

# MASON COUNTY PLANNING ADVISORY COMMISSION

January 13, 2014

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

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## 1. CALL TO ORDER

Chair Jim Sims called the meeting to order at 6:03 p.m.

## 2. ROLL CALL

**Members present:** Rob Drexler, Ken VanBuskirk, Vicki Wilson, Jim Sims, Kristy Buck and Bill Dewey.

**Staff present:** Rebecca Hersha

**Department of Ecology:** Tim Gates and Rick Mraz

Jim Sims, discussed the one vacancy and the commissioners having interviewed the candidates for last week and will make decision sometime this week to fill the vacancy.

## 3. REGULAR BUSINESS

### MINUTES

The minutes from the December 16, 2013 were not available to be reviewed. They will hold those in advance.

### ANNUAL ELECTIONS OF CHAIRPERSON AND VICE CHAIRPERSON

Nominations or volunteers were discussed. Jim Sims would be willing to continue as Chairperson and to see the Shoreline Management Program through. Ken VanBuskirk willing to be Vice Chairperson again. Bill Dewey offered to step in if anybody needed a change. Vicki Wilson expressed she would be happy to step in once she feels she has more experience. Both Kristy Buck and Rob Drexler are too busy currently. The PAC felt unanimous for Jim and Ken as chair and vice chair respectively, but no official Motion was made at this meeting. (Made at next meeting – February 10, 2014).

## 4. PUBLIC MEETING

Jim Sims opened that there would be the opportunity for public comments and asked those wishing to do so to please sign in. He began by asking Rebecca for a quick overview of the relationship between the homeowner, Washington Department of Ecology (DOE), Washington

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Department of Natural resources (DNR), Washington Department of Fish & Wildlife (WDFW), and the United States Army Corps of Engineers (USACE).

Rebecca discussed the layers of government with jurisdiction over piers and docks and anything in or near water. She explained that WDFW has Hydraulic Project Approvals (HPA) that need to be obtained. They also have codes and rules to adhere to before they will issue an HPA. DNR owns state owned aquatic lands, so they need to authorize leases and have their own regulations to protect endangered species as well. WDFW's HPA rules are being revised currently, and likely to have changes in their final version. Lastly, the USACE previously had a specific permit called the Regional General Permit 6 (RGP6), which expired a couple years ago, and now individual permits are issued for each dock within their jurisdiction. They usually will hold up a permit if the tribe has significant concern about a project, until there is some type of mutual agreement.

Rebecca explained that in the process, the applicant comes to the county first with permit applications including a Joint Aquatic Resource Permits Application (JARPA) that is filled out for anything in or near water, and Mason County accepts that permit as part of shoreline permitting. A copy of the JARPA is then sent to all the jurisdictions involved - including, DNR, DFW, and USACE. They will also get a copy of the rest of the permit application and a copy of the SEPA checklist from the county as the lead agency. There are many layers and it is complex. She explained that a lot of the changes made in the draft came about because the public and dock builders complained that they would get a permit from Mason County and then find out from the state or federal jurisdictions that their dock proposals did not comply with their requirements, which necessitated changes in designs or other problems that ensued. Hence, why this draft has a lot of the details coming from the existing draft HPA rules and the RGP6 in an attempt to bring Mason County in line with other state and federal requirements.

Rebecca referenced a couple concerns:

- 1) WDFW does state there will be more changes to the piers and docks due to comments received. So, there are two options: The PAC can make our draft SMP match current HPA rules or the current version of the draft, or they can be taken out.
- 2) If these detailed requirements are incorporated into our SMP, if an applicant cannot meet the standards, he/she will have to not only request to vary from the standards with the state and/or federal jurisdiction where the standard originated, but they may also have to get a variance from the county.
- 3) The over or in water requirements of two state and the federal jurisdictions don't match and it appears that the draft SMP contains some requirements that match DNR's (draft) some that match WDFW's (draft) and some that match USACE's.

Rebecca's recommendation in the Staff Report was to take out some of the detailed requirements but retain the more simple requirements. The solution was to not have all the detailed requirements in the SMP, but a better permit packet advising what is required by both the state and federal agencies, so applicants are not surprised at what could come down the line.

Jim Sims asked a question about repairs and maintenance and grandfathering, and Rebecca referenced section 14 B of the draft, and that it is written that repairs can be made, but what repairs are made, they must meet code. And, if you are repairing/replacing more than 50% of the piling and decking, then you have to meet the requirements for an entirely new dock. Rebecca assured that the details of this would be looked at later.

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Ken VanBuskirk had a question regarding the red, underlined text in the SMP. He wonders if they elect to take most of this out, is the DOE likely to still approve the SMP?

Rebecca explained much of the new wording in red and underlined originates from the DOE's guidelines and are things we need to have in the SMP. Rick Mraz confirmed that Rebecca's response is accurate and the SMP needs to have adequate provisions to address these types of developments that could have adverse affects on aquatic species. Therefore, the information and standards that are provided from other agencies help to do that.

The PAC discussed and had questions with regard to how well applicants are advised that they must meet the requirements of other agencies. Rebecca explained that upon application and/or with SEPA checklists, applicants are informed that they need to send a copy of their JARPA to these other agencies but as the lead agency Mason County will send the SEPA Checklist and JARPA to them as well.

Jim Sims referenced two summaries for the public:

- 1) A second draft of the SMP will be prepared after the PAC's review workshops, potentially in September. This draft will be published for the view of everybody in the county, and there will be public hearings in which everybody in the county can comment on the entire document. Next, the PAC will look at the comments and determine if there are changes to be made before it goes to the County Commissioners for them to accept, amend, change and adopt.
- 2) The work before them today is primarily addressing new proposed piers or docks.

Jim Sims asked for any public comment/questions.

One woman commented that it appears that after all the rules and regulations are met by the federal government and state agencies, it appears that Mason County does not really have any other choices with regards to their own requirements.

Vicki Wilson shared her concerns, and commented that the county can issue a permit, but if one of these other agencies does not allow, the person does not get to build their dock. In a sense, the other agencies act like a baseline of what an applicant has to do. And, what the county is looking at is, is there anything above those baselines that have to be met. She wonders if there is a way to streamline our additions to what rules and regulations are already made by the other agencies.

Rick Mraz helped on this topic by adding that what we are doing is different from the other agencies. The county regulates the ability to develop a dock in part based upon environment designations and on their past practices authorizing docks in the existing SMP. In certain shoreline environments, the county has either approved as permitted or disallowed docks in some places throughout the county. There has been a lot of recent shoreline hearing board cases that have informed where docks ought to be built in Mason County and by whom. In addition to environment designations, the county has regulated length, and that is one thing that none of these other agencies has done. The USACE, WDFW and DNR have no dimensional standard or how far out in the water your dock can be. The county has had those standards on fresh and saltwater from the beginning. So, to exceed those length standards that are in the SMP now would require variances, and that is rare. There are a number of docks that are bigger than the length standards that the county has, but they predate the SMP.

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Jim Sims expressed to the public that the PAC is going through much of the SMP line by line, and that there will be an opportunity for public comment throughout the process.

Rebecca referenced Staff Report, page 4, Definitions, and asked for any comment or questions. Before Definitions were looked at, PAC members made the below comments:

Bill Dewey commented on the change in the title Boating Facilities – Piers and docks. He stated that it suggests that that is the only use of a pier or dock, and there are a lot of other water dependent uses that aren't boats. The PAC discussed a different title for this section to Piers, Docks and Boating Facilities. Rebecca agreed that the title Boating Facilities is strange and went on to explain that the definition of docks includes piers, ramps and floats, therefore she recommended taking out piers wherever it said piers and docks, because docks include piers. Consensus was to change the title to Docks and Boating Facilities.

Ken VanBuskirk commented to Staff Report, page 3, second paragraph, "Therefore, Staff recommends that the some items be clarified..." Is that to be some or same? Rebecca acknowledged the typo and stated it should read as follows: "Staff recommends that these items be clarified ..."

Also, at the third bullet point, "The design and siting of these projects should not adversely impact water quality of receiving waters" – he wonders who determines if it is adverse? Rebecca explained that it is determined by the requirements in the SMP, and whatever is not addressed in the SMP would be addressed in the Habitat Management Plan. Rick Mraz also confirmed that this is existing language from the Resource Ordinance.

Jim Sims asked for public comment and referenced the written comments circulated to the PAC:

### **Don Leonardy (Mason Lake - part-time)**

He lives most of the time in Bremerton, WA. He spends time at Mason Lake two to three times a week, and he does not remember seeing any notice posted for a dock that was located 20 feet from another dock. He wonders if there is any way to identify the location of docks other than the 5 foot offset rule to the home. His concern is too many structures on Mason Lake.

### **Jim Reece (Grapeview, WA)**

He referenced written comments from the February 2013 meeting, and provided a missing attachment that shows the bottomland he owns for his two docks to sit on. He is concerned about the definition of "grandfathered". In reading this section, he believes that if he has to do a repair on one of his docks that is 8 feet wide, he would have to reduce it to 4 feet wide, which would be expensive. He works to maintain his docks to keep them up to date, and he'd like to have a simplified process so it is not burdensome to do the maintenance.

Mr. Reece further presented his comment about "wake board boats", where the ordinance deals with protecting the environment. He spoke about the impact of huge wakes from wake board boats that damage the shoreline. He believes this topic should be addressed in this ordinance. Also, he has some difficulty understanding the definition and change from "state-owned aquatic lands" from state-owned water. Because to him state-owned lands would be the bottomland, and not just the water. He distributed copies of his January 13, 2014 letter to the PAC, which includes these specific comments and other concerns related to the SMP.

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### **Tim Zech (Dock builder in Mason County)**

He made comment on variances. He believes variances have not been approved for docks for many years that he knows of in the building of docks. He also commented on the county's dock length requirements of 100 foot and 115 foot, and stated that this isn't required in the other counties around us, but a mostly a depth requirement for tidal elevation or a maximum length of 150 or 200 feet. Jim Sims asked for Mr. Zech's comments in writing for the PAC's review. He will do so.

### **Doug Fritts (8701 NE Northshore)**

He reiterated Tim Zech's comments regarding the length of docks. He believes putting a linear length limit on the pier, ramp and float is going to make the facility unusable. He thinks this regulation should be looked at more closely. He believes that the other agencies deal with minimizing the impact on the environment and prefer the floats be in deeper water and not sitting on float stops above the beach. It would cause less of an impact to the environment to allow them to be floating. His recommendation would be to follow suit with the City of Bainbridge Island and allow for the inshore end of a float to rest at a minus 4 tide, thus eliminating the possibility of the float grounding at all.

### **Mike Levine (Marine Surveys and Assessments)**

He commented to dock lengths. He has found in a number of cases he has worked on, the restrictions can actually create an environmental harm. If our intention is more for aesthetic reasons, we might be limiting the ability to mitigate environmental harm by having rigid length requirements. He also noted that by having the length so short, there are grounding impacts. He believes that our length restrictions are not going to give us the flexibility to best preserve the environment.

Jim Sims asked for a 15-minute break and thanked the public for their comments, advising them they are welcome to submit any additional comments in writing to the PAC.

The PAC meeting reconvened and Jim Sims noted the following dates for upcoming meetings: February 10, March 17 and April 21. These dates will be addressed again due to possible PAC member conflicts.

Barbara Adkins commented on the PAC's schedule and not moving along as quickly as was thought might happen. In addition, the DCD has devoted a full-time person to work solely on the SMP, and that has impacted DCD by delegating this person's work to the two other planners and affecting the department greatly. She foresees the SMP requiring at least the next full year for work, and asked the PAC for ideas on how DCD can better equip them to progress more quickly. Twice a month meetings was suggested. Rebecca did remind that it does make it harder for advertising, but it could be done. Jim Sims asked Rebecca how many more PAC workshops she thought would be necessary for the SMP. The answer being at least 8 more, understanding that some meetings might be more tedious than others. Barbara inquired about the format of the material the PAC is receiving, and asked if there was anything that Rebecca could do in her process to abbreviate it, yet still provide them with necessary information. There was discussion about not having to re-look over all the changes, but rather at a more finished document, as they would already have the previous version to reference to if needed. This would eliminate the need to look at language stricken, in different color, etc, which the PAC has found cumbersome. Rebecca agrees this method would help her too. Bill Dewey did point out that just seeing the tract changes between January and now would be helpful. Ken VanBuskirk offered comment on how the PAC can best inform the public and not be confusing, as well as

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the possibility for hiring additional staff in the DCD to aid in this process. Barbara proposed for Rebecca to show only the new tract changes in her Staff Reports, and meeting twice a month to get caught up. The PAC agreed. New schedule for February is now the 10<sup>th</sup> and 24<sup>th</sup>, with March meeting dates set at the February 24<sup>th</sup> meeting.

Jim Sims brought up the topic of how they will record the public hearings on the finished SMP. There shouldn't be a problem with recording, unless they are held at a different location. He believes it might be beneficial to have hearings up north and down here, but the challenge will be how they will record it. Barbara Adkins commented that the DCD does not have any travel equipment and they have tried to do this in the past, but there are requirements with it being a public record. The Civic Center was named as a possibility. The PAC will readdress this, as completion of the SMP is more apparent.

Rick Mraz began the discussion on piers and docks again. He reminded the PAC that the county did a mapping analysis of parcels and water depths, and looked at existing docks and how many could be lengthened, and then looked at new docks and how many could be built to reach those water depths. This might be a useful piece of information for the next meeting.

The PAC discussed the use of the words "private" and "residential" and the need for them to be used appropriately. (Page 4 of Boating Facilities Staff Report). With Rick Mraz's suggestion, Rebecca recommended the wording to be changed to "recreational, commercial or residential use". In addition, under Boat House, the language of "Any walled and or roofed structure built" should have the word "or" removed. In reference to Fetch, it was suggested to reword the definition to "The perpendicular distance between ordinary high water marks across the water body, channel or inlet".

The PAC moved onto Project Classification Table. Rick Mraz explained a distinction that in Hood Canal, joint use docks are considered conditional use permits and individual docks were prohibited in the 'conservancy' environmental designation. There is a similar preference expressed for South Puget Sound, but it is not as restrictive. It was asked, if it was rural, rather than conservancy, would the same restrictions apply in Hood Canal? Rebecca offered to change rural in Hood Canal, South Puget Sound saltwaters to 'N/A' (not applicable), and that would be accurate as well because none of the saltwater shorelines are designated as a 'rural' environmental designation.

Ken VanBuskirk referenced that the shoreline environmental designations table should reflect the cumulative impact analysis report at Page 26. Rebecca disagreed, because there is a separate section on what is required to approve a conditional use permit, and it would not make sense to add all requirements to the table. Rick Mraz explained that this provision was added because of comments and questions from the industry that builds these and often represents applicants in hearings. He believes this gives a good idea of what would go into a cumulative impact analysis to support a proposal for a dock.

The PAC moved on to Boat Launches in the Project Classification Table. Rebecca explained motorized is for motorboats, non-motorized is for canoes and kayaks. Teresa Nation suggested that maybe instead of using motorized or non-motorized, categorize by hand launching vs. trailer launching, because that will differentiate the sort of facility is needed.

The PAC went onto Policies and Regulations. Ken VanBuskirk referenced the comment letter from Bruce Landram, dated 9/23/13, and asked for clarification about whether it takes 2 years

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for the USACE to approve the permits? Rebecca answered that it does take quite awhile, and there are several requested extensions for County issued Shoreline Permits. Ken VanBuskirk suggested the PAC's consideration to recommend to the Board of County Commissioners to ask the USACE to expedite the process. Rick Mraz stated the RGP6 is expired and all docks have to get an individual permit for repair and maintenance from the USACE, and that is a lengthy process.

### **5. ADJOURNMENT**

Under direction of Jim Sims, the PAC chose to break for the night and meet again twice in February. Meeting adjourned at 8:17pm.