

**MASON COUNTY
PLANNING ADVISORY COMMISSION**

**Minutes
April 17, 2006**

(Note audio tape (#2) dated April 17, 2006
counter (#) for exact details of discussion)

(This document is not intended to be a verbatim transcript)

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1. CALL TO ORDER

The meeting was called to order by Chair Bill Dewey at 7:15 p.m.

2. ROLL CALL

Members Present: Bill Dewey, Tim Wing, Steve Clayton, Terri Jeffreys, Wendy Ervin, Jay Hupp and Diane Edgin.

Staff Present: Bob Fink, Steve Goins, Allan Borden, and Susie Ellingson.

3. APPROVAL OF MINUTES

None.

4. NEW BUSINESS

(#0025) Allan presented the revised staff report for the SEPA appeal process issue that was continued from May 20, 2006. The last staff report included the changes in the Environmental Policy Ordinance and through a series of questions from the PAC there was a need for clarification. The change in the staff reports states 'All evidence and arguments in opposition to a *threshold determination of a* proposal must be made during the SEPA comment period'. Allan presented a flow chart for the review process and discussed the method of reviewing that process. The issue of appeal to the Hearing Examiner and appeal to the BOCC was discussed. He stated that right now there is an appeal to the Hearing Examiner that comes from the threshold decision.

(#0500) Jay Hupp stated that if it isn't going to be that much of an administrative burden to leave the appeal opportunity within the county, either the appeal to the Hearing Examiner or to the BOCC before they have to go the route to go to court. This is a decision that's being made by the staff and if the applicant doesn't agree

Planning Advisory Commission Minutes, April 17, 2006

with the decision that's being made by the staff, Jay stated that he would be more comfortable with an opportunity to appeal to the BOCC or to the Hearing Examiner before they have to go across the street and spend the money to hire a lawyer.

(#0560) Allan Borden stated that the threshold determination by staff is not discretionary. The context of the Environmental Policy Act works to make that determination.

(#0570) Jay Hupp inquired what would be the issue that would go to court, if it's not discretionary. Jay further stated that what's being eliminated is the opportunity to speak to either the Hearing Examiner or the BOCC with their argument.

(#0600) Allan Borden stated that the problem with that is that if there's a land use proposal and it's part of the environmental review, the Hearing Examiner is going to hear that case and going to hear those concerns.

(#0618) Wendy Ervin stated that there was a case way back when that came down to an interpretation of the law and the BOCC said they were not lawyers and so they did not feel themselves in a right position to make a determination of the law. That's why it moved into Superior Court. We were moving away from having the BOCC hear specific things because they said they weren't lawyers.

(#0675) Jay Hupp stated he understood why they wouldn't be comfortable judging one way or another without legal advice but that's why they have legal council. His point is that it's disturbing to see the elected officials moved out of the line of fire when a potential conflict is put on the table by the citizen and to tell that citizen that based on a decision that's being made by the staff, if they don't like that decision, they can go to court. He further stated that the elected officials should be able to sort out the political argument within the community and intervene if the applicants wants to take it to the BOCC. If they are not comfortable with that, they should assign it to the Hearing Examiner. That's where the conflict in the regulations are as they currently exist.

(#0800) Bill Dewey stated that from a business prospective they see that administrative appeal as an extra step and would just as soon go to Superior Court. It's more process, more time, more costs. Also, on the political end, you avoid more of that by going to Superior Court.

(#0830) Tim Wing inquired that by eliminating the Hearing Examiner, aren't you streamlining it and just getting to the issue, and therefore avoiding some political

Planning Advisory Commission Minutes, April 17, 2006

reason to stop it.

There was no public comment so the Public Hearing comment portion was opened and closed.

(#0900) Jay Hupp moved that we retain the route of the administrative appeal through the Hearing Examiner and eliminate the route that goes through the BOCC.

(#0955) Diane Edgin seconded the motion.

Miscellaneous discussion.

(#1100) Bob Fink explained that one of the reasons why we were recommending getting rid of the appeal process is because there's a lot of questions besides just who hears the appeal. One of the issues with a DNS is that there is no final DNS. The DNS is issued for comment for a minimum of 14 days. At the end of that comment period, it can be withdrawn by the county or modified and it can be left to stand and it can be done at any time up to approval of the permit. At what time does someone who wants to appeal the DNS actually appeal it? The only date certain they have is the date to comment. The purpose for the comments is that the county can see if they want to reconsider the DNS or DS or not. If someone has a grievance with it that they want reconsideration, they can submit comments, but when is the trigger when it can't be reconsidered anymore? There's a lot of questions. There's also a limitation on what is the form of the hearing. The statutory requirement says that you can only have one open record public hearing. So if you have a type of permit that has an open record hearing in front of the Hearing Examiner, that means that the appeal of that determination can't be an open record hearing. The alternative is to wait on that hearing until the hearing is before the Hearing Examiner so the Hearing Examiner can hear both the appeal and the permit at the same time. If he reverses the SEPA decision, he can't make a decision on the permit, and then the SEPA has to be redone. Bob reiterated that it is a very complicated issue.

(#1350) Jay Hupp stated that his intent with the motion was to eliminate the BOCC out of the appeal process by eliminating all the language that's been recommended to be stricken out of Title 8. Then take the one recommendation that is made by staff under Title 15 on page B of the staff report under 15.03.050 (8), Appeal of threshold determination under Title 8 (Environmental Policy) out of there and leave that in Title 8 and that keeps the Hearing Examiner in the administrative appeal route prior to having to take it to Superior Court.

Planning Advisory Commission Minutes, April 17, 2006

(#1400) Bob Fink stated that he is correct in having explained what his motion is doing in eliminating the references that are not consistent with Title 15 that are currently in Title 8.

(#1425) Terri Jeffreys stated that she appreciated the opportunity to have the administrative appeal process left in.

(#1440) Tim Wing inquired as to whether you could skip the Hearing Examiner process and go straight to Superior Court.

(#1450) Jay Hupp replied no.

(#1455) Tim Wing inquired as to how much time it would add to the process.

(#1460) Allan Borden replied that the administrative appeal would add approximately three to four months to the process with a fair amount of cost.

(#1600) Bill Dewey inquired if there was any more discussion. Bill Dewey called for the question. The motion passed.

(#1700) Allan Borden gave his presentation of the Revisions to Title 16 (Plats and Subdivisions) regarding meeting plat requirements and condominium plats. Allan stated that the first issue having to do with plat requirements, we're changing the current provision of 3 years that requirements have to be completed by to 5 years so it makes it consistent with state law. The second issue having to do with condominium plats, the proposal is to delete all of that chapter primarily because state code regulates the process and provisions for creating these plats.

(#1800) Wendy Ervin suggested striking out the sentence which reads 'Knowledge of the expiration of the initiation of a request for extension of approval time is the responsibility of the applicant'. She stated that the next sentence which reads 'Mason County is not responsible for providing notification of expiration, although it may notify the applicant of the date of expiration' states what you want to say.

(#1930) Tim Wing inquired if because this was a new state code that it is just basically a housekeeping issue.

(#1940) Allan Borden replied that it was a housekeeping issue.

Hearing opened up for public comment.

Planning Advisory Commission Minutes, April 17, 2006

(#1950) Drew Noble stated that using the word 'may' could be discretionary. He suggested using 'shall' or 'shall not' instead.

Public comment portion of the hearing closed.

(#1980) Wendy Ervin made a motion that the words 'knowledge of the expiration of the initiation of a request for extension of approval time is the responsibility of the applicant' ...and then further eliminate the words 'although it may notify the applicant of the date of expiration'. It would simply read 'Mason County is not responsible for providing notification of expiration'.

(#2000) Tim Wing inquired if her motion was to pass the rest of the proposal with the exception of taking out those things.

(#2020) Wendy Ervin replied that was her motion.

(#2025) Tim Wing seconded the motion.

(#2030) Bill Dewey inquired if there was any discussion on the motion. Hearing no discussion Bill Dewey called for the question. Motion passes.

(#2050) Bob Fink introduced Laurie Morgan from the Department of Ecology who will be presenting an introduction to the critical aquifer recharge areas (CARA) and some discussion of guidance provided by DOE and comments on our current regulations. Bob further stated that the critical areas is the last part of our mandated update, which is required for this year. There won't be any more required updates in response to GMA until approximately 2012.

(#2125) Laurie Morgan stated that Mason County has been through the CARA process before. The bottom line with CARA's is to meet the goal of protecting their functions and values. The guidance contains an 8 step process that guides you through one way to get to protecting those functions and values. The Washington Administrative Code (WAC) describes CARA as follows: '*Areas with a critical recharging effect on aquifers used for potable water are areas where an aquifer that is a source of drinking water is vulnerable to contamination that would affect the potability of the water*'. Recharge is water that is added to ground water, whether it is from rainfall that infiltrates through the ground, snowmelt, or some other source. The functions and values of CARA's are to provide the public with clean, safe, and available drinking water. In order to accomplish this goal, information is needed about the location and extent of aquifers that supply public drinking water, the susceptibility of these supplies to contamination, and potential contamination risks. In addition, planning,

programs, and ordinances are needed to prevent contamination from occurring. The following steps characterize where groundwater resources are important to the community and how to protect them.

- ** **Identify** where groundwater resources are located.
- ** **Analyze** the susceptibility of the natural setting where ground water occurs.
- ** **Inventory** existing potential sources of groundwater contamination.
- ** **Classify** the relative vulnerability of groundwater to contamination events.
- ** **Designate** areas that are most at risk to contamination events.
- ** **Protect** by minimizing activities and conditions that pose contamination risks.
- ** **Ensure** that contamination prevention plans and best management practices are followed.
- ** **Manage** groundwater withdrawals and recharge impacts to:
 - **Maintain availability** for drinking water sources.
 - **Maintain steam base flow** from groundwater to support in-stream flows, especially for salmon-bearing streams.

(#3200) Laurie Morgan continued to explain about Mason County's Critical Aquifer Recharge Chapter. She stated that Classifications of Aquifer Recharge Areas include three classes. Class I (Extremely Susceptible), Class II (Highly Susceptible), Class III (Moderately Susceptible), or Class IV (Low Susceptibility). The methodology for this classification system and maps were developed by a qualified geologist in consultation with the Washington State Department of Natural Resources and considering data from a variety of sources.

- ** **Class I (Extremely Susceptible).** Areas designated as Class I demonstrate hydrogeologic characteristics that allow for an extremely high susceptibility of an underground source of drinking water. These areas are identified as recessional outwash of thickness' greater than 25 feet.
- ** **Class II (Highly Susceptible).** Areas designated as Class II demonstrate hydrogeologic characteristics that allow for a high susceptibility of an underground source of drinking water. These area are identified as recessional outwash and alluvium 25 feet or less in thickness.
- ** **Class III (Moderately Susceptible).** Areas designated as Class III demonstrate hydrogeologic characteristics that allow for a moderate susceptibility of an underground source of drinking water. These areas are identified as advance outwash.
- ** **Class IV (Low Susceptibility).** Areas designated as Class IV

Planning Advisory Commission Minutes, April 17, 2006

demonstrate hydrogeologic characteristics that allow for a low susceptibility of an underground source of drinking water. These areas are identified as advance outwash found in the southwest part of Mason County along the Satsop drainage.

The lands and fresh waters of Mason County meeting the Critical Aquifer Recharge Areas Classification, plus 300 feet beyond the mapped boundary of all Class I, II, or III areas, are hereby designated under RCW Chapter 36.70A as Critical Area Protection Zones requiring protection for public health.

(#3350) Steve Clayton inquired as to whether our Critical Aquifer Recharge Areas were mapped.

(#3355) Bob Fink responded that Mason County's are mapped.

(#3400) Laurie Morgan stated that Mason County had a professional geologist look at it. In the actual ordinance he has a list of studies and science that he relied on for his expertise.

(#3450) Tim Wing inquired if we were going to work on these revisions this year.

(#3465) Bob Fink replied that staff expects to have drafts of all of our updates in the critical areas approximately in June. That will leave about six months to come to the final decision.

(#3480) Tim Wing stated that he is going to be interested in seeing maps and who drew them and how they fit into Best Available Science (BAS).

(#3490) Bob Fink stated that Gordon Adams, a geologist, drew them for the county. They were based on the geology and there is some new information available at this time. When we have the speaker from DNR come to speak with us, they will bring along some of that new information. A lot of it is the geology of the glaciers in Mason County.

(#3650) Terri Jeffreys inquired as to how this was going to be enforced.

(#3655) Laurie Morgan stated that you have to give yourself the authority to act if something is actually threatening the environment.

(#3695) Bob Fink stated that our Critical Aquifer Recharge Areas regulations were challenged before the GMHB and the City of Shelton and the County worked with DOE and DOH and put together the county's and city's response before the Board and adopted the current ordinance that we have that was found in compliance

Planning Advisory Commission Minutes, April 17, 2006

with the GMA.

(#3750) Steve Clayton inquired if we're now going to have to have documentation that we're following up and seeing that that activity is being maintained in a safe manner as far as existing .

(#3780) Laurie Morgan stated that there is a mechanism in the ordinance to monitor for existing uses. If someone is doing something that's going to contaminate the aquifer, the local government has the power under this to stop it.

(#0175) Tim Wing stated that he wasn't hearing very strongly that you shouldn't allow activity in an aquifer recharge area but that whatever activity is there, it needs to be non-polluting.

(#0185) Allan Borden stated that current regulations do prohibit certain activities.

(#0200) Steve Clayton stated that there's a prohibited section and there's a section requiring an environmental permit, but no where do we address the monitoring.

(#0210) Laurie Morgan stated that in our ordinance we have a section that says if somebody wants to do development on an aquifer recharge area and they have a way of showing that it's not going to be polluting because they're doing something innovative or different, it can be done.

(#0250) Allan Borden stated that they can supply a report by an expert that shows that the performance of the land use will meet the aquifer recharge standards.

(#0300) Laurie Morgan finished her presentation by acknowledging there are many resources to access regarding this issue and anyone can call her for further information at (360) 407-6000.

(#0350) Constance Ibsen stated that she gave Bob Fink a hydrogeo report of the Belfair Water District and their aquifer recharge areas for their wells, and inquired if that was going to be incorporated into the new maps.

(#0375) Bob Fink stated that most of the critical recharge areas have not been digitized yet and that is planned for this year, and turn the paper maps into digital copies that can be overlain with the rest of the information that we have in the GIS system that's being built.

Planning Advisory Commission Minutes, April 17, 2006

(#0400) Constance Ibsen stated that she has heard Gordon Adams was a volunteer and he wasn't paid for his work even though he's a geologist. Then other times you use that work in context differently.

(#0425) Bob Fink answered that he has not had contact with him for a few years.

(#0435) Constance Ibsen stated that some people do not stand behind his work. She indicated she thought it was a bit shaky.

(#0445) Jay Hupp stated that it might be shaky but it's the best information we've got.

(#0450) Bob Fink stated that his understanding is that DNR continued work on studying the aquifers in this area and we expect to get that information from them. It may not tell us anything different from what we have now.

(#0460) Steve Goins stated that the next item on the agenda was a presentation on stormwater policies and an update of Stormwater Management Ordinance. Steve stated that we are doing that in collaboration with Charlie Butros of Public Works. We have our consultant here tonight to help you understand what the undertaking consists of and allow you some background information as well as an overview of how all these things integrate together.

(#0500) Charlie Butros stated that they went through a selection process for a consultant. We had discussions with DCD. Funding was made available through grants that they acquired through DOE and CTED. We're taking this in two phases. We went through a consultant selection process and as a result, OTAK, Inc. was selected as the consultant of choice. We've had a couple of meetings with DOE already to get started with the process. Charlie Butros introduced Joe Simmler, of OTAK.

(#0540) Joe Simmler stated that he will introduce a few of the topics tonight and they plan to come back throughout this study and process. The main focus of the grant is to look at the policies and the regulatory criteria that the county has on the books today. The idea is to update these, as there's been a lot of emphasis on Hood Canal, water quality, fish habitat, and aquifer recharge areas. This is all interrelated. The other opportunity that has come up is from the state legislature. They've given the county about \$300,000 to do a stormwater study for the Belfair and the Hoodport area. He continued by saying that these are some of the more urbanized areas of the county and the idea was to come up with some management plans to control some of the pollution and try to get the pollution at it's source. As we go through this, there's a lot of issues that come up but there's

Planning Advisory Commission Minutes, April 17, 2006

three very important ones. We have to ask 'what are the current requirements?' The primary criteria has to do with the Puget Sound Water Quality Management Plan and its amendments. There is a lot of overlap between the Puget Sound requirements for stormwater management and water quality, the NPDES (National Pollutant Discharge Elimination System permit) requirements, and as the county grows, we will be faced with an NPDES Phase II permit for municipal stormwater management.

(#0635) Bill Dewey explained that anytime you have a point source, a pipe going into the surface waters, you have an NPDES permit to allow it.

(#0675) Joe Simmler explained that this is a national program that's been around for about 20 years and they first started with industries. They wanted to focus on what's coming out of the end of the pipe. That's where wastewater treatment plants were brought into compliance. Then they found out that there's a lot of pollution from the so called non-point sources so it wasn't until more recently that they decided to put stormwater control under the NPDES program. Another issue that comes up early on is what would we have in 12 or 16 months? We'll have a set of updated policies and regulations relating to stormwater. There's going to be some discussion of a manual, probably some updated ordinances, policies that will be changed in the Comp Plan. We will be suggesting that the county use this opportunity and put together its first Comprehensive Stormwater Management Plan for the entire county. The emphasis is to figure out how to capture some of those pollutants that are going directly into Hood Canal. So what will come out of this very likely is a series of capital improvement projects and recommendations for local land use policies with setbacks and buffers. With the capital projects will be aimed at collecting, treating, detaining, and purifying the stormwater runoff before it goes into the Union River and areas of Hood Canal. The bigger issue is with these studies underway, what is the future for stormwater management in Mason County and how do you fund it? Who is impacted by it? What we're talking about now is working with DOE to refine the scope of work so that we can take some of the funds from the capital program and use those to create a more integrated Comprehensive Stormwater Management Plan that looks at the funding, the future regulatory requirements, and includes the updated ordinances and policies. With these studies in Belfair and Hoodspout, there will be an emphasis on the urbanized areas. There was some discussion about taking a look at Union, too.

(#0765) Terri Jeffreys inquired as to emphasis on what.

(#0775) Joe Simmler stated that there would be emphasis on controlling pollutant loadings in Hood Canal. This is all emphasizing water quality treatment and

Planning Advisory Commission Minutes, April 17, 2006

reduction of pollutants. We wanted to use this grant money to use in a five or ten year program to put things in place so there's not a big gap between what we need to do and the future regulatory requirements. Planning ahead will get you there when you need to be there without major resources. As an overview, the countywide program and possibly even having a water quality management district for all the entities that are contributing to water quality contamination into Hood Canal. Right now we're focusing on just making the stormwater plan countywide. We haven't made any decisions at all at this point and Charlie Butros and I have been discussing all the various funding sources that are available; road funds, general funds, funds that may be available through development fees, and also, what most entities have decided to do is come up with a stormwater utility. The timing may not be right for that right now, but you may want to think about it in the future. Under that process, there's a monthly fee, with residences paying approximately \$5.00 to \$7.00 a month and then the businesses and the commercial areas would pay more, which is based on the impervious area. We've been asked to develop a feasibility study to investigate this.

(#0850) Terri Jeffreys inquired if there were existing countywide stormwater utilities or are they mostly in cities.

(#0955) Joe Simmler explained that usually the cities fund their own and the counties pick up the unincorporated areas. That would depend on how you define it.

(#0870) Allan Borden stated that Kitsap County has a fairly established program. So they have some history.

(#0890) Bill Dewey added that Kitsap County is really a model that people are looking at because it's surface water management utility; not just stormwater. They're incorporated other non-point pollution issues; their onsite septic. It's really a great model to look at. I like the idea that it's more comprehensive than just stormwater. Bill continued on by saying that it seems like a lot of funding is Hood Canal driven, but in Mason County, Hood Canal is not the only place where we have water quality and stormwater issues. I'm concerned that Allyn isn't talked about at all, and I'm with the shellfish industry, and we've been struggling in Case Inlet for years with water quality. It's recently been upgraded because of the sewer being there now, but it's still tenuous. With all the development we're going to have there because of the sewers and the UGA and no stormwater plan, we are very concerned.

(#0925) Joe Simmler stated that it will be county based so there will be some

Planning Advisory Commission Minutes, April 17, 2006

benefit from that. The second part has some strings attached to it because it came from DOE and they want some specific things looked at. DOE definitely wants Belfair and Hoodspport taken care of. Their emphasis is clearly on Hood Canal at this point. We're trying to expand it so it goes countywide and get benefit from the grant money on a broader scope.

(#0950) Bill Dewey acknowledged to Charlie Butros that if he needed any backup for talking to DOE, he stated they were there for him.

(#0960) Charlie Butros stated his appreciation for that gesture. He further stated that he is continuing his dialog with DOE and we're trying to expand it to the population clusters where we know we have concerns, and those include Allyn and Union and, of course, Belfair and Hoodspport. We feel that the comprehensive program would be better, and we have indicated to DOE that we really can't do an implementation plan without an overall comprehensive program for the county. That's why we phased the steps in the study. Part of the implementation program is funding we needed for the initial phase of the project. That will provide us with the comprehensive program for the county that will really help us with additional funding sources and implementation for our next effort. We will need to get through the study first.

(#1000) Joe Simmler stated that those funds are one time grants and that we need funding for the long term. That's why most of the entities have gone to the stormwater management districts fund using the stormwater fee of this type. Most of the grants are almost dried up and you would actually have to get loans which have to be paid back. So often it's best to have your core program funded at the local level.

(#1050) Charlie Butros thanked everyone for their attention and thanked Joe Simmler for his presentation.

(#1070) Steve Goins ended the meeting by discussing the upcoming meetings. The PAC has meetings scheduled for May 8th and May 15th. At the meeting on May 8th we're having another presentation on a critical area, which is landslide hazards. The City of Shelton will be here to discuss some of their planning efforts, sub-area plan, regional water and wastewater projects. We're having a presentation from the Port of Shelton about their master planning process, as well as some information on solid waste issues. We're also providing you a WRIA process update.

Meeting adjourned.