



JEFFERSON COUNTY

PLANNING COMMISSION

621 Sheridan Street

Port Townsend, WA 98368

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Minutes of the Critical Areas Committee Meeting

March 1, 2007

WSU Learning Center

Shold Business Park, Spruce Room

Port Hadlock, WA

Planning Commission members: Bud Schindler, Peter Downey, Henry Werch and Dennis Schultz
Advisory Group Members: Al Latham, Amy Hiatt, Bill Wheeler, Diane Johnson, Dr. Kenneth Brooks, Dr. Robert Crittenden, George Yount, Jill Silver, Jim Tracy, Kathy Dickson, Nancy Stelow, Norman McLeod, Roger Short, Ron Sikes (non-voting alternate for George Yount), Teren McLeod (non-voting member)
Staff: Brent Butler, Barbara Nightingale

Summary:

The Planning Commission Critical Areas Committee meeting was called to order in the WSU Learning Center at the Shold Business Park in Port Hadlock at 7:00 pm by Chair Bud Schindler. Planning Commission members present were Bud Schindler, Peter Downey, Henry Werch and Dennis Schultz. Advisory Group Members present were Al Latham, Amy Hiatt, Bill Wheeler, Diane Johnson, Dr. Kenneth Brooks, Dr. Robert Crittenden, George Yount, Jill Silver, Jim Tracy, Kathy Dickson, Nancy Stelow, Norman McLeod, Roger Short, Ron Sikes (non-voting alternate for George Yount, Teren McLeod (non-voting member)

DCD staff present were Brent Butler and Barbara Nightingale.

There were approximately sixteen members of the public present. Those who signed in the guest list were: James Fritz, Christian Elbert, George Hansberry, Jim Storey, Clark Crandall, Ron Sikes, Martin Ivers, Paul Heinzinger, Clinton Rogers, Denver Shoop, Chris Grant, Teren McLeod, Rose Hare, Phyllis Schultz, and Pat Scott.

Discussion on Document Review Process

Several handouts were distributed to committee members and the public. The handouts included a letter from W. Ron Allen, Tribal Chairman/Executive Director for the Jamestown S'Klallam Tribe. The committee discussed both the content and context of the letter, the tribal communication protocol with local governments and advisory committees in general. The February 22, 2007 letter from the tribe was addressed to the Board of County Commissioners with copies to Jim Hagen, Al Scalf, and the Jamestown S'Klallam Tribal Council. Peter Downey suggested that staff contact the tribal contact and see how we should communicate with the tribe. Bud directed staff to communicate with the tribes and invite them to meetings.

The committee then discussed another handout item, a letter from DCD staff, Brent Butler, to WDOE for review of several committee documents. Jim Tracy suggested that only four subgroup reports and Dr.

Brooks' document should go to WDOE for review. Bud Schindler suggested that before materials go out for review that they be reviewed and approved by the committee.

Henry Werch raised the issue of the need for all points of view going forward to the BoCC for review. Henry stated that it would be an improper use of this committee's time and effort to not include all the points of view of this group. No suppression of work from committee member should be allowed. Denny Schultz suggested that items on which the majority and minority disagree should be identified point-by-point rather than two separate recommendations. Dennis suggested that multiple recommendations could be too burdensome for the PC at this time. Bud Schindler indicated that the minority report should consist of issues that are addressed by both the minority and majority. The subcommittee should include materials from Bill Wheeler, Amy Hiatt and Jill Silver for review.

Peter raised the issue that anything going to WDOE at this time would be extremely premature as it is not the final report. Peter suggested that both minority and majority reports go to the PC in order to have complete information to the PC.

Jim Tracy moved to just have four pieces sent to WDOE. These pieces should be limited to: Dr. Brooks BAS and report of the four working groups (this totals to five discrete pieces). Bill Wheeler seconded the motion.

Norm McLeod commented that the primary purpose is to consult with WDOE on the pieces the subcommittee chooses to review.

Henry W. discussed the process that led to submitting documents resulted in this sending of too many materials of this committee. Hard work from committees has been from just a very few people, such as Ken Brooks, Amy Hiatt, Jill Silver, Bill Wheeler, and Jim Tracey with all of which subjected to review. If WDOE looks at material related to ecology, it should look at all the work on ecology. Not allowing WDOE to review both minority and majority work limits WDOE's ability to provide information to the committee.

Dr. Brooks discussed the underlying philosophical approaches behind the majority and minority reports. He characterized the majority reports as coming out of a need to address issues of those people most likely to be affected by CAO, an approach very specific to Jefferson County needs. He sees the minority report as exceedingly prescriptive with a focus on rules rather than the protection of critical areas. He discussed that it is not the width of the buffer that is important but rather the underlying philosophy about people and their willingness to react in a pro-active way without necessarily over-regulation. Brooks wants the public to respond to which approach they want to see be adopted.

Peter Downey discussed growth management as a County decision with WDOE weighing in and the County choosing whether or not to incorporate WDOE comments. This he described is different from SMP work, for example, which requires WDOE overview. Because of this difference, for the CAO work, Peter reported that WDOE comments do not mean that much in what becomes the final result and that WDOE review at this time is premature and of limited value.

Norm McLeod discussed that the Second Settlement Agreement states that any departures from WDOE's Volume II from local circumstances shall be consulted with WDOE wetland specialists, with this process being specifically related to WDOE's Volume II.

Henry Werch responded that for anyone to describe one report as prescriptive or otherwise is premature and could lead to an anticipation of something that is not true. Some issues may demonstrate polarization with room for disagreement. To say that it is not about buffer widths is to forget is the uproar about buffer widths in this County has created quite a bit of excitement here in Jefferson County over the last few months. It is important to see the real issues and concerns expressed in a different way by both the majority and minority. No one in the committee is qualified to make the final determination as to what is appropriate in terms of buffers.

Norm McLeod stated that we have to abide by the Second Settlement Agreement. It is a legal requirement that WDOE review the committee's work of any work that departs from WDOE's Volume II. Bill Wheeler asked: Do we have to submit everything or do we have to send only Brooks work as it departs from the Wetland II.

Jim Tracy changed his motion to have WDOE only consider Ken Brooks work for review. That was seconded.

Voting Results: One (1) opposed sixteen (16) in favor.

It was requested that staff clarify what WDOE is expected to comment on pursuant to the Second Settlement Agreement. Dr. Brooks raised the issue of having an in-depth conversation with WDOE not just a black and white but in a conversation.

Bud Schindler raised the point that the committee is only asking their opinion. Henry pointed out that the committee is not addressing or differing in every prescription but agree that the minority believes that following the WDOE prescriptive would be the safest and least expensive route for the county. He believes that it is inappropriate to draw the characterization that it is minority that wants larger buffers and the majority that wants smaller buffers.

PUBLIC COMMENTS

Jim Fritz commented that the Jefferson Conservation District with Al Latham has done an excellent job of working with the ag community over a 20-year period to initiate salmon restoration and stewardship. If people use salmon as an antigrowth agenda, then salmon may be used and then become extinct.

Teren McLeod (CAO subcommittee alternate): Major notion is that there not be two reports but rather one report with minority opinions going to the PC. Teren suggested that the committee consider the process as a majority and not consensus process. She discussed the need for County support of this process to allow for the public to participate in the process through increased use of computer and mapping and technology. Jefferson County is recognized across the state for its land-use steward leadership. Teren raised the question: if this isn't good enough, who is it not good enough for and who is it good for? Teren cited a recent report from Washington Research Council rating Jefferson County affordability index for first-time home buyers as being very low (37 out of a possible 100 in affordability). Teren raised the question of how stewardship can be embraced for environmental protection for future generations.

Clinton Rodgers (Port Townsend resident): Democracy is what we are in. Minority loses. Fish are important to people with fish in water and people on land, so who do you take from to give to another. Mismanagement has resulted in the situation we are in but we cannot hurry to correct this. Who is the governor when it comes to wildlife? We do not own the fish and the trees. The comment that only a certain group of people show up all the time, perhaps those that are here commenting are representatives sent by others. Life in the country is my lifestyle. Where do you want me to live? We are all on a reservation governed by a larger government. We, as citizens, only make suggestions, debatable amongst ourselves.

John Gieser (Cape George resident): in support of T. McLeod's letter and have been pleased to see the process in action. Carry on, please.

Denver Shoop (Chimacum resident): I care about my constitutional rights. The "majority" is the people out here being affected just the people. I don't want any setbacks. You people aren't even trying to work together. No one will come out to my place. No one cares. Dr. Brooks has put a lot of time into this process. First, I want to protect my constitutional rights on my land. I will die for my rights on my country. I believe in conservation. I have raised wild turkeys and helped the Creek but regulators need to show me what I am doing to hurt anything. Denver stated that the County is sneaky and crooked and he wants to do something about it.

Greg Hare: It is very emotional as we are talking about our rights. Committees that move to take away an individual's rights. The only way you are going to change it, is to change people's hearts and minds. Rules will not make it better. They need to understand this. We are getting this out of the committee meetings. Larger buffers take constitutional rights from people and results in a dictatorship.

COMMITTEE WORK

Administration - Request of Extension on Deliverables Date

The group discussed the presentation of materials to the Planning Commission (PC).

Dr. Brooks: Moved to have chair request the BoCC or PC (appropriate authority) for an extension of one month from the April 1st deadline in order to fulfill the code-writing lack-of-staff conditions. Diane Johnson seconded the motion.

Henry felt the motion was inappropriate and that the PC could respect the fact that the committee may need more time. Therefore, he does not believe that a motion is necessary. Last week's vote on this could be discussed.

Brent Butler reported that Eric Towes will be available on March 18th to begin code-writing work. Bud Schindler asked Brent if it is appropriate to submit a request to staff to extend that April 1st deadline. Brent reviewed the timeline that Bud presented. Bud wanted to keep the communication channels open with the PC and BoCC, so they know what to expect. Bud pointed out that according to a project timeline, a narrative report presentation to the PC is to take place on April 4th. However, Bud would rather have code presented. Bill Wheeler for an extension in time to produce code and still be within the terms set by the Settlement Agreement. Bud responded that the schedule for the follow-up with the BoCC could be affected if we cannot deliver a quality product by April 1st.

Brent Butler pointed out that the DCD-long range planning needs to review what the long-range division work schedule will be. Brent announced that four dates of meetings in March with the code-writing consultant has been circulated with DCD staff.

Peter Downey reiterated that the most important thing to come out of this committee is the policy direction. This committee has functioned very well in the discussion of policy issues but perhaps code-writing is not the expected end result from the committee.

Henry pointed out that the field trip indicated that the committee could work together to come up with recommendations for the PC to come up with acceptable solutions as much as possible and that the fieldtrip showed a spirit of the ability to work together (majority and minority). Henry feels that the committee doesn't know if it has done what it needs to do and that squabbling and philosophizing does not result in the work being done.

Norm McLeod expressed concern about having new PC members in March and April and that this addition of new members could delay the process and change the end products.

Jill Silver pointed out that this committee is an advisory group to the BoCC and PC with thoughtful explanations being presented to the governing body. Ag policy suggestions were put out for discussion but no comments were received. Given that the regulations need to be understandable and applicable, it is important to receive comments for changes. She stressed the need for making things better particularly in the face of a projected doubling of population in the future and the need to address regulations in light of future needs and requirements.

Ken Brooks motion: Moved to have the chair draft a letter to BoCC and DCD to extend the deadline for the April 1st deliverable one month to work with the code and complete the work. Motion seconded. Voting Results: One (1) opposed, four (4) abstained, and twelve (12) in favor.

Agenda Request

Crittenden requested to place Al Latham's voluntary approach to ag report on stewardship and restoration on the agenda.

Henry stressed that there is a great deal of agreement on goals and intentions but there is not agreement on the process.

Committee Work Process and Deliverables Format

Bill Wheeler reviewed a proposed committee commenting and voting scheme set out in his February 27th memo with votes on each subject/product. Covering each section on a selected week and voting on that section the following week. See schedule in Bill Wheeler's February 27th memo (last page). The grid in the memo sets out a topic (i.e. definitions) one week then the following week voting on it with votes identified with a lead time allowed to discuss and develop minority positions on subjects where there is a

minority position. This process would call-out those sections that reflect agreement and those sections on which there is disagreement on and identify that disagreement with the issues with significant disagreement being called out and issues identified.

The committee discussed how much lead time they would need to follow this process, it was decided that there would be one week lead time prior to taking a vote and developing a minority position on that particular issue.

Dr. Crittenden pointed out that there may be two minority reports and he objected to the process. Wheeler has no objection to including a minority report as an appendix but not as a product. Bud Schindler suggested that the minority report could be a statement of the various minority positions on particular issues. The committee discussed how this process might play out with the minority reports submitted at the end of the process to be attached to the larger report. A minority report would then be referenced in the larger report, with the minority report being included in an appendix to the report.

Norm McLeod suggested laptops and projectors to be used in this review work. Brooks seconded this notion.

Brooks suggested, for example, that the committee work on links to missing ag code. Extract the majority portions of the report and then have majority reports included in an appendix. This could include both minority reports.

Schultz reiterated the need for clean copies of reports to start from to clarify which version the committee is working from and voting on.

Henry suggested that minority positions could be referenced in the report with the supplemented material supporting that minority position being referenced within the particular section of the report, where there is digression. He saw a need to have something that indicates and quickly summarizes the minority differences of opinion from the majority and refers to the supplemental material (i.e. appendices).

Bud requested that staff distribute the link to Island County code. Island County Planning Dept. page, link to pdfs.

Dr. Brooks proposed a motion: based on the committee's previous deliberations, that the committee adopt the (not specific language) Island County format for developing this code (existing Island County 17.02 code plus 12.06).

Bud suggested that staff distribute the link to Island County Code to all interested persons.

Bud moved to use Island County Code format as a template for development of Jefferson County Code. Motion was seconded.

Voting results: one (1) abstention and sixteen (16) in favor.

Bill Wheeler moved to use the process outlined in his February 27th memo with the Crittenden friendly amendment to have appendices added for minority reports. Diana Johnson asked for Crittenden to have his minority issues at least identified in the Wheeler process. Motion seconded.

Voting results: One (1) abstention and sixteen (16) in favor.

Dennis Schultz requested that staff send out clean fresh copies of all reports to be used during voting as soon as possible to help the subcommittee prepare for this process. Norm requested that enough copies be available for the public so they can follow and make notes on issues they have questions or feelings on.

Committee will begin working on Wheeler's process for next week's meeting on March 8th to discuss "wetlands" and follow-up votes on March 15th. Bud Schindler suggested that at the conclusion of the March 8th meeting that the committee do a "process check". The purpose of this check is to evaluate whether the process is doing what we expect and if we can complete the project in the time required.

Dr. Brooks will separate out the wetlands section into a reasonable format with the Island County Code by next Thursday, March 8 with that format available by next Tuesday, March 6, for staff to distribute. Dr. Brooks suggested that the mission and philosophy of committee be the last things to be considered. Discussion ensued about WAC 173-121 and 124.

MINORITY PRESENTATION

Amy Hiatt handed out materials and agreed to do a presentation next week. Amy overviewed the key points of her handouts, which included a Site Plan, three aerial photos (1991, 2000, and 2005), a narrative on wetland scoring with keys to the Site Plan, along with a contour map, landslide and erosions hazards map, seismic and critical Aquifer Recharge Areas map downloaded from the County website. These handouts use Amy's property, along Crutcher Road, as an example to better understand the scoring process and how the WDOE scoring method gets to specific scores. Amy also pointed all the differences in rainfall indicated in the differences between the aerial photos of 1991, 2000, and 2005.

Bud Schindler suggested holding further comments and questions until next week. Peter Downey suggested that Amy sit down with Dr. Brooks and identify the differences between those buffers proposed by WDOE and those proposed by Dr. Brooks.

Bill Wheeler proposed that we begin our meetings with public comment then do committee work, followed by minority presentations and ensuing discussions. The committee supported this suggestion. Henry pointed out that the ultimate ordinance should hopefully help Jefferson County get around the acknowledged individual differences in delineating wetlands.

PUBLIC COMMENT

Clark Crandall (Port Townsend resident): critiqued DCD's letter of 2/26/07 to WDOE and requested a focus on the actual timeline of when the committee discussed the topics cited in the letter to WDOE requesting review.

John Geiser (Cape George resident): reiterated the notion that these ordinances will affect real people.

Jim Fritz: Echoed John Geiser's above comment. Stressing the ramifications of this ordinance

Phyllis Shultz (Port Townsend resident) commented on her history with North Dakota with market changes of price of land. Urging the committee to reach consensus and not polarize over these issues, stating that democracy is about community and individuals.

Chair adjourned meeting at 10:05 pm.