

Schroader, Kathy



From: Orjiako, Oliver
Sent: Tuesday, November 24, 2015 8:53 AM
To: Euler, Gordon, Alvarez, Jose, Anderson, Colete, Albrecht, Gary, Hermen, Matt, Kamp, Jacqueline, Lebowsky, Laurie, Lumbantobing, Sharon, Wisner, Sonja
Cc: Schroader, Kathy
Subject: FW: Comments on violations of public participation component and Resolution 2104-01-10
Attachments: Cook-Ltr-151123.pdf

FYI and for the record Thanks.

From: David McDonald [<mailto:david@mcdonaldpc.com>]
Sent: Monday, November 23, 2015 7:09 PM
To: Cook, Christine
Cc: Orjiako, Oliver
Subject: Comments on violations of public participation component and Resolution 2104-01-10

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FRIENDS OF CLARK COUNTY
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November 23, 2015

Dear Chris:

This letter is regarding the Comprehensive Plan update and the current concomitant SEPA process and is intended for the record. We adopt our earlier comments regarding the SEPA process; the failure of this Alternative to have had any environmental review and the failure to have this Alternative go through a scoping process.

Public Process

At the outset, FOCC objects to the hearing going forward on Tuesday.

Although we have previously provided legal argument regarding this process, we assert that having this hearing on version 1.9 of Alternative 5 (the current set of assumptions and exclusions) violates, among others, the public process resolution previously adopted by the Council. The council should be limited to consideration of the Planning Commission's recommendation. GMA provides that the County:

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.** (emphasis supplied)

The County adopted such a resolution (2014-01-10) but has violated the letter of that resolution as to Alternative #4 in general but especially as to Alternative #5¹, in the following particulars

1. As to the development of Alternative #4 at the beginning of the process and, then as to Alternative #5, the County, specifically Councilor Madore has violated Goal #1 by failing to ensure broad participation. A single group (CCCU) and interest (so called private property rights activists) to dominate the process. Specifically, Alternative #4 was developed after a Work Session in January 2015. Peter Silliman drafted the original Alternative #4 in conjunction with members of CCCU. Mr. Silliman is not part of Planning Staff and excluded the Planning director and his staff from crafting the Alternative. The process used by Mr. Silliman stands in stark contrast to the development of Alternatives 1-3. Ultimately, CCCU rejected Mr. Silliman's proposed Alternative, and protested to Councilor Madore who, in turn, created Alternative #4 without any public input and without any input from Planning Staff. Further, Councilor Madore has repeatedly and consistently stated that he is preparing these people for the rural area only based upon his belief in private property rights.
2. Similar to the development of Alternative #4, Councilor Madore crafted Alternative #5 outside of the public process without the assistance of the Planning Director or his planning staff. The Councilor did not share his proposal with any member of the public until the October 20, 2015 Board hearing and the first draft did not surface until the November 5, 2015 PC Work Session. Again, the language of the new Alternative #5 shows that it was crafted solely to address the continued protestations of CCCU who are represented by two vocal individuals.
3. The development of Alternative #5 violates the provision that technical advisory groups should be utilized where complex technical issues requiring a high level of intergovernmental coordination are involved. The groups, as contrasted with the development of an Alternative by one Councilor with no background in Planning, would include individuals with specific knowledge and a variety of interests;
4. The development of Alternative #5 violates the statute that requires early and continuous public participation because it was essentially completed solely by Councilor Madore who did not involve anyone in the process

¹ Although the newest proposal by Councilor Madore, which was only partially revealed at the October 20, 2015 Board Hearing, has been called "An Evidence Based Proposal", modified Alternative #4 and Proposal Column B, it is for all intent and purposes a brand new Alternative based upon brand new assumptions, none of which have been adopted by this Board and which are in direct contravention and contradiction of the previously adopted assumptions

and, at least according to e-mails in the public record, Councilor Madore began the process at least 3 weeks, if not more, before he disclosed it to the public and then told the public that they only had the equivalent of 4 weeks to work on the Alternative. Contrast that with the development of Alternatives 1-3 that went through large public processes over a lengthy period of time to give the public more than ample time to review them, develop meaningful comments on them and provide that input to staff who, in turn, had the ability to incorporate those with a broad and open public process not influenced by any one group or entity.

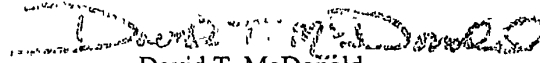
5. The development of Alternative #5 violates Phase I #s 1-4 (2014-01-10 Exhibit) as the BOCC took final actions (resolutions) on each and every one of those steps. The public has consistently relied on those final actions as just that, final actions. Alternative #5 alters all of the resolutions and final actions previously adopted.
6. Information has not been provided to the public in a timely manner, *not because of staff but due to Councilor Madore not allowing staff the ability to develop the proposal themselves thus putting staff in the position of having to critique Councilor Madore's proposal rather than craft the proposal themselves, which is, by the way, why the County has paid staff.*
7. The public has not been given sufficient time to review these proposals. For example staff reports, which are normally available 15 days before the hearing, were not available due to many factors. These include, but are not limited to an extremely truncated process, the fact that the current proposal continued to be revised and the Councilor's refusal to divulge his methodology. Moreover, the actual proposal that scraps two years of work in exchange for what amounts to the development of an entirely new set of assumptions in what is essentially been 3 weeks.
8. The number of proposals, assumptions and changes to the New Alternative #5 (or as Councilor Madore calls it, "Column B" proposals) also violate the public process resolution. At each stage of the proceedings (Work Session on November 9, PC Hearing on November 19 and now on the Grid) there has been a different revision with no indication as to what changes have been made between revisions 1.0-1.09. The Planning Commission had version 1.08 at the hearing on the 19th, which is different from the one at the Open Houses, which is different from the one at the 9th Joint Work Session. There was no indication as to what has changed from one document to another. The public, and planning staff, have been excluded from the process and, e-mails reveal that staff has been precluded from doing anything except to comment on how to best present the New Alternative 5 planning assumptions.

9. The public has not been given any information on the differences between the current maps and any other previous map.
10. There is only a 5-day period between the PC hearing and the BOCC hearing.
11. The BOCC did not post documents for its hearing until Saturday evening and it is unclear what, if any, of this information was supplied to, or considered by, the PC.
12. The hearing has been set as the last item on a long agenda during a daytime, as opposed to an evening hearing, thus chilling attendance and discouraging public participation; and
13. The public was not provided the County staff's own evaluations of this Alternative at either Open House and thereby denying to the public all of the truthful and careful consideration given to the Alternative by staff.
14. Notice provides that materials need to be provided by November 20, 2015 in order to get into the councilor's packet but the planning commission did not finish their hearing until late November 19, 2015 and the councilor's materials that we were supposed to comment upon were not posted to the grid until Sunday, November 2015. We can't comment on the issues the board wants to present on because they were not posted until after the due date for submission of materials.
15. As I was finalizing this letter, I received an e-mail that additional information has been posted to the grid just prior to the end of business today, November 23, 2015. Such late posting of revisions to any of the materials, or any new material is a gross violation of the public process resolution and, given a quick cursory review, proves the statements that I made in my earlier letter to Councilor Stewart that the decision regarding Alternative #4 was made in February by Councilor Madore.

Thus the County is in violation for 1) extremely short periods of time of the development 2) the minimum amount of time available to allow the public to thoroughly and methodically vet this new Alternative 3), the inability of a working public to keep up with the multiple changes and revisions, and 4) the elimination of staff, who are normally charged with helping the public understand all of the ramifications of the change in assumptions, from the process.

Therefore we request that the BOCC not be allowed to consider this resolution or any aspect of the update other than that which is in the Planning Commission recommendation. Thank you for your time.

Sincerely,

A handwritten signature in black ink, appearing to read "David T. McDonald". The signature is somewhat stylized and slightly slanted.

David T. McDonald
On Behalf of Friends of Clark County