Crawford: Mark, do you want to make that a work item of this Planning Board to develop an expedited process or suggest
190 something in a forma motion to the Board of County Commissioners?

191
192 Mark Marcoplos: I meant to write something up and circulate to see what people want to add or change. If it is okay, I will write
193 a proposal.

194
195 Brian Crawford: An item on the next agenda?

196
197 Mark Marcoplos: Yes.

198
199

200 **AGENDA ITEM 8: REVIEW OF DRAFT UNIFIED DEVELOPMENT ORDINANCE**
201 To review the following sections of the draft Unified Development Ordinance: Revised Table of Contents
202 (to incorporate Consultant suggestions); Article Three – General; Article Four – Administrative
203 mechanisms (BOCC, Planning Board, BOA, etc.); and Article Five - Definitions.

204 *Presenter: Michael Harvey, Planner III*
205

206 Michael Harvey: We will email these articles like we have been at the conclusion of these meetings so you can give your
207 comments.

208
209 I would like to start with Attachment One Revised Table of Contents. The planning staff in consultation with out consultant,
210 Roger Walden, will be proposing a modification of the organization framework in the table of contents for the UDO. Part of the
211 rationale was the consultant's concern that as we had laid out the original UDO table of contents, it would be difficult to
212 incorporate all the standards within a reasonable and flowing manner. Also, with respect to provide us, the staff assistance and
213 graphics and organizational framework, it would be easier to do it this way. He was concerned about having development
214 standards, for example, to be in two different places. He was also concerned with layout and it was his recommendation that
215 procedures, which is the second most important thing in this document, really needs to be moved.

216
217 The staff, in reviewing his recommendation agreed. On page 33 through 40 you have the details on how this is laid out and what
218 this includes. For example, Article III, General Provisions, will be moved to Article I in the consultant revised Table of Contents.
219 There will also be the collapsing of what we had proposed to be Article Four, Administration, into the same sections. Procedures
220 could stay the way it is but standards will expand in length a great deal. All standards governing development are going to be
221 located in one central section.

222
223 One of the focal points I wanted to give to the UDO was the progression of development. However, in discussions with the
224 consultant and the rest of the team, which includes Craig Benedict and Tom Altieri, Perdita Holtz and Shannon Berry, we all
225 agree that the format the consultant proposed was superior and we are moving forward with it.

226
227 Larry Wright: Is Perdita and Karen and all the others, you are the people who work with this.

228
229 Michael Harvey: This is not a bad organizational table, I just had a difference of opinion with the consultant but this works just as
230 well.

231
232 Larry Wright: My question to you as a staff person is, I go through these documents and this is a once a month thing but you
233 people are dealing with all the time so is this something you are comfortable with?

234

235 Michael Harvey: Yes.

236
237 Larry Wright: I am talking about staff?

238
239 Michael Harvey: What this consultant has proposed, in our estimation, is the superior format. How he has it laid out will work a
240 lot better.

241
242 Larry Wright: Karen and Perdita and all the staff are comfortable with this?

243
244 Michael Harvey: I can answer for my staff specifically, Glenn Bowles, Jennifer Leaf, and Rebecca Ciconne, our new planning
245 tech. I won't answer for Tom but I do know in talking with the director that Tom, Perdita and Shannon think this format works
246 better. The table will be changing and what we will try to do ensure that you have that road map to what you need.

247
248 Brian Crawford: Administration has its own table or some there will be some sort of indication of what will be found in this
249 article?

250
251 Michael Harvey: Yes. And it basically collapsing into two proposed concepts of which we have from the current UDO process.
252 It will not be adding anything you haven't looked at. Any questions about the table?

253
254 Judith Wegner: I like the changes.

255
256 Michael Harvey: I call you attention to Attachment Two. We have proposed several modifications within these three articles.
257 We tried to highlight the major points you would like to give us comment on or like to focus on.

258
259 I would like to start on page 41 and review Article Three, general provisions. If you have any questions, we can go to that article.
260 We will begin with conformance with adopted plans. One of the comments we have made through this review is there is
261 currently only a single reference within the Zoning Ordinance with respect to compliance with the Comprehensive Plan or Small
262 Area Plans. Within the revised UDO we have proposed a central section in the beginning of the document that states this
263 ordinance is the implantation tool of the Comprehensive Plan and that all amendments shall be consistent with the Plan. As we
264 discussed last month, in reviewing this Article the Board would see how we would handle the questions that Dr. Wright and
265 others have brought up concerning compliance with various adopted plans.

266
267 The next section is Section 50-16, Relationship with Other Laws, Convents, or Deed Restrictions. There are currently no
268 references in the existing regulations addressing the zoning and subdivision standards as they relate to other laws or regulations.
269 This provision spells out what we will and will not do. What we are obligated to review and not to review.

270
271 Judith Wegner: About 50-14, on Conformance with Adopted Plans, that is really important in the statue, does this have any
272 implications in terms of how we or the Board of County Commissioners review items? And literally reference back to the Comp
273 Plan, any decisions related to zoning is that feasible?

274
275 Michael Harvey: It is certainly feasible. If you note from the last Public Hearing, we made the comment that the rezoning
276 request Mr. Davis submitted was consistent with the Comp Plan. That is one of the required findings we have to make.

277
278 Judith Wegner: That doesn't have any kind of detail to it. I wonder in presenting it, if you ended up in litigation about whether it
279 is proposed or not, you'd be in a stronger place and it would help the decision makers if it were referenced.

280
281 Michael Harvey: It hasn't been but we can certainly do that. I take that back, obvious with a couple of major projects, Buckhorn
282 Village being one of them.

283
284 Judith Wegner: When we tried to struggle with Buckhorn, we all had difficulties with that; the Comp Plan was still in progress ...
285 and it would really educate and remind all the decision makers about where the Comp Plan was looking for this stuff. I think it
286 would be helpful but also I can imagine some of the Board of County Commissioners wouldn't want their hands tied.

287
288 Michael Harvey: It makes sense; I think we can continue to work on that as the UDO continues to go on. I understand your
289 concern but I also know that we need to provide specific language within the Ordinance indicating that a specific decision made
290 has to be consistent. Obviously we as the staff, and the County as a whole, have to provide the details saying this is consistent.

291
292 Judith Wegner: When I talk to students about this I say the comp plan is not just document it is more of consensual framework.
293 If you wanted to be driving the future it would make sense to try to connect to document the ties that way.

294
295 Michael Harvey: One of the philosophical reasons is to try to refocus that effort to make sure that we are continuously
296 referencing the documents that do govern whether or not a specific item is or is not acceptable. I guess my standard answer to
297 that is we have the comp plan for a reason and that is to help make difficult decisions. I understand the notion of trying to keep
298 things flexible.

299
300 Judith Wegner: I would suggest that in terms of decision makers, I would think it is helpful to know what the references are.

301
302 Larry Wright: I agree a lot with Judith. I see that you really need to reference, for example 50-11, Chapter 153A and Article 4
303 and all the statutes and such but then you could probably insert something at the bottom, and I really feel that the 2030
304 Comprehensive Plan, the decision makers between now and 2030 should be held accountable to the Comprehensive Plan.
305 There could be a comment that the spirit of the Comprehensive Plan somehow could be incorporated.

306
307 Michael Harvey: If you have some language I would like to see it. I would like to get some direction.

308
309 Brian Crawford: If anything, we have to honor the work of the 2030 Comprehensive Plan. It is supposedly a living document. I
310 don't mean a rhetorical term. Somehow we have to tie that our ordinance is respectful of that document.

311
312 Michael Harvey: Going back to the 50-16 on page 49 of your abstract. The existing zoning ordinance has references to Chapel
313 Hill Land Developments standards and Carrboro Land Development standards. The reason for that is due to the existing joint
314 planning areas we have with both municipalities. We are moving those to an existing sections because they don't make sense
315 where they are. We are going to talk about how the planning department and this ordinance's document relates to other
316 regulations.

317
318 Judith Wegner: Should there be a blank reference to Hillsborough? Like a reserve section.

319
320 Michael Harvey: That would not necessarily be a bad idea.

321
322 Judith Wegner: Even for Efland, Mebane or whatever but I think if we try to set out what people understand there are connection
323 with the other stuff.

324
325 Michael Harvey: I'm not sure if we are going to have the same joint planning area agreement we currently have with Chapel Hill
326 with a similar setup in those other municipalities. We could amend it to put an ad for a reserve section without a problem. It is
327 not a bad idea.

328
329 Larry Wright: Did we pass 50-12 or are we going back to that.

330
331 Michael Harvey: We have but if you have a question, we can go back.

332
333 Larry Wright: I would like to see something in there about pedestrians to make adequate provisions for pedestrians. Maybe the
334 transportation Board would have some sort of input there.

335
336 Michael Harvey: Any other questions? Section 50-17 is coordination with other regulations. We basically added this. We make
337 reference to, in some cases, municipal County, state or federal regulations. This is just a standard statement. In most
338 ordinances it says in case of conflicts, the most restrictive always takes place. This is also only a reference we are not
339 encapsulating all the complete regulations that may exist.

340
341 Judith Wegner: A provision like that makes me think of preemption issues and I wonder if it would be good to have section C or
342 something to that effect. To go back to one of our earlier meetings about the signs or water issues. To a degree linkable that
343 there would be a conflict between what we are doing and what the towns might be doing and what the state might do.

344
345 Michael Harvey: That is something I would rather bring up with the attorney.

346
347 Judith Wegner: As a topic, I think it might be worth displaying.

348
349 Brian Crawford: I am not certain, speaking of preemption, if in fact the restrictive ordinances are always be the right
350 interpretation. There will be cases where federal law may be a looser restriction and we are supposed to follow federal law.

351

Approved via an email vote
the week of July 26, 2010;

352 Michael Harvey: A recent court decision indicated that the DOT, both state and fed, can preempt local sign ordinance
353 regulations with respect to dealing with outdoor advertising. The courts have found there is a conflict in standard, the federal or
354 state standard will always preempt. If there is no standard, then local regulations will take precedence. You may remember from
355 past conversations about illuminating billboards along the interstate. The Board of County Commissioners were involved in a
356 potential lawsuit with a few of the billboards. The County attorney determined that based on recent court precedence, we can
357 enforce whatever standard we have that is not conflicted with the state or federal law.
358

359 Brian Crawford: If that were the case, this would not be the right statement.
360

361 Michael Harvey: The severability clause we currently have and will be within this ordinance might address that but that is a
362 question I will pose to the attorney.
363

364 Earl McKee: Where are including the clause that addresses this?
365

366 Michael Harvey: There is a central severability clause in the legal provisions of this document of the UDO which essentially says
367 that if a specific law or regulations within the ordinance is found to be in conflict or ruled to be unconstitutional, this action does
368 invalidate the ordinance in its entirety or if it is in conflict with an existing state or federal law, that takes preeminence or preempts
369 local regulation then we don't enforce it.
370

371 Earl McKee: Would it be wise to have that in this section because this section specifically addresses coordination with other
372 regulations even if it is a duplication?
373

374 Michael Harvey: Without being able to answer because I am concerned about the ramifications of it, let me take it to the County
375 attorney. I am on the fence for this reason.
376

377 Brian Crawford: We could end up doing that 100 times.
378

379 Mark Marcoplos: It is sad state of affairs when the federal government says what we can do with our signs.
380

381 Michael Harvey: The next section was brought up as we started reviewing the UDO, Section 50-22 Headings and Illustrations.
382 We have added language that says we are providing headings or illustrations basically trying to provide you with the ground work
383 for how this is supposed to be done. The illustration is not to be accepted as the regulation. That is all we have identified as the
384 major key components of Article 3 for you to digest.
385

386 Judith Wegner: We could just say this is so much more helpful than having to read every piece of it. It helps focus us.
387

388 Michael Harvey: I always have the problem of what I may have missed.
389

390 Judith Wegner: As you get older you have to decide.
391

392 Michael Harvey: We have tried to identify areas we want to make sure you have expressed your concerns and identify new
393 concepts you haven't seen yet.
394

395 Brian Crawford: Does anyone have any comments?
396

397 Michael Harvey: On page 55, Article 4, Section 50-30, my concern is that the existing sections become very redundant because
398 we have a comprehensive plan adopted. One of the comments made was doing the 2030 plan was the idea of adding new
399 sections or elements and one of the technical problems with that was that we would have to amend the zoning ordinance first
400 because the zoning ordinance specified what elements go into a comprehensive plan. The existing regulation provides a
401 description of how you are adopting an initial plan and it no longer serves the purpose especially if we have a referenced in the
402 beginning of the document that says everything is done in coordination with the comprehensive plan.
403

404 Brian Crawford: You just want to delete all this language?
405

406 Michael Harvey: Yes.
407

408 Brian Crawford: Any questions?
409

Approved via an email vote
the week of July 26, 2010;

410 Michael Harvey: Would it be the pleasure of the Board that if I go back to Article 3 that one section to bolster up the reference of
411 what the comprehensive plan is, not incorporating all this but just taking some of the more intuitive language here. You are okay
412 with Section 50-30 going away as long as we take more of the major elements described in the comprehensive plan and putting
413 it in under....

414
415 Brian Crawford: I am okay as long as there is something in the UDO that references the 2030 Comprehensive Plan.
416

417 Michael Harvey: It will reference the Comprehensive Plan because obviously we don't want to amend the ordinance every 30
418 years.

419
420 Brian Crawford: The most recent so that the person knows if they need to they can find that document.
421

422 Michael Harvey: The next section is 50-31.
423

424 Larry Wright: It should be the "Planning Director, or his/her designee".
425

426 Michael Harvey: The rationale for the proposed change is that the zoning ordinance currently makes multiple references to
427 zoning officer and planning director in terms of a decision maker. My problem is that if you don't have someone specifically
428 holding the title of a zoning officer then someone could argue over who has the authority to enforce the ordinance. My previous
429 title was zoning enforcement officer. Craig Benedict is Planning Director. Instead of having multiple titles throughout the
430 ordinance, we just picked one, planning director. Basically, this is a combination of existing article 21 and 23 referencing zoning
431 officer sections and what their duties are.
432

433 Michael Harvey: The next section is Section 50-34.1 on page 63 of Article 4.
434

435 Judith Wegner: On the description of the Planning Director. It seems to be thin and I have been frustrated over the years here
436 with what the Planning Board gets to advise the Planning Director. I am curious where the content comes from.
437

438 Michael Harvey: Would you be comfortable giving me suggestions?
439

440 Judith Wegner: I would say something like consults with and maintains records for the Planning Board or something to that
441 effect so that it is clear that it is more than just administrable.
442

443 Michael Harvey: The only caveat I want to make is that when you look at the Planning Board's duties, the planning department
444 staff serves as your staff and we are providing specific levels of service. Let's mark page 57 and get to the Planning Board
445 duties and we may address that concern.
446

447 Michael Harvey: The next section is Section 50-34.1 Duties.
448

449 Larry Wright: I have a comment on 58. "Under no circumstances may be the decision of the Planning Director...". A decision
450 doesn't make changes. You have the subject as the decision. It is the Planning Director who makes the changes, not the
451 decision.
452

453 Michael Harvey: Planning Director's decision.
454

455 Mark Marcoplos: You should take out the word decision.
456

457 Michael Harvey: There are sections in this code under landscaping where the planning director has the authority to waive certain
458 provisions (i.e., vary). So "Under no circumstances may the Planning Director be permitted to make changes to this ordinance or
459 vary the terms of this ordinance of this ordinance in carrying out assigned duties".
460

461 Judith Wegner: What about "Under no circumstances may the Planning Director make changes to this ordinance, or vary the
462 terms of this ordinance except it is provided there....
463

464 Michael Harvey: We will come back to this. What Judith proposed is not bad but I am thinking of other articles. The current
465 ordinance has references to General Statute and we go A through G as you will see on page 63 is what is referenced in the
466 General Statute. It is H through R that don't really appear in the statute and staff would argue they are somewhat redundant. I
467 think they are generic. I think they are generic enough to satisfy what was reference specifically in H through R and actually
468 would keep A through G intact.

469
470 Brian Crawford: This is currently in the ordinance somewhere?
471
472 Michael Harvey: Yes sir.
473
474 Brian Crawford: We really don't need it?
475
476 Michael Harvey: I really don't think we need H through R.
477
478 Judith Wegner: I think it would be useful to keep in stuff about the comp plan.
479
480 Michael Harvey: On page 64, J is approved and recommended for adoption by the Board of County Commissioners the
481 Comprehensive Plan. What if we take J and move that to H.
482
483 Brian Crawford: Obviously this is the General Statute, is it possible these other duties have developed over the years and
484 someone felt it was necessary to codify them?
485
486 Michael Harvey: I think the answer is that someone felt they wanted to get more specific. My problem is the reason we have to
487 get more specific is there have been differences of interpretations. My humble opinion is that as we get too specific, I have to
488 continue to amend an ordinance to capture the job duty or function.
489
490 Larry Wright: I'd like to make a comment. When I came to the Planning Board, I knew from a previous member what was going
491 on but I had to hit the ground running at that time. I was looking to see what I should be doing and I was looking through various
492 sections to figure out my charge. Although I did have a briefing with Craig Benedict the first meeting I was lost. Is there is some
493 place where new members can have something, H through R, where they can see in sequence.
494
495 Brian Crawford: We have our own little handbook.
496
497 Michael Harvey: The rules and procedures. What you are asking for is an orientation package?
498
499 Larry Wright: It doesn't have to be in here but now I see this I get an overview.
500
501 Michael Harvey: Would the Board be more comfortable, if H through R goes away, with the exception of the new H saying
502 Comprehensive Plan, would you be more comfortable to have an introductory packet or member packet to capture existing
503 duties in H through R?
504
505 Brian Crawford: I have a different physiological approach. I don't like this enumeration stuff because it can create conflict. I can
506 see someone in the community saying this is the job you are supposed to do. As general possible for the duties is fine with me.
507 I agree that if we had something for the Board to look at as a group but I really don't want it in the ordinance.
508
509 Michael Harvey: Do we all agree to keep H talking about the Comprehensive Plan specifically?
510
511 Pete Hallenbeck: It seems we are going back and forth between the concepts of having a section of this document that has
512 global rules and considerations then we have in each of these sections, we wrestle with whether or not we should bring that up. I
513 am concerned that if some areas you bring it up because we don't want to forget it and some other areas you don't, people lose
514 the effect or power of locally that if you get into the document and say here are things that apply to this entire document. I like
515 the simplicity and shortness but I am concerned that we tack these things on to refer about the global rules. The times we are
516 running to this it is almost legal like problems. If you are that far into, people who are looking at it are able to grasp and
517 remember the concept of the global rules.
518
519 Brian Crawford: When we talk about the comprehensive plan at the beginning, we don't say who is responsible for making that
520 document happen. There has to be some body that is responsible for making it happen. The only difference in putting here is to
521 make sure the world knows that is the Planning Board's function.
522
523 Pete Hallenbeck: In this case, it is a different function than we talked about before where we are reminding people but in this
524 case, we are actually saying this Comprehensive Plan that has been brought up....
525
526 Brian Crawford: That is our baby.
527

528 Pete Hallenbeck: Then I am in favor of bringing that in.
529

530 May Becker: Back to the question of including or not, everybody talks about hereby authorizing and being directed to, it seems
531 to be saying the Planning Board has these powers, so to speak, but not necessarily that the Planning Board has to do these
532 tasks, is that correct? A more illustrative example of A through G....
533

534 Michael Harvey: The current staff was responsible for putting this list here at some point to get more and more detailed and
535 descriptive. It almost necessitates an amendment to the ordinance every time the Planning Board thinks they ought to do
536 something because we are too specific.
537

538 May Becker: Can't we just say something like "these may include" without necessarily saying that is comprehensive. If it is an
539 accurate description of what the Planning Board is doing, it seems to be more illustrative than these general statements. A
540 citizen may relate to one of these situations in H through R.
541

542 Brian Crawford: For me, I see things we have never done and if we haven't done them I don't know where staff is coming up
543 with that these are part of our duties. I don't want these duties listed because someone will interpret it that is duty we should be
544 doing.
545

546 May Becker: I agree with your point about the concern as a part of the duty but I read it more as authorized to, in other words if a
547 citizen comes along and wonders who makes the laws about planning and they realize there is a link between the Planning
548 Board and their neighborhood then as long as it doesn't it may not come across as something we are bound to do but something
549 we have the option or power to. Sometimes specific examples show people what we are doing as opposed to a general concept.
550

551 Pete Hallenbeck: It strikes me that what you are talking about is similar to ordinances and trying to decide if we would give
552 examples. My preference would be that if you have those examples outside the document. I would much rather see a guide on
553 paper or on the website saying here is what the Planning Board does. This is maybe the staff can make a note as this is
554 information we want to keep but in a separate document.
555

556 Larry Wright: I agree.
557

558 Pete Hallenbeck: It is general enough to suit me.
559

560 Brian Crawford: It goes on to say that we are authorizing directly to a citizen that is directly stating these are our duties.
561

562 Pete Hallenbeck: We are dropping that.
563

564 Brian Crawford: May has made the argument to keep them.
565

566 Michael Harvey: Would the Board like to see a user manual?
567

568 Judith Wegner: I worry that someone will say what the significance of that it seems there is authority in terms of the
569 Commissioners assigning other duties. I think if you put the comp plan in it should be the catchall sheet or page. I appreciate
570 what you say May but ...some kind of training or learning opportunity....if it is a citizen's guide through planning...you could have
571 a flow chart or something of that sort.
572

573 May Becker: Since she brought up what we have to do, does the term duty imply that we have to. Can a person accuse the
574 Planning Board of not having performed these duties?
575

576 Brian Crawford: I could see in some of the contentious issues that is something like this is here saying we are authorized and
577 directed to then that means it is our job. I don't think any of these that we can say with full confidence is our job.
578

579 May Becker: It seems these are so general that someone could seek to make the case that someone is not doing the job.
580
581

582 Brian Crawford: In that case, we would be operating under the Board of County Commissioners anyway. That would fit squarely
583 within "perform any other related duties that the Board of County Commissioners would direct".
584

585 May Becker: That is only G. A says make "make studies of the County and surrounding areas". It seems to apply that is our
586 duty even if the Board of County Commissioners doesn't direct us.

587
588 Brian Crawford: That is true.
589
590 Michael Harvey: I am trying to understand.
591
592 Brian Crawford: These come directly from the statutes. By state law, we have to do those whether we are doing them now or
593 not. It is not debatable.
594
595 May Becker: But H through R are also part of the duties.
596
597 Brian Crawford: They are not part of the statutory duties. They have been added by someone else. We are required to do A
598 through G. I am not sure H through R have a direct attachment to the General Statute.
599
600 Earl McKee: You have refereed to H through R as being added in by staff, do you know of any specific reasons any of these
601 were added. I don't have a problem taking them out but were they added for a particular reason.
602
603 Michael Harvey: I have no information to provide a good answer to that question. I don't know who technically added them. We
604 don't know how they got here but I think they are a duplication of effort.
605
606 Tom Altieri: If I had to guess, I would say the Planning Board that existed at the time had some input as to how this reads. Item
607 P, my understanding, was those were put in place when the County was trying to implement zoning in the various townships in
608 the 80s. After that was implemented, they went away.
609
610 Brian Crawford: There is a practical issue. We can always defend what the General Statute says in case of a citizen complaint
611 but I am not certain, there has never been an ordinance or something the Board of County Commissioners has put in writing that
612 these are our other duties. When you have statements like this that cannot defend by some basis to the law that gets us in
613 trouble. Being conservative, I think it is a much better idea to get that kind of stuff out.
614
615 Michael Harvey: The next section is Tenure and Membership. Practically I think this is better in your rules and procedures and
616 not in the ordinance itself. The zoning ordinance should not be the regulatory of that.
617
618 Judith Wegner: The whole business of what terms run and people get appointed, I have found it very confusing about how you
619 count multiple terms. I don't think that belongs in the Planning Board's province, I think that's up to the Commissioners. To the
620 degree that may not belong here. There may be some other part of the code that is about appointments. I think it would be
621 helpful to clear that up.
622
623 Michael Harvey: You are okay with getting rid of the Tenure and Membership as it is currently exists but replacing it with an
624 appointment section to address the conflict.
625
626 Judith Wegner: It doesn't have to be in the UDO but maybe some other place but it needs to be clear. It has come up to many
627 times.
628
629 Brian Crawford: We have allowed expired Board members to continue serving, technically, I don't know if they should be
630 allowed to do that. We do because we need it.
631
632 Judith Wegner: Most Boards...it should also be cleaned out that if you have someone comes on with a....
633
634 Larry Wright: Something will have to be done when all these terms expire.
635
636 Michael Harvey: I am hearing you say the Tenure and Membership could go away but there needs to be something in the
637 ordinance to say this is how appointments are done and answer the question of serving out expired term issues.
638
639 Judith Wegner: It doesn't matter how it is resolved just that it isn't left to be puzzled over every time.
640
641 Michael Harvey: I am going to page 67, Judith this may answer your question about the Planning Director's duties.
642
643 Judith Wegner: In so far as you have a list of duties of the planning director previously, instead of just consulting on policy issues
644 or something to that effect. You can reference in here too. If we are all gone and Craig has retired and there is a 100% turnover
645 what is...I have a hard time what the expectation of the relationship between the planning director and the Board.

646
647 Michael Harvey: Your question is you would like a better explanation of the relationship and it needs to go in an appropriate
648 location.
649
650 Judith Wegner: Frankly I don't think of it as staffing. I think of it as something above. That under planning director for example,
651 it says review applications, prepare reports, maintain.... I would get something affirmative.
652
653 Michael Harvey: We can certainly include your comments. You would be more comfortable for language to be put under
654 planning director's job?
655
656 Judith Wegner: Yes. Others may not agree.
657
658 Michael Harvey: The next section is 34.6 Annual Report. I wonder if that is more appropriate in rules and procedure because if
659 you don't do it one year, you have violated the zoning ordinance and I need to cite you and how will I do that.
660
661 Brian Crawford: I don't understand why our function as a Board need to be in the UDO.
662
663 Michael Harvey: So you are okay to move it to Rules and Procedures. Any other questions?
664
665 Michael Harvey: The next is Board of Adjustment, Section 50-35, page 67 and 68. We have added the specific reference to the
666 general statue and added some language dealing with incidental expenses. That has to be approved by the Board of County
667 Commissioners. Any expenditure of money has to be approved by the Board. The other question I wanted to ask is on page 68.
668 I am not sure what the original rationale was for requiring the Planning Board member to sit on the Board of Adjustment but one
669 of the things we have talked about the problem creating by having a volunteer serving on multiple Boards. Is that a practice we
670 should continue? Serving on multiple Boards? I want to get your opinion with this. Staff does not have a problem with it.
671
672 Brian Crawford: Because the Board of Adjustment is statutory and we are statutory, it is helpful for me that we have a direct
673 contact with that Board and some of their duties. Because the OUTBoard is so important, to hear that regular report is helpful.
674
675 Judith Wegner: Would it be possible for it to be discretionary? If it is a requirement we end up having....
676
677 Michael Harvey: That is the other problem is if a member does not have time and you don't have a member, what will you do?
678 You are technically in violation of your own ordinance.
679
680 Judith Wegner: Then you end up with lacked attendance.
681
682 Michael Harvey: Would you like to mark this and get direction from the County attorney? Is there a way to say this needs to be
683 a suggestion or when it is practical?
684
685 Brian Crawford: Does it say here that it has to be a Planning Board member?
686
687 Michael Harvey: Yes. It is a mandate.
688
689 Brian Crawford: By statute?
690
691 Michael Harvey: No.
692
693 Earl McKee: I understand about brain drain. I don't exactly agree as long as someone is not trying to serve on a half dozen
694 Boards. Not having a long history with the Planning Board, has it been a problem getting a Planning Board member to serve on
695 the Board of Adjustment?
696
697 Michael Harvey: I am at a disadvantage given I have only five years with the County. The last five years we had Jeffrey Schmitt
698 and he has been a dutiful member and we were grateful to have Larry Wright volunteer last month. What would happen in this
699 case?
700
701 Earl McKee: From my standpoint, it is important to have a member of the Planning Board on the Board of Adjustment because it
702 does give that connection. From my perspective, we address that issue when it comes up. Years from now it may be a different
703 story.
704

Approved via an email vote
the week of July 26, 2010;

705 Michael Harvey: Staff has no objection but is it practical. I am hearing you say it is still practical but let's make sure what the
706 Board of County Commissioners wants to do with respect to still having a representative on the Board. The other tweaks or self-
707 explanatory.
708

709 Michael Harvey: The next section is on page 70, Section 50-35.6 Quasi-Judicial Proceedings. This is entirely new language
710 with the exception to an oath being required. The reason I did this was one of the problems I have with the Board of Adjustment,
711 I am the liaison, we are getting in the situation where there are very complex cases and the Board of Adjustment is taking on the
712 vernacular of a legal proceeding.
713

714 On a certain level it is meant to be that way because all of the Board's decisions are based on sworn testimony. Unfortunately
715 we are having to advise people that they may have to hire a lawyer to assist with their case. One of the reasons we have this
716 language is we wanted to set the stage so that even the Board of Adjustment acts in a quasi-judicial capacity, it was never the
717 intention by statute or the County for this to be a formal court style proceeding. It needs to be treated as a legal proceeding. We
718 have tried to craft language that establishes the philosophical groundwork that this is not five judges sitting before you in a typical
719 courtroom style proceeding but residences need to know that this is not like any other Board. There are obligations you have
720 and a process you will have to hear to.
721

722 Larry Wright: Mr. Roberts looked at this?
723

724 Michael Harvey: He has been provided a copy but I am not sure he has read it.
725

726 Larry Wright: I think this is something he really should be a part of crafting this. Isn't this Board working with concert with what
727 he would agree?
728

729 Michael Harvey: The Board of Adjustment actually utilizes the County attorney to advise them on matters of law and the
730 interpretation and statute. With a Class A Special Use Permit, the County attorney is advising the Board of County
731 Commissioners on the interpretation and enforcement of law. You have people who are sworn offering testimony and it is
732 usually staff that leads the presentation of the material and turns it over to the applicant but it is the applicant's responsibility not
733 only are there orders in the statute to stand up and offer the necessary to prove their case and a Larry Wright who may not be in
734 favor or the project has certain obligations and responsibilities to present rebuttal evidence, sworn testimony, etc. saying their
735 wrong. The County attorney's role is to sift through and say this is how you have to do this. At the Board of Adjustment level,
736 John Roberts says, this is what the statute says and here is what is required by ordinance, this case they are referencing isn't on
737 point. He is providing them with legal advice as they make a decision.
738

739 Larry Wright: Then I think it is important that he read through this 50.35-6 to make sure this is within the spirit.
740

741 Michael Harvey: John will review everything but to address the Board's concern, I can ask him to pay specific attention to this
742 section.
743

744 Brian Crawford: This important because if the claimant doesn't like the Board of Adjustment's decision, the first step is Superior
745 Court. So all of the information may be reviewed by the Superior Court.
746

747 Judith Wegner: When you say that, I am curious whether this is being written for the Board itself or the citizens because if you
748 want to educate the Board there are other ways to teach them what to do. If it's for citizens then having an explanation is one
749 thing. With the Board if they are not formally trained they may go off in different directions because if they are not trained they
750 may go off in different directions. I am trying to understand what this is a fix for.
751

752 Michael Harvey: Part of my answer is that it is the Board's authority under the General Statute to issue subpoenas. Even the
753 statute doesn't spell out how that is supposed to happen. My original intention is first to remind everyone to take away the
754 vernacular this is a court proceeding, it is not however, the process of the quasi-judicial proceeding is that everything is done
755 through the submission of evidence and sworn testimony and will be given an oath to tell the truth. I also wanted to put some of
756 the Board's responsibilities in order to promote the quasi-judicial proceeding and there are certain powers they have.
757

758 Judith Wegner: That sounds like it is pointed toward the Board.
759

760 Michael Harvey: I would say it is also pointed to the citizens so they understand what a quasi-judicial proceeding is.
761

762 Judith Wegner: If I were someone who never heard of the law this would not be what a quasi-judicial proceeding is necessarily.
763

764 Larry Wright: I had difficulty with this when we were in the Buckhorn and they were trying to explain the quasi-judicial.
765

766 Michael Harvey: We can get John to weigh in and mark this for continued discussion and when we get you these sections
767 electronically, you can send your comments. My goal is to make sure everyone is on the same page.
768

769 Judith Wegner: It's really good you surfaced it. I just don't know if it's what you are after.
770

771 Earl McKee: I may not understand the Board of Adjustment. My understanding of the duties of the member was to listen to the
772 evidence, support it by the applicant or the claimant. If a developer is denied an application, they can appeal to the Board of
773 Adjustment. My understanding is the members were to listen to the presentation by the person making the appeal and then staff
774 presentation and make your own opinions based on the facts. Some of what I am hearing is that the Board of Adjustment
775 members actually can act as advocates. Is that what I am hearing?
776

777 Judith Wegner: Others can chip in on this. You have to make these very particularized, factual findings about the hardships and
778 reasons and leave your opinions at the door. It's hard sometimes and if they don't have the chance for additional evidence all
779 they get is what the proponent has said. If the Board of Adjustment is there without some opportunity to say well there is
780 someone else to hear from they would be handicapped to make the right decision.
781

782 Earl McKee: That makes sense.
783

784 Michael Harvey: We actually had Board of Adjustment case where the Board was going to have to subpoena people to show up
785 to the meeting.
786

787 Judith Wegner: Tell people what the power of subpoena is.
788

789 Michael Harvey: It says you have to show up at the meeting at a specific time and be prepared to offer comments on the matter
790 before you.
791

792 Rachel Hawkins Phelps: Does the person bringing their case to the Board of Adjustment because the Board of County
793 Commissioners has denied it.
794

795 Michael Harvey: It is usually, the way the statute reads, you are appealing the zoning officer or planning director's decision. You
796 can also appeal when we deny a permit. The only time you have an appeal of the Board of County Commissioners actions are
797 when it violates a judicial proceeding and it is automatically appealed to superior court and that is a Class A Special Use Permit.
798

799 Judith Wegner: It is unlike us, we do stuff that goes to the Board of County Commissioners whereas the Board of Adjustment
800 has functions that... The idea of what a variance means that you couldn't use the parcel at all and if you didn't allow them to
801 have two fewer parking spaces. If it is a matter of interpreting the provisions of the ordinance before they can ultimately turned
802 down.
803

804 Brian Crawford: The practical matter is that you need this independent body in place that it has particular rules. Board of County
805 Commissioners tend to be political. We have this Board of Adjustment with particular rules and procedures that make it easier to
806 follow the law in such a way that when it is reviewed by the Superior Court that there has been some sort of procedure that has
807 been followed that allows the judicial system to follow the process in a way they can render a good decision.
808

809 Larry Wright: On Section 50-35.9, I was confused because is the secretary of the Board of Adjustment a member of the Board or
810 something like Tina, a part of the staff.
811

812 Michael Harvey: It could be anybody. It could be a member of the Board or a designated staff person. It is Debra Graham who
813 is a staff member. One last item on the Board of Adjustment action. Even the Board of County Commissioners can take their
814 Board of Adjustment to court.
815

816 Michael Harvey: The next section is Article 5 definitions. The key items are basically the critical area definitions that you have
817 been working on are not incorporated here yet but will be incorporated later. We have added intensive uses section. We are
818 recommending that we delete all definitions to farm because general statute tells us we don't have regulatory authority over
819 these items and they define them in Article 106. Our existing definitions are 180 degrees in a different direction.
820

821 Judith Wegner: Why don't we just include the statutory definitions. Lay persons who have to use this should have to look other
822 places.

823
824 Michael Harvey: My only problem is that as the state changes its definitions we would have to change our ordinance.
825
826 Judith Wegner: That may be but I am a fan of farmers and I just don't think someone who has a farm that has to deal with all this
827 also has to figure out how to get the statutes.
828
829 Michael Harvey: My viewpoint is that the state tells me as the zoning enforcement officer or as an interpreter of this ordinance
830 that it doesn't matter because we don't regulate it.
831
832 Judith Wegner: I am thinking about from their advantage.
833
834 Michael Harvey: You would rather see the actual reference to the bona-fide farmer.
835
836 Brian Crawford: Say as everyone says it is amended from time to time.
837
838 Judith Wegner: If you include the statutory reference then you include as well you've flagged it for anyone who needs to know it.
839 A lot of people would not know where to find them.
840
841 Larry Wright: There is an error with the Federal Emergency Agency. It is not an independent agency, it is under the Department
842 of Homeland Security.
843
844 Michael Harvey: That is now the case. The other thing as with the Comprehensive Plan references and the other portions of the
845 ordinance, we are recommending deleting definitions of what they are. The Comprehensive Plan provides the definitions.
846
847 Larry Wright: On this Kennel Class 2 on page 92, on item A and C, I read this a couple times and I don't know what is being
848 said.
849
850 Michael Harvey: A says that if you have, own or keep, maintain more than 20 animals at any given time you become a Class 2
851 Kennel and have to get a Class B Special Use Permit. With C if you have six animals and you are engaged in breeding,
852 Boarding or rehabilitation activities, that by definition requires a Class 2 Kennel permit because the non-residential, i.e.
853 commercial nature of the activity. Class 2 Kennels typically requires a Class B Special Use permit in residential properties so the
854 rationale is with the level of intensity you will be offering you have to guarantee you meet certain standards so you don't create
855 ancillary affects on your neighbors.
856
857 Larry Wright: For example, if someone has six dogs and it is a grey hound rescued dog, that is rehabilitation. It seems this is
858 very blurry to me. Rescue is still rehabilitation.
859
860 Michael Harvey: The goal with a Class 2 Kennel process ultimately tries to distinguish between someone who has 10 or 12
861 hunting dogs and that is what they are for versus a commercial activity that the dogs don't create a nuisance for the property
862 owners with a facility built to code. The Class 1 and 2 Kennel definitions are mirrored on Animal Control regulations.
863
864 Mark Marcoplos: On the other hand I live next to Earl who has the unruly hunting dogs barking all the time, I may rather have the
865 rescued dogs. It seems the number of animals is more important than whether or not someone is getting paid.
866
867 May Becker: I have neighbors who are involved in activities with dogs, certain standards should be created and maintained.
868
869 Mark Marcoplos: It just seems odd that you could have a few dogs and all the sudden you are commercial.
870
871 Michael Harvey: If you are rescuing grey hounds to keep as your own pets, I don't think that falls under a Class 2 Kennel. The
872 rehabilitation is incidental. You are taking the animal as a pet.
873
874 Judith Wegner: You might want to work on the definition more.
875
876 Larry Wright: I can see if you are having something like the Mebane Clinic for raptors. I can see if you have wildlife. This would
877 be rehabilitation that is like a business but the rescue.
878
879 Michael Harvey: You will have time to give this more review. We obviously didn't recommend a change to it.
880
881 Judith Wegner: I would be interested to know how this compares to other nearby jurisdictions.

882
883 Michael Harvey: The way it reads and we enforce it is if you have five animals and you are engaged in breeding activity with any
884 one of those animals that constitutes....
885
886 Judith Wegner: If the question is the impact on the adjacent property then this definition doesn't really square give out that.
887
888 Michael Harvey: We have successfully done it. I think we have been fairly successfully.
889
890 May Becker: What is the general process?
891
892 Michael Harvey: For a Class 2 Special Use Permit? You have to obtain a Class B Special Use permit which means the Orange
893 County Board of Adjustment has to review it and issue it. You have to produce a site plan, documentation and evidence proving
894 that you are compiling with the various provision and standards of Article 8.
895
896 May Becker: If someone has five dogs and one of them is bred, that would be considered a commercial operation?
897
898 Michael Harvey: Only if you are attempting to sell the dogs and I have proof you are selling the dogs.
899
900 May Becker: Then you would have to meet certain standards as a commercial kennel. Is animal control involved in that?
901
902 Michael Harvey: Yes. Article 8 requires an animal control approves any Class B.
903
904 Brian Crawford: Michael, let's put that on the review.
905
906 Mark Marcoplos: On page 79 at the bottom, "have sales less than \$1,000 for the preceding three years", I take that to mean for
907 each of those three years?
908
909 Michael Harvey: Yes.
910
911 Mark Marcoplos: I found that Section 50-12 to be interesting but we started at 50-14 and I wondered why it wasn't part of the
912 discussion.
913
914 Michael Harvey: All staff did was take what was listed out with a ton of commas and broke it into subsections. We didn't really
915 change anything.
916
917 Mark Marcoplos: That doesn't mean we can't make suggestions. What if I write something up and send it to everyone.
918
919
920 **AGENDA ITEM 9: COMMITTEE/ADVISORY BOARD REPORTS**
921 a) Board of Adjustment
922
923 b) Orange Unified Transportation
924
925 c) Efland-Mebane Small Area Plan Implementation Focus Group
926
927
928 **AGENDA ITEM 10: ADJOURNMENT**
929
930 **MOTION:** Larry Wright made a motion to adjourn. Seconded by Judith Wegner:
931 **VOTE:** Unanimous
932

Brian Crawford, Chair