

Hunsucker Briefing on Titles 8, 18
January 27, 2020

PC made a “big point” that they had a 7-0 decision. Also asked that BOCC move forward with this version even if they win their appeal.

Appendix 2 & 3 in briefing book:

- The significant change to 8 is new definition of firearms allowed
- Ditto to 18 is limiting ranges to indoor as a discretionary use in all commercial industrial areas except resource based industrial; subject to SEPA. Outdoor ranges except legal existing not allowed.

Staff analysis is all about BALANCING RISK--between 2nd Amendment and GMA protection of forest. Have to consider legal issues of:

- Public participation requirements
- SEPA
- GMA
- Limits on right to bear arms
- Limits on police powers
- Due process--WA and Supreme Court say--the aim has to be legitimate public purpose, with means necessary to achieve that purpose, not arbitrary etc.
- 2 cases--WA supreme Court--re: government invading property permanently, completely depriving the owner of positive use
- Cited Yim vs. Seattle, 2019--something about disavowal of 60 prior cases, upheld ruling in OSF case, that property owners do not have a right to do anything they want without reasonable regulation---(that isn't really what that case was about, I don't think--it had my name on it, btw)
- US Supreme Ct--it is a core individual right to defend home, carry arms in face of confrontation
- US Ct of Appeals--Individuals have a corollary right to train on shooting range, a right to acquire & maintain proficiency
- SUPREMACY PRINCIPLE--
 - Constitution is Supreme Law of the land, all judges bound to it
 - GMA states that too--RCW 36.70A.370
 - Comp Plan LU-P-1.2 says must protect the rights of private property, preserves right to reasonable regulation
 - Quoted Scott's comment for TRC on Ezell, as “going to the core”...(I didn't catch it all, sorry)
 - He went into Ezell in detail: 1st Ezell--range training is not outside 2nd amendment, but is “close to the core” of the individual right of armed defense. Measured by severity of burden to the core right. Government bears burden of justifying regulation, and have to show in compliance with 2nd Amendment.

- 2nd Ezell--regulations must document their claims of risks, and the regulation must reduce the risk--point made about zoning regulations that severely limit where facilities can locate.
 - Then he went to specifics about how little land in the county is zoned industrial--(not clearly specified as an example of 2Ezell, but clearly intended to be)--
 - Forest Resources overall that are zoned by the County--76.xx %
 - Of those, zoned RF40 2.84%
 - Zoned Inholding 1,69%
 - Rural commercial-- 0.1%
 - Rural industrial 0.1%
 - Urban industrial 0.11%
- (PS: The property cap under staff's proposal was 0.03%)

He concluded this section with noting the use of CUP to deal with parcel analysis and commercial viability of any parcel in any of above, and that indoor ranges pose fewer compatibility issues.

Next section deals with SEPA analysis issues:

- The comparison of PC recommendation and alternatives was a “No Action” alternative, the code as it existed prior to 2018. “Many things lacking”--relied on CUP, (a) and (c) were main points that are still applicable (?)
- Alternative 1--what was passed in 2018. Fixed ambiguities and loopholes, provided standards.
- Alternative 2--what staff recommended to the PC--(I didn't get all the wonderful things it does)
- Alternative 3--Proposed by TRC--our ten bright line requests; focussed on outdoor facilities; no quota on amount of land; did fix ambiguities.
- Alternative 4--PC Proposal--Only indoor. New was stipulation that sales of firearms, component parts, and accessories is allowed.
- Alternative 5--includes the sales above, no outdoor commercial.

He believes that there has been adequate public participation, SEPA review, and Forest lands have been protected by Alt. 5.

Staff definition of small scale/tourist (I think that is in the works--I don't remember one). All have same new definition of firearms. PC proposes new limitations.

NEXT STEPS: (Here is where it gets interesting again!)

- Finalize SEPA--comments close 1/29
- Dept. of Commerce has given a go
- Tent. sched. Feb. 10
- Work on Compliance Review Report for 3/10
- TRC appeal--litigation deadlines for getting brief to court
- FDC appeal--in court now

Made a point to say that re: the hearing, the only proposal they have in front of them RIGHT NOW is the PC proposal. However, in anticipation of possible BOCC changes to the PC, he had conveniently come up with alternatives they might wish to consider if they wished to make changes!

A commiss. asked if the alternatives would be part of the hearing--he said yes, and if they wish to make any changes, they have to include them in the public hearing notice. It wasn't clear exactly--but it sounded like if they thought they might want to make changes and included the alternatives in the hearing, the SEPA and public testimony requirements would be covered.

Kate asked for information about the current availability of public lands for shooting, re: the public's access to that as a resource.

Greg asked about separating the times for the two proposals, and possibly stifling comments on Title 8 by only giving one hour. Hunsucker believes that there will be a lot fewer comments on Title 8 from either PTSA or TRC, as it's about procedure, and Title 18 has the most changes. Re: separation, he referenced the GMA concern about "co-mingling them" before, and making a cleaner record. The Recorder said not that hard to separate them during transcription. Discussion resulted in re-combining them for the hearing, so to avoid confusion to respondents. (**We'll still only each have our three minutes, so need to divide up the talking points accordingly, re: Title 8 and 18.)

Without discussion about summarily approving the PC recommendation, which they could have done, they moved to approve the hearing notice, to start at 2:00 p.m., at Fort Worden Commons, on February 10th. There is no set end time for the room.

They also approved a 1:30 start time for the hearing on the extension of the Moratorium for 6 months. That extension is deemed necessary because the April 14th GMB review of their report is outside the expiration of the current moratorium, and *it is conceivable that they could ask for further information or revision (italics mine!)*. In addition to the 6 month time, they are asking to allow acceptance of permits to approve work under a noise abatement grant available to an existing commercial shooting facility.