



Written by [William F. Jasper](#) on June 21, 2013

## Victory (Temporarily) in Round 1 for Property Rights in Kootenai County, Idaho

“The county planners want to plan our lives and control our property, but they can’t even plan a meeting,” an angry property owner commented at the Kootenai County Planning Commission meeting at the Kootenai County Court House in Coeur d’Alene, Idaho, Monday evening, June 17. The expressions of anger and exasperation grew as the overflow crowd of nearly 300 tried to pack into a 150-capacity room to comment on the proposed new Unified Land Use Code, a comprehensive rewrite (and vast expansion of) the county’s existing land use regulations, which were already the source of much discontent.



The meeting was the first of a planned four-meeting series that was scheduled to run each evening from June 17-20, with each night covering several chapters of the new 500-page ULUC Draft. Sparks began flying (metaphorically) from the start. The Coeur d’Alene Fire Department came to the rescue a little over an hour into the volatile meeting, informing the Commission that the gathering was over capacity and in violation of the fire code. This spared county officials from more blistering comments from area residents. It also gave Kootenai County residents a reprieve, as Wes Hanson, the planning commission chairman, announced that the meeting would be adjourned and continued in a new series of meetings scheduled at a larger venue.

Much of the concern and outrage expressed at the commission meeting by property owners stems from the fact that the new “comprehensive plan,” the ULUC, is more than double the page count of the existing code, and, as might be expected from that expansion, contains many more regulations, prohibitions, restrictions, mitigations, impact fees, permit requirements, and much more. Another common complaint, both from property owners and professionals who regularly deal with these matters, such as realtors, appraisers, consultants, and attorneys, is that the ULUC is vague and confusing, with many terms undefined or ill-defined, opening the door for county administrators, inspectors, and regulators to cite and fine property owners for many normal activities and uses now permitted under the current code. Still another point of contention is that many (if not most) property owners in the rural areas most affected by the new plan did not even know about the revision and the extent of the changes and the impact it would have until they were presented with a near fait accompli very recently.

Planning commission chairman Wes Hanson opened the Monday meeting by explaining the rules for taking comments from property owners that had signed up to speak, each for three minutes. Grumbles and frustrated comments from the crowd had already begun. Hanson then turned the meeting over to Bret Keast, president and owner of Kendig Keast Collaborative, the Colorado-based company that wrote the new code. Keast began, using a slide presentation, to explain chapters 1-3 of the new ULUC. He



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didn't get very far before the grumbles turned into shouts: "You're wasting our time"; "He's taking up all our time"; "We didn't come here for this"; "When does the public get to comment?"

### **"Out of order" — but on target**

One man was making a similar comment when Hanson said, "You're out of order."

"I know I'm out of order," the man retorted, "and I'm exiting, but that's the whole point. This is typical. You want to wear everybody down with all the time taken up [by Keast] and no seating and no time for us to comment."

From the resounding applause and cheers he received, it was clear that the departing dissident was expressing the feelings of the vast majority of those in attendance. Someone from the crowd shouted: "Why didn't you schedule a larger room, there're people clear down the halls and outside?" Another person shouted: "This meeting is in violation of the fire code; does the Fire Department know about this?" Someone apparently took a cue from this comment to report the over-capacity crowd to the Fire Department. After taking comments from six property owners, including two representatives of Avista Power Company, and a five-minute recess, the meeting resumed with an announcement by chairman Hanson: Per orders of the Fire Department, all those not occupying chairs would have to leave the room. This created an instant commotion with a welter of angry comments.

One woman who was seated stood up and shouted: "If you make the people who are standing leave, we're ALL walking!" Several people responded instantly with "Yeah!" and "Just scrap the plan!"

### **Scrap the plan? Many say yes**

Someone shouted out, "Get a bigger room and do this right!" It was clear that folks were not going to go along with any proceeding that would evict half of the property owners who had come to comment and get answers to their questions. Faced with this showdown, Hanson huddled with the rest of the commissioners then returned to the microphone to announce that the series of meetings would be rescheduled to a larger venue at a later date. "Are we going to be legally notified, not railroaded?" someone asked from the audience. "Will we get the legally-required 30-day notice?" someone else asked. Several people called out that they should plan for a thousand or more because the crowd would be even bigger next time. Some called out that they should have scheduled it at the high school auditorium or the county fair grounds.

Hanson assured the crowd that once the commission found an alternative venue that the public would be notified — by newspaper, Internet, and U.S. Postal Service — at least 15 days in advance, which he said was the legal requirement. The county attorney subsequently corrected him, noting that the legal requirement is 28 days advance notice to the public.

Hanson apologized that the seating capacity was inadequate and told the crowd he had had nothing to do with scheduling the venue. He assured the audience that the testimony already given would be entered into the record and the follow-up meetings would be moved "to a date uncertain," with the deadline for comments extended to the last meeting.

As the meeting broke up, many members of the audience were obviously elated and relieved at the outcome. "We didn't get it rammed down our throats; we stopped them — at least temporarily," one man commented to several others. "They need to throw the whole thing out and start over," said another, expressing a common sentiment of many who were present.

Gary Mitchell, with the North West Property Owners Alliance (NWPOA) told *The New American* that the



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evening's forced postponement of the ULUC was a victory of sorts, but that his organization is working to make sure an even larger assembly of informed property owners will come out to the next series of ULUC meetings. Mitchell agrees with many others that the ULUC is so fatally flawed that it should be tossed out and a new plan drawn up that would protect property rights and allow rural property owners to genuinely participate in the process. At least one of the members of the county planning commission, John Malloy, told *The New American* that he too favors scrapping the ULUC and starting over.

The County Commissioners, however, still may not have gotten the message, to judge by their statements the following day. As [reported by the Coeur d'Alene Press](#) on June 19, the commissioners did not seem sympathetic to the concerns of the crowd expressed the night before. "We really don't need more time for reviewing documents," County Commissioner Dan Green was quoted as saying.

Commissioner Jai Nelson seems to be convinced that the problem is not with the ULUC itself but with the assumed ignorance of the rural property owners. "I am sure we can make headway there, but we'll never make it simple enough for everyone," Nelson said. "I think the real problem is public education."

"From this process it's obvious we aren't going to have a Kumbaya moment," Commissioner Todd Tondee said. "I don't think we will be able to educate all of them. Some of them don't want to be educated."

Bob Bingham, founder of the North West Property Owners Alliance, finds these kinds of statements from public officials offensive. His group has been holding educational meetings all across the county, he says, and has found that property owners from all walks of life want to know about the ULUC. And they're not all a bunch of ignorant bumpkins, contrary to what the County Commissioners and out-of-state consultants may think.

Bingham established his credibility and the NWPOA's growing influence by taking on the County Commission's new impact fees. Bingham did his research and the County Commission was forced to back down. Rather than face costly lawsuits they were likely to lose, the county decided to return hundreds of thousands of dollars in impact fees improperly assessed on local property owners.

The [NWPOA website](#) provides analysis of the Comprehensive Plan and the ULUC, as well as links to official documents and maps. The NWPOA has issued a four-page ["Position Paper on the Kootenai County Proposed ULUC"](#) that lists 17 points concerning the ULUC Draft and the process that produced it.

The NWPOA "Position Paper" notes, for instance, that: "Rural property owners were not individually notified by USPS direct mail of the Comprehensive Plan revision process, nor the ULUC formation process until the draft was complete." The paper also states:

One of the most offensive observations in the creation of the ULUC draft was the BOCC's [Board of County Commissioners] purposeful appointment of dogmatic environmental individuals to lead and formulate the content of the proposed ULUC.... The BOCC authorized the continued decision making involvement of a self described environmentalist activist on the ULUC Technical Committee for the 9 months he was actually a California resident, shaping his vision for Kootenai County at the expense of local property owners.

The Position Paper states further:

The current ULUC draft is basically double the size of our current ordinances. Neither has it escaped our attention that at the same time the Kendig Keast consultant is formulating our ULUC,



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it has been formulating a similar code for a city (McAllen, TX). Yet the McAllen ULUC draft is just 300 pages, or apx. 40% smaller than our rural ULUC draft. It is the judgment of nearly everyone that a rural code would and should naturally be much smaller than a city code simply from the fact that rural property owners have less close-quarter concerns that may need to be addressed.... Rural property owners do not feel the need for such a large and complicated code.

The NWPOA and other ULUC critics have criticized the disproportionate influence that the Kootenai Environmental Alliance (KEA) and other “Green” activist groups have had in development of the ULUC. The planning commission chairman, [Wes Hanson, is a board member of the KEA](#) and other KEA activists served in various capacities on the commission and its technical panels.

Many locals resent the KEA as an “astro-turf” outfit [funded by the Seattle-based Bullitt Foundation](#) and other out-of-state enviro-extremists. Local property owners also have been very critical of Kezziah Watkins, the firm that conducted the survey for the Comprehensive Plan, and Kendig Keast Collaborative, which produced the ULUC Draft. Both firms are heavily involved with the American Planning Association (APA), the principal professional organization promoting “central planning” in the United States. The [APA planners have no problem](#) collaborating with their counterparts in Communist China and other socialist countries where protections for property rights are non-existent and where government master planners control all facets of life. The APA also is a major participant in the UN’s notorious HABITAT World Urban Forum, the most recent of which occurred in Naples, Italy, last September.

The first UN Habitat conference, held in Vancouver, British Columbia, in 1976 clearly demonstrated the Marxist orientation of the United Nations, particularly as it relates to land use. The conference caused an uproar among freedom-oriented advocates with its “Action Plan,” which was a frontal Marxist attack on the individual right to own property that appeared to come right out of the Communist Manifesto. The UN Habitat “Action Plan” declared:

Land ... cannot be treated as an ordinary asset, controlled by individuals.... Private land ownership is also a principal instrument of accumulation and concentration of wealth and therefore contributes to social injustice.... Public control of land use is therefore indispensable.

UN Habitat now moderates its rhetoric somewhat, paying lip service to “market forces”; however, its references to the “market” do not mean “free market” or free enterprise as generally understood by most Americans, but to a market system as defined, for instance, by the Peoples Republic of China in which Communist Party officials and their families are made into instant billionaires as the executive front men for huge state corporations. These Big Government and Big Corporation cronies have no qualms about running roughshod over millions of “little people” who are in the way of their master plans. As [reported recently](#) in the U.K. *Telegraph*, the *New York Times*, and *Bloomberg Businessweek*, the Communist Party that runs China plans to remove some 250 million to 650 million Chinese from rural areas over the next 12 years and relocate them (in most cases, forcibly) into densely populated urban centers. This will be the largest forced migration in history.

[A similar relocation program is already underway in Brazil](#), where the Marxist government of President Dilma Rousseff has dispatched federal troops to relocate rural populations at gunpoint. The APA has been very active over the past several years in Brazil, together with the UN Habitat and the U.S. Department of State (DOS) and U.S. Department of Housing and Urban Development (HUD) promoting rural and urban land use planning. APA CEO W. Paul Farmer was a major participant in an [urban planning seminar in Rio de Janeiro in 2010](#), along with DOS and HUD officials. The APA was one of the



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privileged “Major Groups” accorded special status at the UN’s Rio+20 Earth Summit II held in Rio de Janeiro in 2012, to commemorate and build on the 1992 UN Earth Summit, which birthed [Agenda 21](#) (the UN’s environmental agenda for the 21st Century). To what degree has the APA been involved in developing and/or supporting these totalitarian relocations of rural populations? That would seem to be a fair question, inasmuch as the organization has been very much involved in both countries. We can find nothing on the APA website that condemns or criticizes these tyrannical policies or statements in which the APA disassociates itself from these government programs.

The American Planning Association (which is part of the UN-related [Global Planners Network](#) and the World Planners Congress) gives every evidence of supporting the worldwide move toward global central planning, ignoring the fact that individuals have a God-given right to plan their own lives and that the history of government central planning has shown it to be invariably disastrous and always the enemy of prosperity and liberty.

Environmental activists regularly invoke government “planning” as essential to protect the environment from exploitation by private owners. This is particularly ironic since the most massive and destructive environmental impacts have been those carried out by governments, and the socialist and communist governments that have the most onerous central planning have been guilty of the most egregious ecological devastation. China and Russia are two of the prime exhibits. Private property owners have a vested interest in maintaining the value of their property, and by virtue of the limited size of their property — as opposed to a socialist government that owns and/or controls virtually all the real property — can do relatively little damage. The APA does not seem to appreciate this fact.

[“The American Planning Association and Its ‘Faulty’ Handbook,”](#) an article by Tom DeWeese, president of the American Policy Center, provides considerable background on the APA’s defective view of property rights and its un-American obsession with government planning of all facets of citizens’ lives. The fact that the consulting firms that produced the Kootenai County Comprehensive Plan and the ULUC are heavily intertwined with the APA and have won numerous APA awards for designing master plans for other cities and counties speaks volumes. It goes a long way toward explaining why the plan they came up with for Kootenai County is so convoluted, intrusive, and oppressive.

It remains to be seen whether groups such as the NWPOA, [Kootenai County Citizens for Property Rights](#), and others will educate and activate a sufficient number of fellow property owners in time to force the County Commissioners to scrap the defective ULUC and start afresh to produce an acceptable land use code.

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