

The Board and the Planning Commission (PC) had the following questions and made the following information requests at the joint Board/PC Public Hearing on May 24, 2016.

## **Questions**

### **1. Can the county expand an urban growth area (UGA) without the authority of the city council?**

Yes. However, the Growth Management Act (GMA) requires the county to collaborate and coordinate with the cities (RCW 36.70A.100), even though the county is the lead agency for comprehensive plan updates (RCW 36.70A.110). Also, internal consistency between the county's plan and the cities' plans is required (RCW 36.70A.070).

### **2. Has the county complied with all of Judge Poyfair rulings?**

Attached are three documents regarding the Poyfair rulings:

[No. 95-2-0067 Poyfair Remand Compliance Order](#) from the GMHB May 11, 1999: This document summarizes the actions the county took to comply with the Poyfair decision. The County was found to be in compliance except for 3,500 acres of agri-forest that was remanded back to the County.

[Resolution 2003-09-12 Clark County Board of County Commissioners - September 23, 2003](#): This resolution summarizes the actions taken by the county in response to the 3,500 acre agri-Forest remand which found that the 3,500 acres were not associated with designated resource areas and should not be further considered.

[Case No. 95-2-0067c Achen Final Order, June 9, 2006](#): The GMHB issued an order on May 8, 2006 for any party challenging the comprehensive show cause why the county was not in compliance with the GMA. Since no party responded to the order, the Board concluded that compliance should be found, and the case was closed.

Email from Special Counsel Steve Dijulio:

'That from my review of the most recent decisions of the courts and the GMHB, and based on direction from County Administration regarding that review, the County is in current compliance, and there are no outstanding issues of noncompliance.'

### **3. GMA requires the county to accommodate the foreseeable growth. What are the consequences if we fail to meet that? Can counties fully planning under GMA use non-OFM population numbers?**

In the 1994 plan, Clark County used Metro population forecast numbers. That action was challenged, and the Growth Board ruled against the county, prompting the county to petition that OFM should provide a range of population numbers. That took the action of the legislature, because OFM used to only provide one number (the medium range).

We used WAC 365-196-310 (4), RCW 43.62.035 and RCW 36.70A.110 (2) in preparing Issue Paper 2 to help the Council make a decision on a 20-year population number to use for the 2016 plan update.

For the 2016 update, there was a meeting between Ken Pearrow, the County demographer, Community Planning director, and OFM staff, requesting that they adjust Clark County population estimates, given the historical population growth rate and other factors. In the end, OFM maintained the estimates for Clark County. Using any other population projection would require the county to 'show its work'.

**4. In the case of a medical hardship, can the county remove the second house? Can the provision requiring a guest house not to have a kitchen be eliminated from county code?**

CCC Section 40.260.210 (Temporary Dwellings) outlines the requirements for an applicant to qualify for a temporary health hardship dwelling. The health hardship home is a temporary use that requires renewal every two years. To qualify for a temporary health hardship dwelling the applicant must first demonstrate a need for another person to live on the property whether it's due to advanced age or illness. Secondly, the temporary health hardship dwelling must be a temporary structure, usually a mobile home because they can be removed relatively easily. The code, however, does allow a permanent structure to be constructed per the following language from Section 40.260.010:

"...need not be a temporary structure if the declaration required by Section 40.260.210(C)(1)(e) includes a covenant obligating the purchaser or successors to remove the existing dwelling upon the death or permanent change in residency of the seller retaining a life estate."

Should the temporary health hardship go away, the temporary structure would have to be removed.

The guest house under CCC Section 40.260.010 is a wholly separate issue from the temporary health hardship home. The precursor to Title 40 was Title 18. Per Section 18.104.345, a guest house was allowed as long as it had no kitchen facilities.

The county code in the 1970's allowed up to three residential dwellings on a single lot. This situation created problems for the county when property owners attempted to sell homes and therefore needed the lots subdivided.

When Title 18 was adopted, the county changed the code to allow only one single-family structure per lot (Section 18.411.010). A second residence was allowed only if it had been lawfully constructed before the adoption of Title 18, and it did allow lot segregation below the allowed lot size to permit the sale of the second house.

The guest house code section was created to give owners the flexibility to have a temporary dwelling for visitors, yet not create the problems with allowing multiple homes that occurred in the 1970's. Its intent was to allow the housing in only limited numbers. The county could repeal the restriction on allowing kitchens in guest houses; however, it will create issues that occurred previously in the county in the 1970's. Allowing guest houses to have kitchens will make it difficult to distinguish the primary residence from the guest house. It will make it difficult to prohibit property owners from subdividing their property, should the property owner wish to sell one or all of the houses. Allowing properties to subdivide in the rural area will violate rural density requirements and preserving rural character requirements of the GMA.

**5. If accessory dwelling units (ADUs) are allowed in the rural area and provide an opportunity to increase density, would this action require an additional environmental review?**

Yes. This is an issue that will require careful analysis which looks at the implications of density and the potential allowance of more than one single-family residence on rural lots. Pierce County extended ADUs into rural and resource areas, and that has been challenged. It would be worthwhile to see what the outcome of that challenge is.

**6. What are some of the issues with granting of water rights, and how does that relate to instream flow issues?**

Attached is a [Washington Supreme Court case \(90386-7\)](#) from 2015 that describes the process used to secure a water right.

## **Requests**

**1. Can Clark Public Utilities (CPU) provide a concise summary on water availability?**

Email from Eric Beck, CPU:

CPU has prepared two maps (attached) on their ability to serve outside the UGA's. [One map shows water mains outside the UGA's](#) and the number of customers currently served with potable water. The other map represents the best assumption of the [number of private wells, public water service connections, potential public water connections of vacant lands adjacent to CPU water mains and vacant lots not adjacent to CPU water mains.](#)

WRIA 27/28 Salmon/Washougal and Lewis Watershed Management Plan made a recommendation that a reservation of water be identified in rule language that provides for domestic well usage served by septic systems. The goal was to balance the objective of water supply and stream flow protection since septic systems would return water to shallow ground water locally. However, it was not intended to promote use of domestic wells in lands zoned for urban densities.

**2. What are the tax consequences/thresholds going from 20 acres to 10? In addition, what are the consequences for parcels in current use?**

Email from Peter van Nortwick, Clark County Assessor:

What will happen is always difficult when we are talking about taxes because there are so many different things that can happen. So I will answer questions in terms of valuation, which is what I do.

Scenario 1: If you are in a 20-acre zoning with a 20-acre lot where you can only build one house, having the zoning change to where you can have two 10-acre lots and build two houses increasing the utility of the property. If the utility increases, the market will pay more for that additional utility and corresponding property values will increase. Two 10-acre buildable lots are worth more than a single 20-acre buildable lot.

Scenario 2. If you are in 20- acre zone with a 20-acre lot, your value will increase in the market because you have the ability to make two 10-acre lots. The market value will

increase because you have additional utility, but not as much as if you take the extra step to legally divide the property.

Scenario 3. There is no impact on your Current Use taxes as long as you leave the property in the program. When you come out of the program your expenses will be higher because the difference in value from current use to market value will be greater because of the increase in the property utility.

Scenario 4. There is no impact on your Current Use taxes as long as you leave the property in the program. When you come out of the program your expenses will be higher because the difference in value from current use to market value will be greater because of the utility. What it costs to remove in this scenario is driven by when you take the property out of current use. Removing before creating the lots will have less compensating taxes rather than taking it out after you have subdivided the property. For the sake of this example let pretend a 20-acre parcel in AG 10 is worth \$100,000 and a 10-acre parcel is worth \$75,000. Taking out the 20 acres when its value is \$100,000 is cheaper than taking out the 2 parcels valued at \$75,000 each for a total of \$150,000.

**3. What grant dollars are in jeopardy when not in compliance with GMA? In particular: PW Trust Fund, Centennial Clean Water Account; what happens under preference for grant/loans?**

On May 24, 2016 the Planning Commission and Board of County Councilors held a joint public hearing on the 2016 Comprehensive Plan Update. Following testimony, the question arose regarding the transportation projects that may be in jeopardy if the County's is out of compliance with the Growth Management Act (GMA). The [attached table](#) was provided by Clark County Public Works, detailing the impacts on the 2016-2021 Transportation Improvement Program (TIP) if the County's is out of compliance with GMA.

4. **Spreadsheet for calculating school impact fees** (*spreadsheet will be provided to the Board*)
5. **Washington Department of Commerce web link on GMA compliance status:**  
<http://www.commerce.wa.gov/Documents/May-5-Compliance-List.pdf>
6. **Clark County Association of Realtors provide a population number by 5pm Wed. Also, include comments on the Aging Readiness Plan and Growing Healthier Report.** (*awaiting a response to request from staff for this information*)
7. **Development and Engineering Advisory Board (DEAB) submittal to support a higher infrastructure deduction number in the urban area.** ([DEAB letter](#) and the [county response](#) are attached)