

REPORT TO PLANNING COMMISSION per Planning Commission Rules, Section V, B(3)

For:

SUB-COMMITTEE on COUNTY PLANNING COMMISSION RULES of PROCEDURES

Members of Sub-Committee:

Planning Commission Chair Steve Schwalbe,
Planning Commissioner Tracy Gilroy; and
Island County Planning Agency Director Mary Engle

Documents Reviewed:

Revised Code of Washington (“RCW”) Chapter 36.70 – Planning Enabling Act

Island County Code (“ICC”) Section 16.08 – Planning Commission
ICC Section 16.09 – Island County Planning Agency

Rules of Procedure, Planning Commission of Island County, dated 9/24/2018 (“Rules”)

RELEVANT NOTES on RCWs:

1. RCW 36.70.020: Definitions:

a. “Planning Agency” defined to include Planning Department and Planning Commission

b. “Official Controls”: ordinances and codes, maps etc.

2. **RCW 36.70.040: Planning Commission created by BOCC** “to assist Planning Dept.”

3. **RCW 36.70.070: Commission- Composition: 9 Members** (No Mention of “Vacancies”)

4. RCW 36.70.100: Commission – Vacancies: No Mention Vacancies
Reduce # of Members

5. RCW 36.70.130: Meetings – at least once a month; may be cancelled if no matters pending on calendar.
6. RCW 36.70.140: Planning Agency shall adopt Rules for transacting business & keep Public Record. (See also ICC Rules for both Planning Depart. And Planning Comm.)
7. RCW 36.70.310: Conference and Travel Expenses – Commission Members and Staff
8. RCW 36.70.400: Comprehensive Plan – Approval – Required Vote (“Majority of total Members”)
9. RCW 36.70.460: Planning Agency – Annual Report re: Comprehensive Plan
10. RCW 36.70.470: Planning Agency – Promote Public Interest in Comprehensive Plan & official controls
11. RCW 36.70.500: Right of Entry for Commission or Staff– in performance of functions and duties
12. RCW 36.70.580: Official Controls – Public Hearing by Commission (No mention of Quorum)
13. RCW 36.70.600: Official Controls – Recommend to Board – Required Vote (“Majority of total Members”)
14. RCW 36.70.800: Procedural Amendments – Zoning Amendments (same approval as Official Control, i.e. Majority of total Members”)

BOTTOMLINE:

1. RCW does not address QUORUM for COUNTY Planning Commission. It allows the Planning Commission to set its own Rules there, e.g. how many Members are needed for a Work Session, a Public Hearing, or to Take Official Action.

See below, that ICC 16.08.070 establishes a QUORUM at 5 of 9 Members.

2. RCW does speak to the # of Commission Members required to similarly vote in order to take Commission Action: Majority of the Total Commission Members – 5 Members of the 9 Member Commission affirmatively voting is required to take Commission action on Comprehensive Plan, Zoning Changes and Official Controls (Code Clean Up.)

RELEVANT NOTES on ICC:

1. ICC 16.08.010: Commission - increased to 9 Members by the BOCC via Section 16.09

2. ICC 16.08.030: Removal – (No mention that Vacancies reduce Number of Members.)

3. ICC 16.08.040: Powers – See duties conferred by State Law.

4. ICC 16.08.070: Quorum – Majority of Membership of Planning Commission

a. 5 of 9 Members

b. No Mention of Vacancies reduce numbers of Members for a Quorum.

5. ICC 16.08.070 (Same Section – titled Quorum, but addressing Action):

a. Liberally permits “Commission Action” to be via an affirmative vote of just a Majority of Quorum, i.e. 3 of 5-Member Quorum.

b. This is INCONSISTENT WITH RCWs in that RCWs require Action from 5 of 9-Member Commission.

6. ICC 16.090.080 – Commission Rules

NOTE: County Code Section 16.09.080 requires the Planning Commission to adopt its own Rules and Regulations provided not in conflict with state or county law.

But, ICC is inconsistent with RCWs, see below.

BOTTOMLINE:

ICC 16.08.070 is inconsistent with RCWs 36.70.400, 36.70.600, and 36.70.800

- a. RCW requires 5 of 9 Members to take Commission Action.
- b. ICC allows 3 of a 5 Member Quorum to take Commission Action.

RECOMMENDATION:

The “ACTION” sentence in ICC 16.08.070 needs amendment to state that a quorum *includes* vacancies, not excludes them.