

MASON COUNTY PLANNING ADVISORY COMMISSION

Minutes
May 15, 2006

(Note audio tape (#2) dated May 15, 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 Vice-Chair Steve Clayton at 6:00 p.m.

2. ROLL CALL

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

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

3. APPROVAL OF MINUTES

None.

4. NEW BUSINESS

(#0050) Bob Fink stated that the purpose of the meeting tonight is to introduce the Planning Advisory Commission to some work that we've been doing in the Skokomish Valley. In particular, the county has been preparing a channel migration zone (CMZ) study and is looking at possible changes to the draft of the flood plain regulations for the valley. Currently the regulations don't allow for new development anywhere within the floodplain in the valley. These are regulations the county adopted after review by the GMHB. There were concerns of risks over the potential that the river may move or avulse out of its current channel or go to one of the old channels that exists in the valley. There wasn't adequate information to show areas of higher risks or lower risks within the valley. This study was developed by the county to identify the CMZ of the river and possible avulsion path of the river. The CMZ is the area where the river might move over time. It is determined using historic information and the physical features of the valley. The base width of the CMZ identifies the distance the channel could travel in a single direction over a period of 50 years. The principal features on the map are the CMZ and the APZ (avulsion potential zone). The APZ is the area where the river might go it leaves its existing banks and establishes a new channel. The area shows the flood paths which are possible routes an avulsion event could adopt. This study is still in draft form. We had a workshop out in the Skokomish Valley and there were comments heard. We expect to do some more refinements on it before the study is final, but this is pretty close to final with a few exceptions. *(Bob shows map which*

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illustrates what is in the draft). The draft would have no new footprint areas that were either in the CMZ's or the APZ's. Also shown on the map are Zones 1a to Zone 4 which are areas where new structures would not be permitted as developed in the Skokomish River Valley Comprehensive Flood Hazard Management Plan. The Plan was developed as a way to deal with flooding. One of the proposals in it was to develop a density floodplain. One of the reasons they started this study was because when FEMA had designated a floodway for the valley, because of the shape of the valley, almost all of the valley was in the floodway. The floodway is just the area that typically is reserved where fill activity does not go in so when development does happen outside the floodway in the floodplain, the levels of the river would not rise more than a foot. Structures in the floodplain are required to be elevated a foot above the base 100 year flood to remain safe. There was another study done by the county of the Vance Creek and upper area where they identified flood waters that were of high velocity or high depth. Those were identified and mapped and are also set off limits before the county came back a couple of years ago and didn't allow development throughout the floodplain. There was an area in the lower valley that was set aside where the flood waters were supposed to be the depth of four feet or greater, and we will be reviewing that to make sure that map is accurate.

The changes to the county ordinance is that it would allow construction or expansion of houses in the Conditional Build Zone. So anywhere in the floodplain, outside the no new footprint areas, you can potentially build a new structure. It would also allow for construction or expansion of agricultural buildings and other development in the Conditional Build Zone. It would re-establish a reasonable use exception; an exception that allows people who don't have any alternative than to build in the floodplain to apply for a reasonable use level of development. It would allow for new subdivisions. It would remove the county program of dike monitoring. There was a provision in the county ordinance that was also directed by the state that the county establish a dike monitoring program by the Public Works Director. There was an inventory done just within the last year and the recommendations of the Public Works Director is not to continue this program. This program is primarily on dikes that were privately built on private land and they're not under the control of the county in the sense of their maintenance or responsibility.

New or expanded buildings and houses will still not be allowed in the channel migration zone; the avulsion potential zone; the no new footprint zones established in the Skokomish River Comprehensive Flood Hazard Management Plan; or the upper valley flood zone and near the mouth of the river where water depths exceed four feet or velocities exceed five feet per second. However, repair or substantial improvement of existing structures will be allowed.

This map essentially reflects the proposal and changes in the draft. We had a workshop a couple of weeks ago. We're still working with our consultant to finalize the proposal. We'd like to go to public hearing on this as early as June 5th. After the public hearing, if the PAC is ready to act on it, it will go to the BOCC any time after that probably by July.

(#0475) Wendy Ervin stated that all up and down the floodplain are houses that are over 100 years old. In the blue area above that there's a dead forest there. That dead forest has tree trunks in it that are a foot or more in diameter and have been dead long enough that they are nothing but snags. The dead forest that was not in the floodplain when those trees grew, and the houses that were certainly not put in an area that would be periodically inundated with water, indicates that the water table on that river has risen to a point that these events are happening, and repeatedly no one is looking at lowering the river. That makes more sense than anything. The argument has been made that those poor fish will not be able to spawn if you dig out the river. I'm here to tell you that a woman that has been in labor four times, when you're in labor, and you're swimming upstream, you're going to spawn.

(#0550) Bob Fink stated that we're not trying to comprehensively address all the issues in the valley. What we're trying to do is to change our floodplain regulations to relieve some of the restrictions that are attainable in a way that we can defend scientifically. There are a lot of other issues in the valley that certainly need to be addressed and with this action and we're not trying to address them right now. I understand and I agree with you that there are a lot of signs that the water table has risen. That's one of the reasons why the avulsion is so apparent. The river does change and it's been a while since FEMA has looked at the floodplain itself and reanalyzed it. They'll probably do that in the next couple of years.

(#0675) Terri Jeffreys inquired why the no new footprint zones are identified differently.

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(#0680) Bob Fink replied that the final map will have the floodplain and within the floodplain you'll either be in an area that's no new footprint for an area that's conditional build and so there will be two areas within the floodplain. It's simply to illustrate the different areas that were taken into consideration. The source and the reason why there's no new footprint areas is different for these different areas. Each of these is reflected in the ordinance as a particular provision within the ordinance.

(#0760) Steve Clayton inquired if the significant part of the ordinance would be the expansion or revitalizing the existing uses.

(#0775) Bob Fink stated yes, but the potential is still very limited, given the circumstances of the valley.

(#0800) Wendy Ervin stated that you're talking about regulating people's individual property and you're saying there are areas where there can be no new footprint. This is not to protect the streambed, but instead to protect the investment of the people who might wish to build there.

(#0810) Bob Fink responded that it is to protect their lives and property.

(#0815) Wendy Ervin stated that instead of saying they can't build there, you should say anybody can build anything they want but they're going to have to listen to the advise and pay for it. It seems that the market and individuals should have more power than just to say you can't build there.

(#0840) Bob Fink responded that this is a floodplain that's established through FEMA on their flood insurance rate maps. There's a requirement for Mason County to qualify for flood insurance anywhere in the county; the county has to have flood control regulations that meet federal and state standards. Those regulations don't allow 'build at your own risk'. The earlier ordinance was reviewed by DOE and according to our consultant, he has reviewed this with the DOE representing the federal government and they have agreed that this meets the intent and is adequate for the purpose of maintaining the flood insurance.

Miscellaneous discussion of proposed map.

(#1200) Steve Clayton inquired about the reasonable use exception. It says we're not going to have any new or expanded buildings in the area other than the conditional area, and can that be applied in the APZ.

(#1250) Bob Fink replied that you can use it and what you'll get from it is something that we'll have to go through the process as there are a number of criteria you have to meet. You have to show what you believe is reasonable use and convince the reviewer that in order for you to have a reasonable use of your property you need to have a particular relief, and that it's the minimum you need. We will allow a reasonable use in a risk zone. It will be applied throughout the floodplain. It is expected to allow some kind of development that wouldn't otherwise be allowed. It will be site specific.

Miscellaneous discussion of criteria for special use exception.

(#1550) Bob Fink explains the difference between CMZ and APZ. The CMZ is a gradual erosion process where the river will eat at the bank and move at a certain rate over time. The APZ is where, given the right circumstances, it leaves the channel and is now a new channel. It will eventually rejoin the old channel somewhere throughout the valley.

(#1600) Diane Edgin inquired about the age of the main channel bridge.

(#1610) An audience member stated that it was built in 1929. The river bed has raised twelve feet since then.

(#1620) Diane Edgin stated that she has seen in other places where the roads are elevated and not able to act as dams.

(#1660) Charlie Butros from Public Works summarizes the dike monitoring program. He stated that the

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requirements that were imposed on us several years ago were that we conduct inspections of the diking in the valley. We performed that through the consultant that was hired to do the avulsion study. We found that the majority of the dikes in the valley, with one exception, are on private property and we have very little control of them and have limited ability to access them. We did get cooperation from most of valley residents to allow the consultant to get access to those dikes and inspect them. What was found is that they are not in good condition, but their condition has not changed much since the prior inspection of a few years ago. The recommendation was to take no action at this time. The only dike the county monitors is along the roadway close to where the church is in the valley. That is primarily a dike that was put in some time ago to protect the roadway. It's adjacent to the road and on the right of way and that is something that we have been maintaining for some time. What we've been working with Planning and DCD to do is propose a change in the requirement to monitor the diking. Our feeling is the solution is not diking. The solution, as discussed by many of you, is to take better actions to prevent the continued filling of the river beds with gravel and to clean out and re-establish those river beds in a way that maintains their integrity and allows for the normal flows and the protection of fish migration and the other issues that we are trying to see in that river valley.

(#1750) Jay Hupp inquired if that was a county installed dike.

(#1785) Charlie Butros responded that the county put it in some time ago. It is maintained by the county and by others. He stated that he was out there recently and saw two or three layers of sandbags on top of the dike. He asked his maintenance people if they had put them there and they hadn't. Charlie later found out that it was the fire district that had put them there to avoid overtopping the dike.

(#1815) Jay Hupp inquired about the liability.

(#1825) Charlie Butros responded that it depends on what the purpose of the dike was. That specific dike was intended to protect that section of roadway. We don't have a diking system in the valley that's continuous and integral to protect the overall valley. The diking is intermittent; it is not continuous and it does not provide for our controlling and containing the river in it's channel. So from that prospective, the diking doesn't serve the purpose of containment.

(#1950) Steve Clayton inquired if we have an inventory of the existing dikes; what is on public and private property.

(#2000) Charlie Butros responded that we do and we have an assessment of the conditions of the dike and other information. However, our recommendation is to discontinue that required effort because it doesn't add much value to the solutions we are trying to seek for the problems in the valley.

(#2075) Steve Clayton inquired if we discontinue the dike monitoring that the GMHB will still be happy.

(#2088) Charlie Butros responded that by being proactive in taking actions to do more to solve the problems there, that it will be seen as being more proactive and productive than just monitoring the dikes. Let's say there is a problem with one of the dikes. Are we assured we can get authority to go in there and take corrective actions to fix that, not only through the property owner but through the permitting agencies that we are required to get permits through. Charlie has a bigger uncertainty with the latter than the former. With that, we're just going to watch it.

(#2175) Wendy Ervin inquired if there was any data on what other rivers are dredged in the state.

(#2185) Charlie Butros responded that he does not have that data.

(#2200) Diane Edgin inquired if anyone has ever investigated the cost of dredging the river and replacing the dikes.

(#2210) Charlie Butros stated that the general investigation study that is being undertaken through the Army Corp of Engineers is intended to provide answers to those types of questions.

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(#2300) Steve Clayton suggested having some public comment even though it is not a public hearing.

(#2310) Jay Hupp responded saying just so it's understood that whatever is said here is not recorded as public testimony to be taken into consideration in the decision making process.

(#2350) Jerry Richert inquired if a house burns down, can it be rebuilt in the new ordinance.

(#2375) Bob Find responded by asking if it was in the no new footprint area. There's no question in the conditional build area where you can build a new house, you can build a house that has burned down. I will further review that for you.

(#2400) Jerry Richert inquired if you can make a fill and build on a 100-year flood.

(#2425) Bob Fink responded by saying that if you're in a conditional build area, where you can build a new structure, the regulations for filling are different. The regulations now for filling is that everything is treated as a floodway. The floodway is not intended to be filled. The floodway is intended to be kept open so that flood waters can go through.

(#2600) Moirya Dehe stated that she lives on Bambi Farms Road in the upper end of the valley. She inquired, in the ordinance, one of the reasons why we were able to adopt the densities was because we were supposed to set aside things like migration zones and overflow channels. It's nothing new. It was outlined in our flood plan. They said you could adopt the density concept but it didn't meet the criteria because the elevation of the valley is not even. She further stated that she is confused because she went back to BOCC minutes and back to the flood plan and all the meetings, and if someone could tell her how not raising the flood level more than a foot changed now to a foot. That's the only reason they let us adopt the density because it allowed for development in the floodway. For existing and future structures you are not allowed to fill out that density anymore and raise more than half a foot. In this ordinance it says a foot so how did that change. Also, we spent millions of dollars on a comprehensive flood plan and that was one of the goals in that comprehensive flood plan to come up with a diking monitoring program, of which half the dikes have not been identified because of the private property rights. Now you're saying we're not going to do a diking study so how can you issue permits for repair for something that you don't know exists. It is so hard to understand this. I don't know how anybody is going to be able to interpret this. We have no maps, we're handed an ordinance tonight, and now you're saying we're possibly going to public hearing on June 5th. There is no background on any of the studies that were done because we seem to have been left out of the loop this time. There's no draft report out that you can read and come to any kind of comment that's going to make sense. There is no factual background to base any of this on. We need some decent maps and some explanation of how this ordinance changed so drastically and how is it going to comply with GMHB. That's why we're doing this.

(#2800) Bill Hunter stated that the water table has risen and is destroying their ability to grow crops.

(#2850) Miscellaneous discussion on ag building structures. Staff will investigate before the next PAC meeting.

(#3000) Randy Churchill stated that it keeps coming down to the same thing about dredging the river. The last meeting we were at, I understood that it could possibly be done if a permit was pursued. He inquired if the county has ever aggressively pursued that.

(#3125) Bob Fink responded that the Comprehensive Flood Hazard Management Plan that the county adopted did have recommendations for a dredging program in the river as one of their recommendations to deal with the flood issue and the county approved that.

(#3200) Wes Johnson inquired about the verbiage on pages 24 and 25 of the ordinance. It talks about water flow modification structures and it specifically says that if any modification that would cause more flow in the main channel is prohibited. That runs counter to the very name of the ordinance. The flood damage comes when the water overflows its banks. It doesn't come when the water is flowing in this channel. If we specifically say that you can't do anything to cause more water to flow in the channel, we're defeating the very

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purpose of the ordinance that we're talking about.

(#3280) Marty Ereth stated that he has worked as a biologist for the Skokomish Tribe for fifteen years. There were studies done during the flood planning days for dredging the river and it was pretty cost prohibitive for the landowners in the Skok. Now the costs are much higher. When you talk about channel migration zones, the whole valley is a channel migration zone. If you look at the south and north valley walls they're pretty flat. The river cut down through the valley and created that valley over a long period of time so the idea of a channel migration zone is really what time period you're looking at. The consultants that they hired chose to use a time period of about sixty years, which were the earliest photo records they could find. Everyone talks about natural flow and getting the gravel out but nobody ever talks about the fact that half the river flow is missing. It's been missing since 1930 and that's really lead to aggregation. This river has been flooding for a long, long time. Combined with the sediment that's coming out of the forest lands, combined with the dikes that don't allow the river to laterally migrate. Dredging it is not going to make it a healthier river, and the fact is, that river flow is missing. This process is going on a fast tract and there needs to be more information out there.

(#3700) The PAC thanked Bob Fink for his presentation.

(#0300) Bob Fink introduced Jeff Davis, GMA Biologist for the Department of Fish and Wildlife (WDFW). Jeff stated that he is the GMA and Priority Habitat Species Biologist for Region 6, which is Kitsap, Mason, Jefferson, Clallam, Thurston, Pierce, Grays Harbor and Pacific counties. He stated that he will be discussing the importance of fish and wildlife, the Fish and Wildlife Habitat Conservation Areas (FWHCA's), the Mason County Resource Ordinance, the WDFW recommendations, and the WDFW technical assistance program. Essentially, USFWS and the US Census Bureau every ten years do a census survey to figure out what's going on with recreational fishing, commercial fishing, recreational hunting, and watchable wildlife. They generate these numbers based on license sales, what people are spending to travel with gas and hotels, etc. In 2001 recreational fishing generated \$854 million, hunting generated \$350 million, and watchable wildlife generated \$979 million to the Washington State economy. One good reason for protecting fish and wildlife resources is to prevent future state and federal listings. If we take a more holistic approach to protecting fish and wildlife resources we can curb that. It's also to protect the natural heritage and the ecosystem health.

Our main document we use to review ordinances is 'Management Recommendations for Washington's Priority Habitats - Riparian'. It's a 1997 publication and we're looking for additional monies to update it. It's 1,500 pieces of literature on all of the functions of the riparian zone in the world. We looked through this literature, saw what they studies, what the ranges were they recommended for protection and then put this document together and put it out for review. We use it as a guide to determine what sorts of levels of protection different jurisdictions are providing for fish and wildlife resources.

As far as our recommendations go, we recommend 250 feet on Type 1-2 Streams and Shorelines; we recommend 200 feet on Type 3 Streams 5-10 feet wide; we recommend on Type 3 Streams < 5 feet wide to be 150 feet; we recommend on Type 4-5 Streams with low mass wasting potential to be 150 feet; and on Type 4-5 Streams with high mass wasting potential to be 225 feet. These buffers fall within the upper range of what we would recommend to protect stream functions and wildlife habitat. The biggest difference between Mason County's ordinance and these recommendations is the Type 4 and 5 Streams. The low mast wasting potential where the stream was going through an ag field that didn't have steep slopes around it you can get away with the smaller buffer versus the Type 4-5 with high mass wasting. When there's a steep slope, it can't filter out pollutants or sediments. Type 4 is perennial flow, non-fish bearing. Type 5 is intermittent flow, non-fish bearing. Everything above is fish bearing.

There is recent new science that supports our 1997 publication. Type 4 and 5 streams are no different in function than Type 1-3, with the exception that we don't have fish spawning there. All of the functions necessary to protect those streams are the same. We look at temperature control, large woody debris, sediment filtration, pollution filtration, erosion control, microclimate, and wildlife habitat. You need to keep in mind that we look at the functions necessary within the riparian zone mainly for stream function, but part of the riparian function is wildlife and that's where the numbers increase.

(#0600) Terri Jeffreys stated that these buffers might be okay up in the mountains, but down here when

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you've got six houses per acre, that doesn't make sense.

(#0640) Jeff Davis explained that this is a statewide document.

(#0650) Terri Jeffreys interjected that counties like ours can't afford the science involved so we are tied to this documentation. We can't hire someone to look at the specifics of our county so we have to take this as the science for our county. We need recommendations that can zero down to the local situations.

(#0675) Jeff Davis stated that our region has never had a GM biologist until January. Jeff is new at his job and it is going to be his job to coordinate with the counties to make sure we're giving you what you're asking us for. The counties are the #1 priority for us with the updates. If you need us to do something for you, or help in getting grants to look for the types of information you need to make your decisions, that's what my job is.

(#0700) Jay Hupp stated that what's frustrating is trying to balance the thirteen elements within the GMA that the county is insisted upon balancing, this particular aspect can be challenged by state agencies. There's no state agency that's going to stand up and defend property rights. Yet, the county is charged with balancing this against property rights.

(#0715) Jeff Davis responded by stating that there is a state agency that should be standing up for property rights and balancing that, and they manage the thirteen goals themselves, and that's CTED. My job is to protect and perpetuate fish and wildlife resources for all the citizens of Washington State. Within that, we have to make reality choices and decisions on what we're going to fight or let go, and trust me when I say that I understand the complexity of the issue that you have to balance because you're not the only jurisdiction that I work with; some are really broken. I understand what's in front of you and as I try to get up to speed in my new position, I'm going to try to give you whatever you need to make well informed decisions. We do understand that you have to balance things.

Bob Fink asked me to review the Mason County Resource Ordinance - Fish and Wildlife Habitat Conservation Areas (FWHCA's) and talk about what it looks like and how it compares and what recommendations I would have. Our recommendations for Type 1-2 Streams is 250 feet. Mason County's are 150 feet. That falls within the range of being pretty good, with the exception that it falls on the lower end of the wildlife habitat needs. Type 3 Streams we recommend 150-200 feet. Mason County's is 150 feet. Type 4 -5 Streams we recommend 150-225 feet. Mason County's is 100 feet for Type 4 and 75 feet for Type 5. Shorelines we recommend 250 feet and Mason County's is 100 feet.

The functions the RO provides Type 1-3 Streams are: Temperature control (35-151 feet); Large Woody Debris (100-200 feet); Most sediment removal (26-300 feet) and Most pollution removal (13-600 feet). The functions the RO does not provide Type 1-3 Streams are: Full pollutant removal (pesticide and animal waste); Microclimate (200-525 feet); Wildlife habitat (25-984 feet).

Type 4 provides temperature (literature average is 90 feet) and meets Most pollutant removal (literature average is 78 feet) but for Type 4-5 Streams, it doesn't meet Large woody debris input, sediment filtration, erosion control, microclimate or wildlife habitat.

The Shoreline buffer functions do not provide Large woody debris input, sediment filtration, erosion control, microclimate and wildlife habitat.

(#0900) Wendy Ervin inquired once the large woody debris has fallen in the stream and served it's purpose and then floats on out into Hood Canal does it still serve any purpose.

(#0920) Jeff Davis responded by saying that one of the best marine shoreline bank protection projects is large woody debris that is deposited on the upper end of the beach. And then the Type 5 Stream buffers fall below the literature average in all functions. So if I was writing you a comment letter I would ask you to bump it up to at least meet some of the functions.

Shorelines are really critical to us, not just the major river shorelines, but the marine shorelines. We really focus on them because of the salmon. The 100 foot buffer functions do not provide Large woody debris

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input, sediment filtration, erosion control, microclimate and wildlife habitat. The 100 foot buffer is the number we're seeing from a lot of jurisdictions on marine shorelines and I would say that the jurisdictions that we're seeing that 100 foot buffer on have a lot of shorelines that are already developed. If you have a conservancy shoreline we would really push for a larger buffer than a standard urban or semi-rural buffer. You will also have to do the Shoreline Master Plan update.

(#1025) Steve Clayton inquired if there's a differentiation within UGA's for shoreline buffers.

(#1030) Jeff Davis responded that most jurisdictions are changing their CARA's, and the CARA essentially covers shoreline protection until such time that you adopt or update your SMP. We have seen the differentiation in buffers between land uses. Having said that, those jurisdictions quickly updated their SMP and in the SMP it doesn't just put a buffer on everything; you only have buffers around true critical areas and it allows for or calls for restoration areas. What isn't an option is no buffer.

(#1200) Jay Hupp inquired about what is in GMA that is actually required to be protected.

(#1250) Jeff Davis responded that GMA requires protection of all critical areas.

(#1275) Jay Hupp further inquired about the species protection.

(#1285) Jeff Davis responded that GMA doesn't break it down to species. They say these are the critical areas, and it's defined in the ACT, and you have to provide protection for those. It doesn't say what level of protection; it does say that you have to be in the range of Best Available Science, which draws a line to what that protection is. It doesn't say 'Thou shalt protect Chinook Salmon'. There are references to state threatened, endangered, and sensitive species, and there are references to species and habitats of local importance in the ACT. You're trying to protect all the natural functions of that system. That's a balancing act in and of itself. If you can protect the natural functions of those systems, that's what we're after. Unless we're going to get very specific, we only have this range to go by. I would say if you want to be accurate in your protection, you go right to the site and evaluate the functions. That's really the only true way to review it on a site specific basis. However, in these ordinances, we have to be able to work and get permits out in a timely fashion, and one of the only ways we know of to date is to have some of these blanket ranges.

(#1400) Jay Hupp inquired if what Jeff is saying is that in order to be reasonable about this, you need to examine the piece of property and the circumstance under which the buffers are being. However, that's not reasonable. You can't operate at that level. Yet at the same time, you sit in review of what we judge to be appropriate and from another level, make a judgment on whether or not the protection for a Type 5 stream is appropriate or not. The Type 5 stream is that it really includes those rivulets that drain water off of a county that has 65 inches of rain dump on it every year. To establish whether or not that should have any buffer on it, or 400 or 500 feet of buffer, seems like if you're going to balance the property rights against that, you have to go to the site.

(#1450) Jeff Davis responded that having no buffer is really bad. The Skok filling and all the sediment going down it. Where do you think that comes from? These are the Type 5 streams that are at the very top and if you don't have any protection, they're conveyor belts. We know the functions that those systems provide and maybe there are certain site specific criteria, where a slope is way back, and maybe that would be where you could have a lower buffer than a slope that's 90 degrees.

(#1500) Jay Hupp continued on by saying that every property owner has to live with that judgment. The Type 5 streams run in front of your doorstep and my doorstep draining water off the land. That property owner has got to live with that judgment.

(#1550) Jeff Davis replied by saying to a certain extent that's true. However, there are reasonable use processes and variances available for them.

(#1575) Jay Hupp continues to explain that there's a horrendous impact on the property owner that is not being balanced.

(#1580) Jeff Davis replies by stating that he's confident he's not the person that can balance that.

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(#1590) Jay Hupp states he understand that, but there's another aspect to it.

(#1600) Steve Clayton stated that by putting some number on it you're allowing everybody that works above that number not to have to go through a process. It was stated that if there's a '0' buffer then everybody would be happy, but then everybody would have to go through a process. By having a 150 foot buffer and everybody has 160 feet, they're free and clear. You're only dealing with variances and problems with the people that are below the number that we set.

(#1610) Jay Hupp explains that when you put a buffer on a stream that runs through a piece of property, the width of that buffer dictates that that's unuseable property that you just put that buffer on.

(#1620) Steve Clayton added you could go through a variance or a reasonable use exception. You could still deal with things within that buffer but then you involve with the process.

(#1630) Marty Ereth stated that there are several biologists that do nothing but write HMP's in various towns, including Mason, for nonconforming lots and I haven't seen one that's been turned down. The Hearing Examiner basically passes them on. If you have a lot that's nonconforming, there's a process for you.

(#1650) Jeff Davis stated that even property rights people that he works with in Kitsap County want some number because it's certainty. The development community especially wants to know what they're getting into with the critical areas.

(#1685) Jay Hupp stated that he understands certainty in the ordinance, but he does not understand any property owner standing up saying to lay a buffer on them.

(#1695) Jeff Davis stated that it comes from the property rights people that are in the development community that are working both sides. They believe in property rights, and they also believe in doing their business, which is building, and having their certainty in how much they can do to get their investment balance.

(#1750) Jerry Richert explained that Richert Ranch has 700 acres on the North Fork and the South Fork. Richert Ranch raises Elk, Deer, Racoons, and all the wildlife you could possibly think of. Who gets the benefit of Richert Ranch raising that wildlife? Yet, why aren't we compensated for our buffers? Also, Jeff, what do you think of Initiative 933?

(#1775) Jeff Davis explained that he can't speak on that issue. As an agency employee, we cannot take a public position on any Initiative.

(#1780) Jerry Richert explained that's too bad because we have cougars killing people now because the agency won't stand up and tell the people that that male cougar has to move out of his area and he doesn't know that moving into town is bad. If he stays where he is, the males will kill him, and by instinct he knows that. The agency won't tell the people the truth.

(#1800) Jeff Davis stated that they tell people the truth all the time. The reality is that society doesn't want to hear the truth. You want the truth; don't build houses in their habitat. We respond to these people all the time; it's dangerous wildlife. We spend millions and millions of your money to go out to these areas and shoot a cougar, to trap cougars, to trap bears; we relocate them to another area. Every time we make a site visit, we're educating the landowner about the reality of it. We're doing the best we can with the limited resources we have. I just looked at a 625 dwelling unit development right next to the Bremerton watershed. Guess what has the highest density of black bear in Kitsap County? The Bremerton watershed. That's right where they live. So I understand what you're saying, but I would argue that we do make some effort.

(#1875) Steve Clayton inquired about shoreline buffers. He stated that we have several highways that follow the shoreline around within the buffer. How does that affect the buffer for property owners building on one side of the highway or the other? He further inquired do we increase that buffer by the 30 feet of the roadway, do we take the property that is upland of the highway that has changed what the buffer is supposed to do because it no longer contributes many of the functions.

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(#1900) Jeff Davis stated that in the past people have come to us and stated that they've got a road there and we ask them if they can increase the habitat on the water side of the road to get some improvements. We've got to be able to stand up here and say that's a situation that's kind of extraordinary and statewide, and the reality is the functions are cut off by those roads. We try to plan so those historical mistakes don't occur any more.

(#1935) Steve Clayton inquired if he's recommending dealing with it on the exception basis as we're currently doing. There's a lot of property on 101 / 106 / North Shore Road that is affected. I'm hearing that we should deal with it on an exception basis rather than writing it into our regulations.

(#1950) Terri Jeffreys added that it seems if the functions and values have already been affected, you're not going to restore them or make them any better by applying that buffer on the other side of that development.

(#1965) Jeff Davis stated that if he were to comment on a proposal like that, it would again be to try to get some enhancement waterward of the road or structure, so you're actually improving functions between the road and the waterway. Then a typical comment would be to use good stormwater design and things like that. I typically write in my comment letters about the use of LID.

Jeff continued on by stating WDFW's recommendations. Let me preface these recommendations with the fact that when I read through your ordinance, with the exception of perhaps the Type 4 or 5 buffers, it looked pretty good. Especially the Type 1 - 3 stream buffers. It falls within the range that we've been agreeing to with other jurisdictions across the state. We recommend increasing stream and shoreline buffers to provide for all habitat functions. We recommend taking the landscape level approach to planning for fish and wildlife protection. We also recommend monitoring how stewardship incentives, HMP's and local habitats and species programs are working.

(#2200) Terri Jeffreys inquired if this is where Jeff could provide technical assistance.

(#2250) Jeff Davis stated that this type of technical assistance is really scientific. There are other people that would actually help with this local habitat assessment process.

(#2300) Terri Jeffreys inquired if Jeff would be able to tell the county that this science will pass the muster.

(#2325) Jeff Davis stated that he could do that. We're here to help.

(#2450) The PAC thanked Jeff Davis for his presentation.

(#2500) Jay Hupp was excused from the June 5th meeting.

(#2650) Steve Goins handed out a letter to the PAC that he drafted that will go to the BOCC that talks about transportation infrastructure and TIPCAP and the discussions we've had regarding this issue. This letter will be reviewed at the next PAC meeting.

Meeting adjourned.