



JEFFERSON COUNTY

PLANNING COMMISSION

621 Sheridan Street

Port Townsend, WA 98368

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Minutes of the Critical Areas Committee Meeting
September 14, 2006, 7pm
WSU Learning Center
Shold Business Park, Spruce Room
201 West Patison
Port Hadlock

Planning Commission: Jim Hagen, Peter Downey, Henry Werch and Dennis Schultz
Advisors: Norm MacLeod, Jim Tracy, Bill Wheeler, John Richmond, Kathy Dickson, Diane Johnson, Sandy Hershelman, Kenn Brooks, Amy Hiatt, Dianne Bonnivier-Holman, Jill Silver, George Yount, Roger Short and Robert Crittenden
Staff: Rachel McHugh

Summary:

The Planning Commission Critical areas subcommittee meeting was called to order in the Spruce Room at the WSU Learning Center at 7pm by Chair Jim Hagen. Planning Commission members present were Peter Downey, Jim Hagen, Dennis Schultz and Henry Werch. Advisory members present were Norm MacLeod, Jim Tracy, Bill Wheeler, Kathy Dickson, Diane Johnson, Sandy Hershelman, Kenn Brooks, Amy Hiatt, Dianne Bonnivier-Holman, Jill Silver, George Yount and Robert Crittenden.

Call to order

Gretchen Lux from the Washington State Department of Ecology introduced herself and Rick Mraz. G. Lux explained she would lead the presentation because she had spoken before the Planning Commission last year. Her presentation was 'Wetland Ratings, Buffers, and Best Available Science'. The Department of Ecology in consultation with Fish and Wildlife and a number of local planners and consultants put together some guidance documents for the purpose of summarizing some of the science related to wetlands protection. She began explaining *Wetlands in Washington Volumes 1 and 2*. She explained that Volume 1 synthesizes or basically draws together the basic conclusions from a wide variety of the literature available about wetland protection; this document summarizes what we know about freshwater wetlands currently; it was peer reviewed after development by a broad group of interested scientists, local planners and consultants. The second document in the series is Volume 2; what ecology attempted to do is put together guidance information on protecting wetland functions. The first one gives a summary of science in general and what we think about wetlands; what do we know about them scientifically; and Volume 2 provides a summary of some of the conclusions about how to protect them. She explained a little bit about how best available science is defined in regulations and code. She talked about what the major conclusions were that were developed through a review of the scientific literature and are summarized in Volume 1; what we call the synthesis of the science; one of the main things that we came to understand was that case-by-case permitting on a site-specific basis alone can't ensure no net loss; in other words wetland functions and trying to protect them only on a site-specific basis can't ensure that you won't lose function over time; there are impacts beyond that site that need to be considered in total; wetland functions are effected by other actions in a landscape because wetland functions happen across the landscape. One of the things we're learning broadly is we need to do more work looking at our landscape and long-term planning in order to protect those important resource. Site-by-site regulation alone doesn't do an adequate job of protecting the broader wetland function base. G. Lux continued describing the function of wetland buffers and the use of mitigation to

compensate for impacts to wetlands; we have some failures over time in terms of not being able to replace the wetlands as well as we'd like; we rely on site-specific regulation in a critical areas type ordinance, but what we're learning broadly is that we need to do more at a larger landscape level. She described the information from the synthesis of some of the science that relates to the development of a critical areas ordinance; we think that the conclusions are fairly consistent; the function of a buffer is to protect the function of a wetland. She explained that a variety of factors should determine buffer widths and the character of that buffer. The range of literature is from the broader science about freshwater wetlands; not many of the studies are from the Pacific Northwest; we don't have many specific studies from this area. G. Lux described the basic principles that apply; different species fill similar niches; as a basic principle buffers provide niche habitats; the literature reports ranges for different buffer functions; the literature draws conclusions about what size buffers provide for different functions. She discussed Volume 2 indicating it has information about management options and more discussion about analyzing wetlands in the landscape; another section helps you categorize the risk associated with a management strategy; as you think about developing a critical areas ordinance all management strategies have some amount of risk; they can have a low risk or varying degrees of more risk; our recommendations for things like buffers and mitigation ratios for this guidance represent what we believe to have a moderate risk; the intent was to be flexible and manageable; the regulatory tools in Volume 2 talk about avoiding impacts. She gave examples of low and high risk scenarios; alternative 3 represented in Volume 2 represents moderate risk that gives flexibility; the challenge for local governments is to choose an approach based on a reliance on buffers to protect wetlands, or another means. She described what critical areas ordinances are intended to balance for wetlands; part of the flexibility (of Volume 2 management) can be consideration of land use. She described high, moderate and low impacts of adjacent land use with examples. A. Hiatt asked about ecology's expectations for the application of the "intensity of impact" table using agriculture as an example; where would agriculture be on the table. G. Lux replied ecology intended the table in Volume 2 as guidance; it is within jurisdictions discretion to identify and justify intensities of impacts; agriculture would depend on what the actual use in that setting was; agriculture can't be put into one category; it would depend on what type you're talking about. G. Lux went into more detail for (Ecology Guidance) alternative 3. Buffers are based on the rating (2004 wetlands rating system), intensity of impacts and wetland functions or sensitivities; alternative 3 includes criteria under which you can increase, decrease and average buffers; occasionally there are supportable reasons that would allow you to decrease a buffer. She discussed the different categories under the 2004 ratings system and used differences in category one with different habitat scores as an illustration; alternative 3 represents a flexible buffer strategy; it allows you to tailor your buffer needs to what function is existing there. J. Peters added a quick note just for comparison our critical areas regulations since 2001 are simpler, but less flexible; for example all category one wetlands have a 150ft buffer. G. Lux added examples for category one under the new ratings system depending on adjacent land use intensity. J. Silver asked if Gretchen had any photos in her presentation to show what some of the wetlands look like. G. Lux responded that they have more information, but she thought what they needed to do was be a little more specific tonight. J. Tracy asked in order to understand the impacts of these regulations on class one wetlands, did ecology have any actual data on how many category one wetlands are in Jefferson County that don't have high habitat value. G. Lux answered ecology has not done a specific inventory and rated wetlands here; what other jurisdictions have done to answer that question is to actually do a sampling of the inventory and actually find out how does it look here in our county; when they did the ratings work they sampled a lot of wetlands across the state. J. Tracy asked if there was a discreet science on those adjacent land use type impacts, or is the science basically on classifying wetlands and identifying the functions and values of wetlands themselves. G. Lux stated the synthesis document includes a discussion of indirect impacts on various kinds of activities. P. Downey questioned the criteria for average buffers. G. Lux paraphrased what the guidance says; it's based on the notion that as long as your not decreasing the square footage of your buffer and as long as your not narrowing it in an area where the buffer is either less effective or near an area where it's adjacent to a more sensitive part of your wetland than it's a supportable choice to average your buffers. There was more discussion of buffer averaging, potential economic loss through buffers and federal agencies/regulations were discussed. GMA, local jurisdiction and public/federal lands were discussed. J. Silver pointed out that forestry is assumed to have a different impact than housing, industrial developments or highways on wetland function; growth management is about urban or rural growth development; that's my understanding why there would be some differences. Forestry was discussed further. G. Lux suggested what we're trying to address here is what the growth management act requires us to do and how do we do that in a jurisdictional setting. The origins of the 'buffer' strategy were discussed and the idea of performance based buffers was broached. P. Downey suggested ecology is now asking counties to codify the guidance. G. Lux stated the Guidance was never intended to be codified by the State; this was a technical assistance effort; it was an effort to do some of the work up front local jurisdictions need to

work of their wetland ordinances; she stated ecology was well aware of the limitations we all have in staffing. P. Downey stated ecology was essentially asking counties to codify it through their ordinances; if ecology we're to codify it they would have to do a full economic analysis of it. G. Lux state the State doesn't adopt the standards for GMA; the local government is in control of adopting those standards. There was discussion of what the State adopts and what the local does. Best management practices and the possibility of alternatives to ecology's guidance were discussed. G. Lux stated that ecology was interested in helping with the solutions to wetlands protection that the locals are facing; one of the things ecology is facing is limitations in staff. J. Peters added in our current system on the books right now as well as in the proposal to incorporate alternative 3 we have a hybrid of that; we have standard buffers and than we have ways that you can decrease those buffers; one of those ways is buffers averaging; another is a habitat management plan that starts to get at a performance based plan where a land owner has a plan that's supposed to be implemented and checked over time; that's a way to decrease a buffer; and than of course we have this waver option that you don't have to do a wetland delineation if your that much farther back; we send those reports to ecology and other agencies to see if there are any comments. J. Hagen stated what really struck him about volume 2 was the emphasis on landscape based protections and the acknowledgment that site-specific protections are not working; in the appendix are references to pilot programs that are underway that are implementing this landscape based approach. G. Lux stated the landscape approach is basically an analysis that you do across your county; what you're trying to do is identify the physical features that you're working with that control setup for these wetland functions to be able to occur. G. Lux explained the landscape approach; the landscape approach allows identification of where opportunities for most significant restoration are. There was discussion of the landscape approach as a pilot program.

J. Peters mentioned the draft shoreline inventory and characterization now available on the web for shoreline management planning; we have applied this landscape analysis tool together with Steven's help and Susan's help we actually have this evaluation for east Jefferson and west Jefferson County; we're using it for our long-range planning effort for shoreline management, so there is a potential application for critical areas protection as well; only you have to take into account the scale of what your talking about as well. G. Lux stated since you've done that effort that should inform some of your decisions about how to do wetland protection in this County. The difference between ecology guidance and forest practices were further discussed. Types of wetlands were discussed specifically in relation to forest practice management. D. Johnson gave an example of runoff near Tarboo Creek and the impact of forest practices.

The strategies behind buffers, effects of uses and knowledge available to local jurisdictions were discussed. G. Lux explained the forest landscape in terms of the rating system; tree cutting, forestry, in general was put in the low (intensity land use) category because there are time periods in that management when that wetland is left alone to function. B. Wheeler stated the exception to that is in forest practices you do a lot of things that is not cutting trees. G. Lux stated forestry doesn't need to be seen as low, moderate or high; that table in volume 2 is the example of where they put these various activities in relative impact terms; some jurisdictions have shifted some things. A. Scalf described where the County does and doesn't have jurisdiction regarding classes of forest practice as well as conversion option harvest plans for class three; he asked about the high designation for 'hobby farm'. R. Marz stated he brought that to the wetlands technical advisory group; the general discussion moved around what classified a 'hobby farm'; what came from it was there are varying intensities even to that; he didn't think ecology intended to crystallize the notion of a 'hobby farm' as a high intensity land use; he stated it was an opportunity for local jurisdictions to modify that determination; Island County recently had their existing and on-going agriculture essentially approved by the growth management hearings board; they incorporated BMP's by the national resource conservation services into their best available science; they used those documents and in doing so they asked and crafted a requirement for farm plans; these farm plans as presented to the hearings board included something as simple as a few horses on five acres or 40 emus on ten, so there's a wide range of farm plans; they could be looked at by the county as having low, moderate or high intensity; the answer is 'hobby farms' are not exclusively high intensity. There was discussion of uses, levels of impact and categorization of impacts. Interpretation of the ratings system and possible subjectivity were discussed. G. Lux and R. Mraz answered further questions from the committee. The need for public education and understand of regulation/policy were discussed. The presentation concluded and a transition was called.

Staffing was discussed. A. Scalf stated all three (Scalf, Peters, McHugh) were requested for all meetings; due to resource management in the department he committee to Jim (Hagen) that two staff members would be present at all of the meetings. J. Hagen suggested follow-up on information pertinent to Island County. A. Scalf stated we're all studying Island County; we need to understand Island County just went through a case and were affirmed on existing and on-going ag; what we understand is that Island County is in the same place we are; they will be coming out with a critical area ordinance in October to implement

best available science; they don't are just preparing their staff recommendations to come out for public review; he is watching a lot of other counties; Mason, Clallam; Thurston County's going to the Supreme Court against the hearings board; Whatcom County's adopted ecology's alternative 3, so yes we all watch how other counties are operating; Monday morning the Commissioners are going to discuss the request from the Planning Commission to extend even further the January 18th deadline. A. Scalf described how that extension process. A. Scalf suggested a 'white paper' similar to Island County's "Final Draft Report and Recommendations of the Agricultural Review Committee" to capture what the group had discussed to forward onto the Planning Commission. J. Peters pointed out that Island County is only talking about ag up to 1998; what do we do about new farming; Island County was wrestling with the same issue we we're; the issue of legal non-conforming uses. J. Hagen stated the extension would give the committee the time to discuss this in more detail. The motions from the previous meeting were discussed along with Island County. A. Scalf asked if it was the intention of the group to remove the ag exemptions and replace it with farm plans. K. Brooks didn't believe they know at this point; the motion was for the county and the group to take a good hard look at Island County. J. Hagen added what we are doing is looking at that model; we could make modifications to that model to fit our circumstances. The timing of Island County's critical areas ordinance was discussed. The ideas of an interim ordinance or alternative regulations were also discussed. The committee discussed standard, required farm plans, such as Island County, over ag exemptions. How difficult it could be to impose plans on farmers and the potential issues it could cause the conservation district were considered. A. Scalf suggested the possibility of establishing new farms, after the current exemptions date, through a farm plan; conversion of land that has traditionally been residential; he asked the committee to verify they were considering allowing uses within buffers for new ag. J. Hagen stated they were. K. Brooks expressed that was not of what he understood; go into undeveloped wetlands is a concern. There was discussion of what they committee was recommending. A. Scalf suggested a list of what could be problems, questions and policy issues.

Public Comment was open at 9:16. Open space tax concerns were raised as well as the possibility of 'braking up' old dormant farms into smaller ones. Closed 9:21

A Fish and Wildlife sub-group was briefly discussed.

Meeting closed 9:22pm.

Conclusions:

A 'white paper' patterned after the Island County Agriculture Committee report would be produced.

A motion was passed officially establishing a Fish and Wildlife sub-group with one opposed.