

Washington's Planning Directors Annual Conference

Summary of Tribal Planning Session and Potential Paths Forward

Campbell's Resort, Chelan, WA - September 8, 2022

Session: Tribal, County, and City Implementation of House Bill 1717

Panelists: Andrew Strobel, Puyallup Planning Director; Kirk Vanish, Director of PW and Planning, Lummi Nation; Mike Lithgow, Kalispel Tribe. Moderator: Joe Tovar, University of Washington. Roundtable discussion leaders: Julia Gold, Tulalip Tribes; Luke Strong-Cvetich, Jamestown S'Klallam; Jamie Judkins, Cynthia Toop, and Raleigh Anderson, Shoalwater Bay Tribe.

I. Remarks by panelists

Andrew Strobel, Puyallup Tribe of Indians

Andrew began by asking the audience two questions. First question was "does your comprehensive plan mention of Tribes?" Lot of hands were raised. Next asked was "for those who raised your hands does your plan speak of tribes in the present tense, not just historically?" Some hands went down. He said that for too many local governments, they think of tribes in the past tense rather than the present and future tense.

He said that before HB 1717 there was only one brief reference to tribes in the GMA, which said that tribes "may" participate in count-wide planning policies." He said that HB 1717 creates a clear legal framework to institutionalize and encourage a planning relationship between tribes and municipalities. It establishes a process for conflict resolution regarding comprehensive plan and development regulations. He reported that the Puyallup Tribe and Pierce County inserted a new chapter in the Multi-County Planning Policies as part of the Vision 2050 framework adopted by the Puget Sound Regional Council.

Andrew said that the Puyallup Tribe is the only one in the state which has a Port on their Reservation, therefore has been involved in working with the City of Tacoma in preparing a Port Element to the City's Comprehensive plan as required by the GMA.

He pointed out that Federal Section 106 establishes requirements for Cultural Resource Protection. He said that any land can contain cultural resources or

treaty resources, even if far removed from a reservation. For example, he said that members of tribes in the Puget Sound region sometimes hunt on lands in southwest Washington.

He said that too often Tribes have been incorrectly considered by local governments to be stakeholders with one specific interest, such as chambers of commerce, farmers, or community organizations. He said that tribes are not stakeholders, they are sovereign governments with many specific concerns including transportation, natural and cultural resources, economic development, and land use. That sovereign status of tribal governments is recognized by the Centennial Accord which calls for development of government-to-government relationships. He said that HB 1717 provides a formal structure for cities and counties to build that government-to-government relationship with tribes

Tribes are often managing lands concurrently with other jurisdictions and want functioning working relationships between their staff and local government staff to avoid problems at the end of the planning process. He said that the Puyallup Tribe works with eight jurisdictions that are either on the Reservation or occupy some of the Tribe's usual and accustomed areas off-reservation. He said that it is important to establish early participation with tribes planning processes, when fundamental policies and rules are being considered, not late in the process when public and private projects are in the design and permitting phases.

Kirk Vanish, Lummi Nation

Kirk said that there are many “Opportunities for you” if you are actively engaged with your tribal neighbors. He said that all your roads should be mapped and listed on the Tribes’ Road Inventory, which is filed with the federal Bureau of Indian Affairs. If a listed road is obliterated or damaged your local government would be eligible for federal funding that they otherwise would not have access to. Kirk pointed out that every Federal Agency has a Tribal liaison who can facilitate a meeting with federal agencies, to solicit \$\$ to close funding gaps for important infrastructure used both by tribal and non-tribal governments.

Kirk cited the example of a bridge that leads to but is not on the Reservation. He said if the county were to give the bridge to the Tribe for 5 years the Tribes/BIA could make available funds to get that bridge rebuilt, after which it could be returned to the county’s authority.

He said that Tribes represent Health Care opportunities, such as providing services to non-native people. He said that for rural communities this can be a significant opportunity.

Like Puyallup, Kirk said that Lummi has a huge “Usual and Accustomed Area”, which are off-Reservation lands on which the Tribe has some treaty right to access or use. He said that the Lummi Nation has created a large Wetland mitigation bank which he said can sell credits to local governments or private developers needing offset wetland takes. He said the primary priority for those funds is to help provide housing for Tribal members.

Kirk recommended scheduling joint meetings of the Tribal and City or County Planning Commissions. He said that Lummi has 35 commissions who work on different issues many of which have corresponding groups in nearby cities or the county and could benefit from joint meetings. He said that meetings between elected officials can help build familiarity and trust which in

turn enables greater coordination and partnership on issues of mutual interests. The tribal chairman and county executive had built a good working relationship to the benefit of both the tribe and the county, but that when a new person became the county executive, that relationship and its benefits were lost.

Mike Lithgow, Kalispell Tribe

Mike said that the Kalispell Tribe and Pend Oreille County do not have a good relationship. He described a subarea plan and zoning study jointly done by the Tribe and County in the Cusick/Usk area in northeast Washington. The focus was the largest industrial area in the County with both the Tribe and the County providing input about their concerns and ideas for the subarea. Mike said there were many meetings of a joint committee and several recommendations about land use and resource issues. Unfortunately, he said that the elected officials did not buy in to the recommendations of the committee and nothing was adopted. He said part of the problem was “100 years of bad blood” between the Tribe and the County.

Mike said that another generic problem in building positive relationships between tribes and local governments is that both have capacity issues. It can be hard to establish and maintain communication, even at the staff level, because everyone is so busy. Mike said that even with setbacks and challenges, it is important to keep talking.

II. Roundtable questions and comments

- Q: Does HB 1717 create any duties for counties and cities to respond to tribes outside the state that may have interests inside the state? Examples would be Idaho and Oregon tribes.
A: No, HB 1717 only names the 29 federally recognized tribes in Washington. This came up during the discussions on the bill, and several Washington tribes were adamant not to include tribes outside the state.
- Q: Why is it so difficult to engage effectively with tribes? Emails and calls go unanswered, comments come in late, or might ask for the local government to do something illegal.
A: There may be several reasons for this. First, everyone, including tribal governments, are extremely busy, so it's partly a capacity constraint issue. Second, while it is important to address correspondence to elected tribal leaders out of respect, but it is essentially to cc the tribal staff as well. Third, just because you didn't get an immediate response to an outreach don't give up. Sometimes you just need to knock on the door more than once.
- Q: Tribes focus primarily on natural resource issues and this is often disconnected from other important issues like economic development, housing, health, and transportation. Departments responsible for these different issue areas often do not communicate with or coordinate with each other. How can this be addressed?
A: This is partly a question of internal departmental structure, partly a question of training, and partly a question of explaining to elected tribal leaders the benefits and importance of addressing these issues comprehensively. One idea would be to develop a model tribal comprehensive plan structure with the core required elements being (1) Natural Resources; (2) Economic Development; and (3) Transportation. These are the three standing committees of the Affiliated Tribes of Northwest Indians

(ATNI). To create alignment with corresponding county and city comprehensive plans, additional tribal Plan Elements could be (4) Capital Facilities; (5) Housing; and (6) Land Use.

- Q: As we begin the Comp Plan planning update process, what type of outreach should we do? What is the Tribal involvement in the development of a countywide planning policy?
A: Counties and cities should reach out to tribes in their region and vice-versa. It should begin with letters addressed to the elected leadership of each unit of government, with cc's to the appropriate planning staff person in each. An early meeting at the staff level can explore best ways to design engagement on the comprehensive plan, regulations, or capital improvement projects being undertaken. Once a method is developed, it should be shared with respective elected leadership for formal adoption as a memorandum of agreement or interlocal agreement.
- **Comment:** Both tribes and local governments tell interested parties that it is critical to engage in the planning process during the development of policy and rules. If you wait until the project proposal stage, you're too late. The same goes for a tribe and a local government needing to engage with each other early during the plan or regulation development process. The longer it takes to meaningfully engage in a planning process, the harder it becomes to revisit earlier decisions.
- **Comment:** Commerce is providing guidance, but it is not their responsibility to activate the Tribal-municipality relationship; HB 1717 is a great conversation starter!
- **Comment:** The Northwest Indian Fisheries Commission has a dedicated focus on fisheries – and they dominate the policy dialogue. This orientation tends to trickle down to individual tribes. The housing authority and land use and economic development issues get less attention.

- **Comment:** although tribes look at “seven generations” as part of their shared cultural outlook, the elected officials of tribes are often focused on the immediate or near term picture. They could benefit from training to connect near term budgeting and land use decisions with a longer term vision and multi-decade implementation strategy.
- **Comment:** WSDOT through trial and error has become the most knowledgeable state agency on how to communicate with tribes. Megan Cotton at WSDOT or Megan Nicodemus were recommended as key resources.
- **Comment:** Commerce should take the lead in keeping Tribal contacts list up-to-date.
- **Comment:** HB 1717 provides a structure to institutionalize ways that tribes and local governments are going to communicate and coordinate plans and actions. That structure requires clear commitments from each jurisdiction to guide specific actions and provides an environment for creating a shared and durable culture of collaboration.
- State planning grants to counties and cities increase the capacity of those governments to engage in planning. Tribes wishing to engage in the GMA planning enabled by HB 1717 should also be eligible for such GMA planning grants.
- Another path forward would be for Commerce to sponsor a tribal training program for tribal elected officials, planning commissioners, and planning staff. This would help everyone understand the basics of planning under the GMA, how tribes can participate under the provisions of HB 1717, and why those are good opportunities. It would also enable tribal governments to be more effective as organizations.
- It was suggested that a training program could build on the GOIA Government to Government 1 day training.
- Tribal planners agreed that not every tribal elected official knows the value of collaboration. Older council members have lots of history, but generally resist new ideas like active collaboration with counties and cities. Again, this may be a training need that Commerce could help address.
- Two existing tribal conferences for elected leaders could provide a venue for a training program of this sort: the Affiliated Tribes of Northwest Indians (ATNI) in the spring and the fall and the Centennial Accord conference in the fall.
- Someone said that Daryl Williams at Tulalip would be a credible convenor or facilitator for such a Tribal Planning training effort. Rather than try to offer such training statewide, perhaps six or seven sessions could be staged across the state organized by watershed basins.

III. Take Home Messages and Possible Paths

Forward

- Many people said that this planning directors conference and session have been very valuable. They said that it would be great to extend the membership to tribal planners and to invite them to future conferences.
- MRSC is a great resource for counties and cities. Access to MRSC consultants and staff is not now available to tribes. One suggestion was made that the Legislature should amend its funding criteria to make tribes eligible for membership in MRSC.