

**COMMISSIONERS' MINUTES  
KITITAS COUNTY, WASHINGTON  
COMMISSIONERS AUDITORIUM  
SPECIAL MEETING**

**TUESDAY**

**2:00 P.M.**

**JUNE 30, 2015**

Board members present: Chairman Gary Berndt, Vice-Chairman Obie O'Brien, and Commissioner Paul Jewell.

Others: Julie Kjorsvik, Clerk of the Board; Neil Caulkins, Deputy Prosecutor; Brenda Larsen, Fire Marshal; and Jeff Slothower, Attorney representing the Appellant.

**PUBLIC MEETING**

**APPEAL OF CODE INTERPRETATION**

**FIRE MARSHAL**

At 2:00 p.m. **CHAIRMAN BERNDT** opened a Public Hearing continued from June 16, 2015 to consider an Appeal of Administrative Interpretation of the Fire Protection Conditions in the Allwest Cluster Plat. He noted the record was closed.

**CHAIRMAN BERNDT** disclosed he had asked Deputy Prosecutor Neil Caulkins about being able to cross examine parties and Mr. Caulkins had indicated they would not be able to because the record had been closed. **COMMISSIONER JEWELL** wanted to ensure the email of June 26, 2015 was entered into the record, stating that Mr. Caulkins and Mr. Slothower both agreed that they could not respond, as the record had been closed.

**COMMISSIONER JEWELL** said he was inclined to affirm the decision of Fire Marshal after reviewing the record and case law including *Hollis v Garwall, Inc.* He felt the record contained evidence that the intent of the plat note was clear, unambiguous and the language was specific in its requirements and must be strictly binding. He said the County explained in their Brief that the Appellant could be relieved of their obligations required in plat note 21, by pursuing a plat amendment, but that action was not being considered during the appeal before the Board.

**COMMISSIONER O'BRIEN** said the developer had selected the requirement for placing 13D residential sprinklers at the time of construction and it was placed on the plat notes. The timeframe for appealing it was 21 days and no appeals were filed. He felt the Fire Marshal's decision should be affirmed and that the actions that were being requested by the Appellant are legally not an option by the Commissioners, and is outside of the LUPA limits per RCW 36.70C.030(1).

**APPROVED**  
9-1-2015

**CHAIRMAN BERNDT** explained how the plat was filed on August 5, 2011 and vested in the language at that time which was then finalized on February 22, 2012. The Wildland Urban Interface Code was not adopted until December 17, 2013, which was beyond any vesting or criteria relating to the Allwest Cluster Plat. He indicated the plat notes were not appealed and although he was unsure where the International Fire Code & WUI Code crossover, the plat notes had nothing to do with building under the WUI code. He said he would be voting to deny the appeal and affirm decision of the Fire Marshal.

**COMMISSIONER JEWELL** moved to deny the appeal and affirm the Fire Marshal's decision of conditions for fire protection relating to the Allwest Cluster Plat to and to instruct Staff to prepare enabling documents. **COMMISSIONER O'BRIEN** seconded. Motion carried 3-0.

Meeting adjourned at 2:19 p.m.

**CLERK OF THE BOARD**

  
Julie Kjorsvik

**KITTITAS COUNTY COMMISSIONERS  
KITTITAS COUNTY, WASHINGTON**

  
Gary Berndt, Chairman