

JEFFERSON COUNTY PLANNING COMMISSION

MINUTES FOR FEBRUARY 5, 2003

- A. OPENING BUSINESS
- B. AIRPORT NOISE OVERLAY ZONE UPDATE, MLA03-3
- C. PUBLIC HEARING - MLA02-485, UDC AMENDMENTS RELATED TO ESAs RESULTING FROM SETTLEMENT AGREEMENT WITH WASHINGTON ENVIRONMENTAL COUNCIL AND AGRICULTURE LANDS EXEMPTIONS
- D. DISCUSSION OF HEARINGS BOARD COMPLIANCE ORDER NO. 01-2-0015 REGARDING PROTECTION AGAINST SEAWATER INTRUSION
- E. ADJOURNMENT

A. OPENING BUSINESS

The regular meeting was called to order at the WSU Learning Center at 7:00 p.m. by Chair Tom McNerney. Planning Commission members present were Pat Rodgers, Phil Flynn, Eileen Rogers, Edel Sokol, Dwayne Wilcox, Jenny Davis, and David Whipple. Todd McGuire was excused.

DCD staff present were Al Scalf, Randy Kline, Kyle Alm, Josh Peters, Dave Christensen of the Natural Resources Division, and Cheryl Halvorson, secretary.

Port of Port Townsend staff present were Larry Crockett, Executive Director, Jim Pivarnik, Property Manager, and Herb Beck, Port Commissioner. County Commissioner Glen Huntingford was present for a portion of the meeting.

There were about thirty-five members of the public present. Those who signed the guest list were Linda Swisher, Lorna Ward, Don Ward, Marty Fisher, Raymond Kemery, Walt and Fay Beck, Robert Pontius, Georgena Johnson, Joy Baisch, Joe Baisch, Kurt and Patsy Lamberton, Barney Burke of the Leader, Herb Beck, Larry Schinke, Nancy Dorgan, Joseph Halcomb, Jodi Lehman, Myrtle Corey, Jerry Gorsline, Diane Johnson, Jack and Marsha Hensel, Ken Ackerman, Lisa Taister, Mark Ross, Karen Driscoll, Andrew Driscoll, Tom Peckman, and Dena Jones.

The minutes for January 8 and January 15, 2003, were approved as submitted.

B. AIRPORT NOISE OVERLAY ZONE UPDATE, MLA03-3

Tom McNerney announced that the Planning Commission would take public comments after the presentation by the Port representatives on the Airport Noise Overlay District. He noted that the commission would only take comments on the airport issue at that time. The public testimony on the agriculture issue would occur during the public hearing on that proposal. Mr. McNerney then invited a presentation by the Port representatives.

Larry Crockett handed out a revised disclosure form which resulted from consultations with county staff. He noted that it was revised from the handout of January 15.

Larry Crockett explained the process used in refining the 50 DNL contour map. He explained that the new 50 DNL contour line was projected to be good until 2022. Mr. Crockett stated that county and Port staff were working on determining the number of parcels that would be affected. He described the location of the 50 DNL line, which on one side did not leave airport property. While the length was the same, the width was more narrow.

Larry Crockett stated that the Port staff had just gotten the new map on January 24. In order to give the public adequate time to review the new map, it had been agreed to cancel the public hearing. A public hearing would be rescheduled for a later date.

Jenny Davis asked if the actual overlay would be smaller as well since the 50 DNL contour was smaller, noting that it was 30% to 40% smaller than the original. Larry Crockett replied that the 50 DNL was the same as the overlay zone. Mr. Crockett stated that they had their surveyor putting together information for county staff to determine the affected parcels. He stated that he had counted roughly 160 to 165 parcel numbers, although there would be fewer property owners. He stated that included all of the Port's property

and the golf course, which was made up of several parcels, and other parcels which were under one ownership. Randy Kline stated that staff would be able to produce acreage figures for the entire district and parcel ownerships, etc.

David Whipple referred to the earlier discussion about certain unspecified uses that would be prohibited in the overlay zone. He thought those uses should be clearly specified and discussed. Mr. Whipple was concerned about prohibiting day cares and churches. Larry Crockett responded that there were different zones within the 50 DNL. There was the runway protection zone where nothing could be built. He reported that the Port had bought most of that property already. He explained that was an FAA mandated area. Mr. Crockett stated that there were some other areas, such as off each end of the runway, where you could not allow tall structures, such as cell towers. He explained that the FAA spelled that out very clearly with angles and altitudes, etc. Mr. Crockett stated that in the broader area, the Port really did not care what was built. Mr. Whipple stated that was not the way it was worded. Mr. Crockett agreed. He stated that the Port did not care if someone wanted to build a house. However, if someone wanted to develop an elder care facility, which was now authorized for up to five beds, for example, the Port would not object, but the developer should know that they were near an airport with its attendant noise and they should consider whether they really wanted to do such a development that close. Mr. Crockett stated that churches were a use that the FAA called out specifically as a use that was not compatible near an airport. He stated that there had been only two permits the Port had commented on. One was a house overlooking the airport. The other was a proposed church near the end of the airport on Rhody Drive. The concern was that a large number of people would be gathered at any given time. Mr. Crockett pointed out that the busiest time at the airport was on the weekends when a church would be most active. Mr. Crockett stated that the county had been notifying the Port for years about the permit applications around the airport, but those were the only two they had ever commented upon. Mr. Crockett stated that, contrary to the belief of some, the Port had no authority to approve or disapprove permits; the Port could only comment. Mr. Whipple stated that the language in the proposal could be misconstrued that permits could be denied based on incompatible use. He stated that there was no description or definition of what would make an incompatible use. Mr. Crockett stated that was a county decision. Mr. Kline stated that there would be time to get into that issue in the line-in/line-out proposal.

Tom McNerney opened the meeting to public comments on any topics except on the agriculture issue.

Nancy Dorgan asked for clarification about the draft disclosure document, stating that it had been her understanding that the issue before had been notice to title and thought that had been dropped. Ms. Dorgan reported on a City Council general government meeting where they had discussed the city stormwater plan, which contained a notice to title provision for those property owners who had sensitive areas on their property. In that way the notification would transfer to new property owners. She reported that Geoff Masci had said that the county attorney had ruled that under state law notice to title was not allowed. She asked for any explanation that staff could provide on that issue. Tom McNerney stated that it had been discussed at the last meeting that the disclosure notice was not a notice to title. He believed that the county attorney had the same opinion as the city attorney, that notice to title was not recommended. Randy Kline stated that notice to title was not something the county attorney's office was interested in.

There being no further general public comments, the Chair closed the public comment period.

C. PUBLIC HEARING - MLA02-485, UDC AMENDMENTS RELATED TO ESAs RESULTING FROM SETTLEMENT AGREEMENT WITH WASHINGTON ENVIRONMENTAL COUNCIL AND AGRICULTURE LANDS EXEMPTIONS

Randy Kline introduced the staff present who would address the topic. He stated that some people were present at this hearing because of a mass mailing that someone sent. He wished to be clear that this proposal would have no effect on the agriculture tax status of anyone's property. He explained that the exemption under discussion was the exemption from environmentally sensitive area buffer requirements for agricultural lands.

Al Scalf reiterated that this proposal was not about the Open Space Tax Program; this amendment did not change that program or that state law. He introduced the proposal which would address the issue of agricultural exemptions. Mr. Scalf reported on the settlement agreement process sometimes used in appeals. He related other settlements the county had entered into in the past. Mr. Scalf outlined the settlement agreement process in this case. The issues dealt with fish and wildlife habitat, exemptions, and best available science. He stated that the largest, comprehensive aspect of the settlement discussion was on channel migration zones, flood plains, and fish habitat and recovery for the watersheds in the county. He stated that staff would be coming back to the Planning Commission later with material addressing the majority of the settlement agreement, which had to do with those things.

Al Scalf stated that the issue before the Planning Commission at this time had to do with the agricultural exemptions, which related to Item 4 of the settlement agreement. It stated that the county staff "will propose language". Mr. Scalf emphasized that the UDC language in MLA02-485 were proposals only. He stated that we had promised in good faith to bring the proposals out into the public for review and comment. Mr. Scalf stated that the public hearing before the Planning Commission was in compliance with Section 9 of the UDC in the commission's role as an advisory board to the BOCC. The Planning Commission was to make a recommendation to the BOCC on this proposed amendment to the UDC. Mr. Scalf stated that the BOCC wanted the commission's recommendation. He stated that the county had gone into settlement which brought out a proposal for review, engaging the public, and a report back to the BOCC. Mr. Scalf stated that his direction to the commission was to take the time it needed to properly review the issues and to make a thorough recommendation. If the Planning Commission needed more time, he was willing to go to the petitioner and ask for more time so that there would be a thorough process. He stated that agriculture issues were a big issue in this county. He stated that the exemptions under this proposal had to do with agricultural uses outside of the designated agricultural resource districts.

Pat Rodgers asked if there were any stakeholders involved in the settlement agreement negotiations. Al Scalf replied that there were not. Mr. Rodgers asked if there had been any assessment of the impact on those stakeholders. Dave Christensen stated that the question was somewhat addressed in the settlement agreement. Mr. Christensen stated that the settlement agreement considered the commercial viability of agriculture in the county. He stated that both the county and WEC expressed concern during negotiations for the continued viability of commercial agriculture. That was why the settlement

agreement separated out designated agriculture lands. He added that negotiations were ongoing with the stakeholders watershed by watershed, outside of the WRIA discussions. Mr. Rodgers stated that this public hearing did not speak to those agriculture uses that were outside of the designated ag lands. Mr. Rodgers stated that his question was whether they had any role in those negotiations. Mr. Christensen answered that they had not.

Phil Flynn asked if shellfish was involved in this proposal. Al Scalf replied that it was not in this settlement, although it was part of the natural resources under the Comp Plan. In answer to Tom McNerney's further question, Mr. Scalf explained that this proposal affected fish and wildlife habitat, wetlands, frequently flooded areas, seismic, aquifer recharge; all the environmentally sensitive areas.

The Chair opened the public hearing to testimony. He outlined the hearing process.

Robert Pontius, Port Ludlow, stated that he was opposed to what the county was doing because it was done behind closed doors. There was no public involvement; no one contacted him. He stated that he did not know who the WEC was. He stated that he would think that the Planning Commission would let people know and that there would be a public forum. People should know exactly what was being taken away from them. Mr. Pontius stated that some issues, such as wetlands, were basically controlled by state agencies. He stated that it was not fair and not right.

Joe Baisch, Brinnon, stated that for the last ten to eleven years they had lived in Brinnon and had been in pursuit of a small business agriculture enterprise. He stated that they had been involved in land use issues in the county. He stated that the thought that, as small business people, the asset they had tried to build was proposed to be taken away from them really concerned him. He stated that they generated their own income and health care. They paid their bills, including taxes to pay the staff and commissioners. He thought that it seemed that at this point the tail was wagging the dog in the way the economy worked in this county. It was a concern because it was a fundamental program in this country that business generated the standard of living that we all enjoyed. He stated that this kind of governmental interference in that process made him concerned about not only the future of the county but of the entire country. He stated that he had attended the funeral of Jay Herrod, the president of the National Wildlife Foundation for about twenty years. He was the most effective environmentalist in the country. Mr. Baisch stated that if Jay Herrod could deal with the government at the top levels, and effectively move forward on lots of issues, he thought it did not make sense that we could not also do so here at this level. Mr. Baisch stated that small business provided the standards of living that we all enjoyed. He stated that we must uphold those values. It was a critical mix in the community. He pointed out that our school populations were dwindling which affected the school budgets.

Herb Beck, Quilcene, thanked Pat Rodgers for notifying him about this hearing. Mr. Beck stated that he did not agree with MLA02-485, stating that it had never been discussed with him even though he had been to the office and spoken with staff about other issues. He opposed it because it was proposed without having any input from anyone in the agriculture community. He understood that the proposal would do away with the agriculture exemptions, although he admitted he did not know the exact specifics. Mr. Beck stated that if that was so, the quality of life we enjoyed in this county would cease to exist if our agriculture, which was limited, was

dissipated. Mr. Beck stated that he had served on the agriculture board since its inception, about 1973 or 1974. He had seen a lot of places put into agriculture exemption because it created green belts. He stated that the farm lands were in the alluvial valleys which contained the soils necessary for agricultural production. He stated that there was only a limited amount of such ground available. Mr. Beck stated that if one was in the agricultural business, you needed every square foot of land for production of your products, because land was getting very expensive. He referred to WEC, stating that he wanted to know who they were, whether they were a nonprofit organization, and where their money came from. He commented that they knew about us, but we didn't know anything about them. Concerning depleting agriculture land with setbacks, he reiterated that the best ground was in the valleys next to the rivers and streams. That was where everyone wanted to be. Mr. Beck stated that he owned nine acres near the tide flats, with about seven acres usable. He stated that he kept livestock on it. It produced about two steers a year. In a good year, he could make \$1,600 to \$1,800 from that acreage. He did not believe the agriculture people should take the rap of donating their land to grow blackberry bushes and willows when it could be raising food. He stated that they produced money that went into the local economy. He thought the farmers were being "sold down the road". He admitted that he did not have all the answers, but he would like to find the answers. He urged the Planning Commission to investigate the issues and help the farmers out with this problem. Mr. Beck stated that he was not interested in giving up one inch of ground. He stated that the issue was the livelihood and jobs of farmers. He stated that if 20% of the county went into buffers, those agriculture exempt tax status lands would become houses because people could not make a living going through all the hoops and regulations being put on farmers. That was the view he saw for the future if the county did not quit tinkering with agriculture.

Jerry Gorsline, WEC representative from Port Townsend, stated that he was one of the negotiators who worked with the county in the settlement process. He stated that this was not about stopping agricultural production at all. It was about protecting sensitive areas, or critical areas as they were referred to in the GMA. He stated that the GMA required local government to protect critical areas, including streams. There were no exceptions or exemptions for any land use except for forest lands. That was because forestry was regulated under a different law. Mr. Gorsline stated that the GMA also talked about conserving and enhancing the fisheries in the state and agricultural land uses. There was a balance that had to be reached. He stated that the current exemption in the county code was so broad, saying all agricultural activities, that it did nothing to protect fisheries; it did nothing to balance those goals. That was what WEC objected to. He stated that their position was that the exemptions should be narrowed to apply to only designated agricultural lands. That was because those were the lands that were committed to long term commercial agriculture production. In many cases, those lands were also the primary income for the land owner. Mr. Gorsline stated that every other land use in the county was required to take critical areas into account. With regard to the designated long term agricultural lands, he stated that WEC had agreed to work with the county on a long term solution to find a balance to protect the values of sensitive areas like streams, but at the same time protect the long term viability of agricultural uses in the county. Mr. Gorsline stated that he would submit written comments for the record. It included hearings board cases. He reported that they had ruled consistently that you cannot exempt agricultural lands, although you could exempt them from the standard buffer requirements in the code. You cannot exempt them from their responsibility to critical

areas. You must also look at their responsibility to conserve and enhance fisheries.

Ken Ackerman, Quilcene, stated that he owned 25 acres of property with his parents and they ran cattle on their land. He stated that the county maps were so far out of line that you could not use them. He cited the example of ten acres he owned which was classified as a swamp. He stated that it had been drained many years ago by the county, but the maps still showed it incorrectly. He stated that he did not know where he stood now. He stated that he had intended to turn the property over to his son eventually. He stated that there was not much money in farming it, but they made enough to pay the property taxes. He stated that there were no young people who wanted to take over the farms because of the kinds of things the county was doing now.

Tom McNerney stated that a statement had been made earlier that the commissioners met in a back room on this issue. He clarified that the Planning Commission was not aware of this issue until two weeks ago. He stated that the commission was just getting started on this issue and this hearing was to gather more information. Edel Sokol stated that this meeting was the first time she had seen the material on the issue.

Ken Ackerman stated that he did not know if his land was residential, commercial, or agricultural. Randy Kline stated that he could speak to Mr. Ackerman about it. Mr. Ackerman stated that he had spent \$10,000 on equipment to clean ditches. He stated that the Conservation District had said they would pay him to keep the ditches open, although it had already been done.

Karen Driscoll, Eagle Mount Road, stated that she found this public hearing to be very confusing because she did not have anything that showed the draft language. She stated that they did not have anything to describe the suggested agreement between the parties. She stated that Mr. Gorsline had made some good points. She understood the GMA and the factors that said you could not leave it the way it was. However, she did not see a map that depicted the ag lands. She wondered whether it meant lands that were currently in production or whether it meant lands that were in production in the past. She stated that many people were coming to look at purchasing land to put into production. She wondered whether that counted. She thought all those things were very confusing. She thought some of the people at the hearing may be objecting to things that were not even in the agreement. She stated that she would like to see more clarity from staff. Ms. Driscoll stated that she did not mind that the settlement was done behind closed doors because sometimes that was the best way to get things done. However, then the settlement needed to come before the public for their input. She asked for a map and a better explanation of the proposal.

Tom McNerney agreed that it was appropriate to explain the process. He stated that the Planning Commission had just recently received a line-in/line-out proposal for modifications to the UDC concerning the exemptions for farm lands. He explained that when the Planning Commission received that, it was accompanied by a copy of the settlement agreement. He stated that the Planning Commission had asked the same questions about who participated and what it really meant. He stated that a public hearing was required for the modifications to the UDC. Since scheduling this public hearing, staff had indicated that perhaps it was a bigger issue than it first appeared and it would not be rushed through, at least not through the Planning Commission. He stated that the commissioners had questions along

with the questions raised by the public. He stated that the purpose of the public hearing was to gather the feelings of the public on the proposal. Then the Planning Commission would go on from there.

David Whipple suggested that staff provide information on the exemptions and what lands would be affected or unaffected. Tom McNerney overruled the request, stating that the commission should finish the public testimony first.

Nancy Dorgan, Port Townsend, stated that the Planning Commission had asked for peoples' feelings and that was what the commission was hearing. She thought it was an emotional issue. She thought the commission needed facts in order to form some reasonable opinions on the issue. She stated that she did not have a problem with using a settlement agreement process. It seemed that was the way things worked. She supported the settlement agreement that was reached. She hoped the environmentalists who had been involved in the negotiations were reasonable and prudent. She thought they gave up a lot in compromise. Ms. Dorgan stated that one person had said that he felt like an asset was being taken away from him and he did not want to give up an inch of his property. She stated that the asset she felt that was being taken away from her was the fish. She wanted salmon to keep coming back forever. She thought someone would have to give an inch to accomplish that. You had to have habitat along those streams in order to have fish in our future. It was just as simple and clear as that. That protection was what the GMA had made a priority of the state. Like it or not, it was not only the right thing to do, it was also the legal thing the county must do.

Diane Johnson, residing in Sequim, stated that she owned property in the Tarboo Valley area, along with her mother and brother, that was the old family farm. She agreed with Ms. Driscoll about how confusing this whole issue was. Ms. Johnson stated that she knew their property was designated as open space, but did not know if it was designated agriculture. She admitted that their valley was not prime agriculture land, but you could certainly grow things there and sell them. She stated that if this proposal would have an effect on their ability to use their property in that way, they would be pretty upset about it. She stated that she would like more information about the proposal's effect. She stated that several years ago there were many salmon coming up the creek to spawn but there were no setbacks, no shade, no trees, no fencing, no nothing. Yet the salmon came up the creek and spawned and were fine. She admitted there were no longer salmon in the creek, and she did not know the reason, but she did not think it was because there were no shady zones along the creek. That did not make any sense to her. She stated that she was not that convinced that everything that was being asked for was actually necessary.

Kim Painter stated that they had come because of the card they received in the mail in order to find out what was going on. She stated that after speaking with Commissioner Huntingford, they had found that the issue was of no concern to them.

Mark Ross stated that he was a property owner in the Old Eagle Mount area. He stated that he wanted to speak on behalf of a dying breed - beef cattle farmers. He stated that he raised approximately twenty head of cattle and summered his cattle on the Old Eagle Mount property. He had a concern about how property was classified. He stated that anyone who had lived in the Old Eagle Mount area for any time knew that the so called Class III stream was dry about five months of the year. He stated that the closest thing he had seen to a fish was a frog. Therefore, he was concerned about how this

classification process transpired. Mr. Ross stated that in about 1995 he approached the county because his land was turning into a wetlands, although it had nothing to do with the part time ditch running through his property. It had to do with the county channeling the road runoff onto his property with no plan for diverting that water. He stated that in 2000 he paid \$8,100 to have some proper ditching done to take care of the county's water. He reported that the county would not do anything in regards to this; they basically said it was his problem. In the meantime, his property was becoming water logged because of no plan of action for water diversion on the county's part. Mr. Ross stated that he did use his land to raise beef cattle. That property was important to what he did now in terms of his cattle business, even though he had other business interests as well. Their plans were to build on the property after retirement. That was how he saw their retirement years, raising cattle on that property. Now he had a strong feeling that his personal property rights were being encroached upon. He stated that no one ever consulted him about the viability of that stream supporting fish life. He stated that it was just not happening there. Furthermore, there was a problem created on his land that really had nothing to do with him; it had to do with the ditch and culverts above his property that dumped water onto his land. Mr. Ross stated that he would speak on behalf of the property owners who took care of their land. He thought people enjoyed driving that valley and looking at the beautiful land that was well maintained by the local property owners.

Andy Driscoll, Eagle Mount Road, stated that he agreed with his wife's comments. They had found it rather disturbing about the process that apparently had not gone on - not notifying the agriculture owners. He stated that he was also involved in fish restoration and so he understood the conflicts. He thought we were living in very complicated times in terms of the economy. He stated that we needed to work out a responsible compromise because we could not go 100% one way.

Karen Driscoll stated that the trick to the whole issue would be in the details. She thought many people thought agricultural land was good and we wanted it in the county; it was a valued thing. She stated that the issue to her was what was the most fine tuned way that we could protect the fish, because they were important to the region, and impact the agricultural activities that would go on in those areas that would mesh the best. That would be not having blanket buffer zones, like one would have in a residential area. She stated that the buffer zone in residential areas was for the salmon. If the land was agricultural, the buffers should be fine tuned some more, because farmers needed all of the space on their land. She hoped that it could be more fine tuned so that we could have both, because she thought both should be valued and were needed.

Jodi Lehman, West Valley Road, stated that she felt support for both sides of the issue. She stated that she had 60 acres that was leased out for pasture. She also had a longstanding support for environmental protection. She stated that most of her concern tonight was with the process. She did not object to the settlement being reached outside of the public purview. She stated that, as most of the people present did, she received an anonymous post card in the mail saying that her agriculture tax exemption was at risk. While she had gained an understanding of the general issue, she still did not have any specifics. She stated that she did not know the exact classification of her land, although she knew she had an ag exemption as open space. She suspected that her land was designated as agriculture resource land due to its location, but she did not know that for a fact. She thought there were probably other people in the same situation. She stated that at least some

of the people did not know how this agreement would impact them. They did not know what lands would be impacted, what the changes would be, what the mitigations would be, or what the possible economic impacts would be. She stated that it would be nice to have the issue addressed in an orderly manner so that people could have input and agree, disagree, or suggest modifications to the proposal. She thought most people wanted to protect the environment. She stated that it would be nice to have as much assurance as possible that the regulations that would be adopted would do that.

Roger Short, Center Road in Chimacum, stated that he had traditionally had the largest commercial farm in the county for the last 20 years. He stated that he had recently sold 60% of his herd to pay accounts payable. He stated that the economics in ag was poor nationwide and worldwide. As more ground was lost, it put more "binders" on the economics of farming. He stated that 14 acres of his leased property had gone into the CREP program, stating that the government could pay over twice the rent he could afford to pay. He questioned how ag preservation was served. He thought it was a Catch 22. He stated that the economics of ag required that the farmers needed every break they could get. He stated that the farmers were fed up with the regulations that kept piling up. Mr. Short stated that the post card that went out did not give the true intent of the meeting. He stated that he had been attending the Conservation District meeting prior to coming to this meeting and did not know if an explanation had been given. He thought that some of the explanation he had heard was not good. Mr. Short stated that the habitat and buffers issue came down to political science, which was science based on politics. He stated that he could never run a successful dairy if he had to run it on politics. He thought politics was what was ruining a lot of the natural resources in the state, except for the fish. Mr. Short stated that he had been chair of the Conservation District for ten or twelve years. He reported on the water quality stream monitoring program they had been doing. He stated that the fecal coliform standard was 50 for fish. In the 1980's, they were in the thousands most of the time. As a dairy farm, he thought he was a major contributor. He reported that the tests during the last year had shown under 50 in nearly every sampling spot. He stated that the fecal coliform levels actually dropped as the stream went through the present ag district. Concerning buffer size, he stated that if they gave a 5-foot buffer, they would get 95% of the potential benefit. He reported that the Dairy Federation had commissioned a study on ag, fish, and water. They said that with the first 10 feet they thought about 87% potential benefit could be reached. He stated that to get another 13% or the 5% he was suggesting, the cost to the farmers would be astronomical to do traditional buffers. Mr. Short stated that there were about 50 trumpeter swans on his property for the winter. He thought the trumpeter swan deserved habitat too. He stated that trumpeter swans did not like trees for their winter habitat, but a buffer would require trees. He stated that now there would be a conflict between the fish and the trumpeter swans. He agreed with the other comments made about all the things the farmers did to try to stay in ag.

Joy Baisch, Brinnon, stated that in 1995 when the county was negotiating the forest lands issue, the county brought in the stakeholders to help negotiate it. In that way, the county got the right information to deal with the issue, even though it took six weeks. The Planning Commission did not come in with a done deal and try to make it fit. People had given the county a hard time about taking that six weeks. However, she thought this issue was more complex than just what was in ag or not in ag, or what was in open space and what was not, or what was exempt and what was not. Ms. Baisch stated that one of the questions she had in reading the proposal was the amount of ag tax status that sat inside Port Townsend and what was outside in the

county. She wanted to know if the ag tax status land inside Port Townsend was also affected, or if the proposal only affected county ag land. She stated that there was really no difference. She stated that you could not tell her that a city fish and a county fish swam differently or needed different environments. She stated that the Conservation District was working very hard in helping the small farmers put together a retail meat processing plant that would help the small beef operators. She stated that this kind of proposal was something that would kill that. She stated that the county wanted economic development. She thought there was a simple way to do it and a clean way to do it, but this proposal was something that would stop that. She stated that the proposal talked about best available science being part of the criteria. She reminded the commission that in the early 1990's, the science was everything out of the water, no debris in the water, and we sterilized our streams so there was nothing for the fish to eat or for habitat. She stated that a tree did not cast a shadow from 300 feet from a stream. She stated that one species waste was another species food source. Ms. Baisch stated that the biologists from our state universities could tell you that the riparian zones could work quite nicely if you worked with the farmers, but not restrict them to the point where it was a complete hands off. That was not necessary and most of the best available science would tell you that. Ms. Baisch stated that they were told that the south county had no long term agriculture zones that were of any significance, even though they had ag land in their valley that had been in existence and been farmed since 1868. They had been told that they could get the same benefit by being in the tax exempt status. That was obviously not accurate any longer. She stated that there was no protection for the historical farms. She stated that the historical farms had not been just in Chimacum. They had been in the West End, Brinnon, Quilcene, Tarboo, Dabob, and Lake Leland. She stated that years ago they had been told that they did not have to deal with ag zoning because there was not enough significant ag property to make it viable. She argued that their valley had been viable and they would like to remain viable. She thought it would be crazy to assume that farmers did not take care of their land and did not care about the environment. They were in the environment every day. She thought there was a lot of error in the mapping, stating that there were a lot of wetlands on those maps. She stated that the floodplain map was in error regarding their property. She suggested that the Planning Commission bring a stakeholders group to the table and get some real good, best science. She offered the opinion that there was not such a thing, because science was always evolving. She reiterated that she did not understand why the Port Townsend open space and ag exempt land was not on the table too. She thought that if the county farmers had to be there, the city farmers should be too.

Dena Jones, Quilcene, stated that they had purchased a farm and had put a lot of money into the land, including fencing and drainage ditches. She stated that they had flooding on part of the land once in awhile. Part of the reason for that was that the down stream land was owned by the Jefferson County Land Trust. They did absolutely nothing to clean up the creek and keep it from backing up onto their land. It created a situation for them that should not be there at all. She thought that if the county was going to put restrictions on their land, the county should clean up its own land first.

John Boulton, Leland Valley, stated that he was the chair of the Conservation District. He thought the Conservation District Board could provide a lot of answers to the Planning Commission on the issue and perhaps solve a lot of the problems. He reported that one of the things they had been doing for a number of years was testing the water quality in various streams in the

county and they now had a history. He stated that we all wanted clean water, but we did not need 300-foot buffers to get it. He stated that Andrews Creek ran through his farm. It was fenced on both sides except where it was fenced on one side and Highway 101 was on the other side. He stated that all of the highway pollution went into the stream. He stated that he had sold 50 feet along the highway to the DOT in order to move the creek away from the highway. While he did not want to lose the land, he thought it would be a win-win situation to get the creek moving again instead of being plugged up along the highway, and in turn his drainage ditches would work better. He stated that they had spawned about 20,000 Coho salmon in two different years and they should start coming back this year. However, it seemed that none of those accomplishments seemed to make any difference. He stated that they had fenced next to the stream. Between the stream bank and the fence there was a lot of vegetation growing, including trees and brush. He stated that sampling above the farm actually had higher counts than when the water left his farm. He did not think the farming practices had anything to do with the pollution of the stream. He thought that if clean water was what we were after, we should allow the Conservation District to set up testing stations and test the water where it came onto your property and where it left your property. If you were contributing pollution to the stream, then find the cause and remedy it accordingly. He thought it seemed that the WEC wanted to have straight line, one size fits all solutions. If we wanted to retain ag in this county, that would not work because a commercial farm never had enough land. Every additional foot lost was that much less that allowed them to make a living.

Robert Pontius stated that he was at a meeting a few years ago where the county was doing zoning. He stated that he had about 100 acres in Beaver Valley that contained a swamp. It was designated as ag and commercial forest. The staff told him at the time that there would be no effect because the land was grandfathered. So he believed them and the ag zoning was changed. His understanding was that the grandfathered status had no effect any longer with the proposed regulations. With regard to wetlands, he stated that the maintenance of streams and the installation of culverts (in his case, it was the state) gages the stream. If you had high rain or runoff (snow melt), the water could not get through the culvert so it backed up onto his property. By backing up, it did not naturally scour out the stream downstream. Consequently, it backed up more and more and made more wetlands. Then people wanted to take more land for the wetland. He thought other people in the room had been told the same thing about the zoning, that they were grandfathered so it did not matter. Now it mattered, so what was said before was not necessarily true. He stated that culverts in streams interfered with their natural function. He asked that the Planning Commission consider that.

A Center Road resident stated that there was an attitude about south county and Port Townsend that was not beneficial to anyone. She thought that when decisions were being made, if people could educate themselves about the affected area, it would be so much more beneficial for everyone and the decisions would be much better. She stated that the farmers lived and worked on the land and they needed to be consulted. That was essential. She stated that it seemed to happen time and time again that south county was not heard enough. She stated that farmers did not make much money. She stated that she was not talking about compromising the environment. She was talking about being reasonable, stating that farmers were reasonable because that was their livelihood. She urged the commission and the public to honor that, and to honor each other in this process and hear what the needs were.

Al Latham, Chimacum, stated a concern with the process. He stated that the commission was holding a public hearing. He thought a lot of people were brought to the hearing because of a post card mailing that did not address the actual conditions. He stated that as far as he could see, there had been no explanation to the public about what the purpose of the public hearing was and the focus. He stated that it should be explained to everyone what was going on. He thought people were reacting to something that was not necessarily true. He pointed out that the post card indicated that the ag tax exemption was the issue. He had not heard an explanation to the people that explained what was really the issue and what they were supposed to be present for.

Tom McNerney stated that he had just heard about the post card the day before, stating that it did not come from the Planning Commission or the staff. He stated that whoever sent out the post card was concerned, and whether it was factual or there were errors in it, he did not know. Mr. McNerney stated that people coming out and expressing their concerns and feelings was very beneficial to the Planning Commission. He stated that the Planning Commission had just begun work on the line-in/line-out proposal. He stated that the commissioners were still asking questions, and did not have all the answers, and did not understand everything. He knew that the public did not understand either. He stated that the purpose of the hearing was to hear the public's concerns, which the commission would process. He stated that he would not be surprised if the Planning Commission held another public hearing when there was more information and knowledge. Mr. McNerney stated that the purpose of the hearing was a preliminary step so that the commission could hear the peoples' concerns and so that the commission could get more information.

Phil Flynn suggested that the commission hold a workshop with experts from both sides of the issue. He commented that the Planning Commission was "blind sided" with the proposal, although he understood there was a Hearings Board deadline at issue. He thought the issue deserved a thorough review and it may be necessary to ask the Hearings Board for more time. He stated that the county needed to get the right answers and everyone in the audience had said exactly that. He thought a workshop or two would be beneficial.

Tom McNerney explained how the Planning Commission had utilized workshops with expert witnesses in the past.

Julie Boggs, West Valley Road, stated that she owned a small beef cattle farm and her parents had an older farm that had been in business for 80 years. She stated that everyone would have to agree that the farmers had bought and paid for their land from the center of that stream to the center of the road. Their concern was that it was an investment they had made as landowners. She agreed with the comments of the other audience members, stating that they were concerned about the fish in that stream. However, the buffers did not have to be that wide. She stated that she was a member of the Conservation District. One of the reasons she became involved was because of the work they had done with the streams and water monitoring. She stated that the streams could be fenced off to whatever was reasonable and necessary, but huge buffers were not needed. She stated that her last comment was a desire to know more about what the Planning Commission had before it.

Lorna Ward, Quilcene, stated that she was thankful that someone had sent out the post card, because she thought most people would not have known something was going on. She stated that sometimes things went on and the people did

not know anything about it until it was all over and done. She was glad to have been made aware.

Walter Beck, Brinnon, stated that his land was in open space in 1996 but it was rezoned to residential. He did not understand how the county figured that land should be rezoned as residential when it was already agriculture. He stated that there was a stream on his property and they had wanted to plant fish in it. However, the Indian council said they did not want to have any new fish put into the rivers. He stated that he did not know that it was the farmers fault that the fish were not there.

Michael Kitchen stated that he was on the original homestead farm. He stated that when he was growing up, there were lots of fish in the stream and there was cattle on both sides in those days. Now there were no cattle and no fish. He stated that he fenced the stream, stating that it did nothing for him. He stated that since it was there, he had done his best to protect it. He stated that if the issue was about saving the fish, they needed the farmers. He stated that the reed canary grass would grow with buffers, which would choke the streams. He thought the Conservation District program in the ag community was the best solution. It could find out ways to solve the problem with the least impact on agriculture. He stated that the farmers needed every square inch of land. He suggested the Planning Commission review the recent court case in Skagit County.

Herb Beck, Quilcene, stated that his farm was between two rivers. He had a small natural buffer on each river, which was really large blackberry bushes. He referred to the Boldt decision, stating that within five years of that decision the summer run Chum had disappeared. As had been pointed out before, when he was a kid, the salmon runs had been plentiful. After the Boldt decision, when the salmon were running, the gill nets were thick in the bay and on Hood Canal. He stated that had happened in the early 1930's as well when they had over-fished. He thought that if you kept the gill nets out of the Sound and let the salmon come back, we would not be faced with this problem that was created by over-fishing. He stated that if he ran his beef business like that, he would be out of business. He stated that in years past, he could hear the fish spawning in the river. It was only in the last couple of years that he had heard them spawning again. He stated that ocean conditions and predators were not being discussed. He stated that the land owners who were next to the streams were the easiest and first to get regulated. He stated that he had been interested in salmon for many years and considered himself pretty knowledgeable. Yet he had never been invited to a table to explain what he knew about salmon, stating that he had practical experience. He explained that the interest in the summer Chum was for their eggs as caviar. He stated that you could have the most beautiful buffer you could ever see, but if those fish could not get back, you could not accomplish anything. He thought you had to have control of the fishery.

Will Butterfield, Quilcene, stated that he operated a small beef cattle operation. He stated that as confusing as this hearing was, he would offer a couple of suggestions to the commission so that their workshops could be more productive. He stated that a lot of people had no clue about what the exemptions were. He thought there was a lot of misunderstanding about what the proposal was all about. He thought that if people knew what the exemptions were about, a lot of issues would be resolved. Second, he thought the next thing that needed to happen was for people to know how their land was classified. If they got that information, they needed to go one step farther and question why their land was classified in that way, going back to the original Comp Plan. He thought there had been a broad brush approach to

the commercial ag designation, but a lot of people had been left out. He thought that if they could bring their information to the Planning Commission, the commission could make a viable recommendation to the BOCC as to how to delineate the properties and what the effects were on those properties, whether they were a small 5-acre tract or a 2-acre tract. If they were all involved in agriculture, we needed to find a baseline from which to delineate that. He thought a good place to start was with the people who were already in the ag program. He stated that the commission needed to help direct staff so that they could find some baselines in which people knew how their land, regardless of their tax status, would be impacted. He knew there was a lot of ag land in the county that was not designated as ag land.

Karen Driscoll endorsed what Mr. Butterfield was saying. She suggested that the county generate a mailing list of the ag affected people so they could keep abreast of the issue. She did not think public hearings worked very well. She thought they were an awkward vehicle in which to get work done. She suggested that the ag people should decide who should come to workshops with the Planning Commission. She requested that the commission do those things.

Ken Ackerman, Quilcene, stated that the problem they had in recent years was that their commissioner never represented them in the agriculture or timber resource land issues. He stated that they had always had better luck with Commissioner Huntingford, who was not south county's BOCC representative. He hoped that if the farmers were able to give any input to the commission, they could get their commissioner to attend.

Tom McNerney thanked the public for their testimony. He stated that the purpose of the public hearing was for the Planning Commission to get information and stated that had been accomplished. He stated that the information would be in the commission's minutes for the commissioners to review. He expressed appreciation for the public's attendance.

The Chair closed the public hearing.

D. DISCUSSION OF HEARINGS BOARD COMPLIANCE ORDER NO. 01-2-0015 REGARDING PROTECTION AGAINST SEAWATER INTRUSION

Dave Christensen handed out an issue paper dated January 13, 2003, that staff had prepared for the BOCC. He reviewed the Hearings Board required actions. The first five were to be accomplished in 180 days. The sixth item was to be accomplished in 90 days and concerned Marrowstone Island. That related to the information provided to the Planning Commission earlier.

Jenny Davis asked where the PUD was in the process. Dave Christensen reported that the PUD received some petitions from Marrowstone residents. The PUD had drilled another well near the Kivley well. The production for the new well was disappointing. Also, the DOE had decided that the water right for that well would be treated as a new water right, rather than a transfer, if the well was to serve Marrowstone Island. He explained that if the PUD wanted the water right expedited, they would have to pay a cost reimbursement to the DOE to process it. Staff and the commissioners discussed how that expedited process worked. It was noted that the PUD would have to pay for other water right applications in our area that were ahead of their application. Mr. Christensen stated that he had been talking to representatives from DOE, DOH, and OCD about the Hearings Board order and possibly using that to resolve the water right issue on Marrowstone. Mr.

Christensen reported that DOE had received eight letters protesting the PUD getting that water right to serve Marrowstone. Phil Flynn offered the opinion that people in Port Hadlock would object to that well serving Marrowstone. Tom McNerney commented that the commission really had no idea who had protested.

Jenny Davis stated that staff had said they would recommend a building moratorium on Marrowstone until the water situation was settled. She stated that it could possibly be a long time. She stated that Marrowstone property owners were not informed about what was going on because they did not live there; many were absent property owners who only vacationed on Marrowstone or planned to retire there. Al Scalf reported that the BOCC had rejected that suggestion. He stated that they had directed staff to develop more restrictive standards. Dave Christensen stated that the more restrictive standards staff had proposed had not met with the favor of the BOCC either. He described the restrictions staff had proposed.

Staff and the commissioners discussed the San Juan County requirements for alternative systems, including catchments. Dave Christensen stated that staff had done research on other county codes and found that San Juan County was the only jurisdiction that allowed catchments. He explained the special circumstances in San Juan County. Mr. Christensen stated that he would go back to the DOE and DOH requirements for proof of potable water with regard to catchment systems.

Dave Christensen stated that the guidance document the county had from the state for building permits was pretty stringent about what the county was expected to look for. He stated that the state expected the county to require 400 gallons per day. Concerning catchment systems, you would have to multiply that by the five months a year we would not expect any appreciable rainfall. That would require a huge system. Tom McNerney stated that he thought the number was a guesstimate on the state's part and was not based on best available science. Mr. Christensen stated that the county could be more restrictive than the state guidelines, but the county had to consider the liability issues to the county if the county went too far outside those guidelines.

Dave Christensen stated that the county only had thirty days to go back to the Hearings Board with something for Marrowstone Island. He reported that the BOCC currently planned to adopt a resolution saying that public water was the long term solution for Marrowstone Island. Jenny Davis asked what the short term solution was. Mr. Christensen replied that was the issue. He stated that if the Hearings Board was satisfied with that one resolution, that would be fine, but staff did not think that would be enough for the Hearings Board.

David Whipple commented that even if the Hearings Board accepted that one resolution, he questioned whether the county would have met the community's need. He thought we should be protecting the water table rather than just meeting the Hearings Board's requirement. He thought we should work out a short term solution that worked. Dave Christensen stated that staff had talked about the issue. He stated that the county issued about 10 to 12 building permits per year on Marrowstone. That was the long term average. If public water was available in two years, you would be talking about 20 to 25 new homes. The question was whether that would be the impact that would degrade the aquifer. He could not answer that question. Mr. Christensen stated that there was a strong argument that said if you wanted to do something short term, you should go back and do something for everyone who

was already living there, and not just for those 20 to 25 new homes. However, if it was a 2-year solution, the question became how much of the county resources you wanted to expend on that 2-year solution or whether it was more prudent to focus on the long term solution. He stated that we did not have an answer for it.

Jenny Davis asked if there were people who did not have water now and were unable to live in their homes. Dave Christensen replied that there were a few but the reports were just anecdotal. He described on person whose well was dry. Edel Sokol asked what that person could do. Mr. Christensen replied that probably hauling water was the answer. He explained that the proof of potable water requirement was a result of the GMA. Before that, people could build a house and buy bottled water or haul water; the counties were not involved with that on a single residence. Mr. Christensen stated that his recommendation to the person in this example was that if it was an emergency, the state would give him an exemption to replace the dry source. However, if you were going to get really bad water, it was questionable to drill again.

Tom McNerney stated that the well testing we had was pretty sketchy, so we really had no good profile. He stated that the Hearings Board had ordered that there be no further degradation. He questioned how we would know, even if we stopped building today, that those people already there would not be pumping too much and there would be more seawater. Dave Christensen replied that it was a good question. He stated that we had some long term data. That data indicated that some wells went up, some went down, and some went up and down. Mr. Christensen stated that since the order said to cause no further degradation, it would occur from county development permits. That was our responsibility under GMA; the county would not issue a permit that would allow further degradation. Mr. McNerney stated that did not mean that the existing wells were not pumping to an extent that would cause further degradation, however. Mr. McNerney suggested that the county tell the Hearings Board to get the DOE to come into this county and stop the additional intrusion, stating that was their [DOE's] authority. Al Scalf stated that was the fundamental debate of the whole issue. He stated that the Hearings Board, through the GMA, made the order. He advocated the county going into well construction, pumps, and water rights. Rather than give a 5,000 gallon water right, we could limit it to 2,500 gallons instead, for example. He stated that DOE would come forward and say that was not our job. He reported the county had already argued the jurisdictional issue before the Hearings Board.

Tom McNerney commented that he thought the BOCC did not want to go back and affect the existing wells. Al Scalf stated that the GMA said to go prospective and not retroactive, so we could only regulate future wells.

Pat Rodgers stated that there were rules the county could make for existing wells. For instance, he thought we could make a monitoring program requirement and a smaller per day gallon figure for everyone. Dave Christensen agreed that we could, but said it would probably be challengeable under water law. He stated that the BOCC had said they did not want it to be retroactive on the existing wells.

Phil Flynn stated that no one on Marrowstone used anywhere near 5,000 gallons per day because they used bottled water. He thought many were only using around 1,000 gallons per day and a few got along with only about 250 gallons. Mr. Flynn thought the only question would be if someone took the county to court saying the county could not require less gallons per day because they

had a right to 5,000 gallons per day under state law. He thought it was worth a try. He stated that he did not think people would object to a restriction of 1,000 gallons per day because most were getting along with that, or less, now. Jenny Davis commented that if she had a golf course she might object. Tom McNerney pointed out that the BOCC had indicated that they did not want to go back and restrict existing wells. Dave Christensen agreed that was the case at this point. He stated that, honestly, staff was at a loss. If the Planning Commission wanted to make a recommendation to the BOCC rather quickly, staff would encourage it. He stated that the county needed to get on to the other five parts of the order as well.

Randy Kline introduced Doug Peters from OCD. He was the resource person for this county on the GMA. He could provide a perspective on how other counties were dealing with issues.

Doug Peters stated that he was sympathetic with staff trying to work with state agencies that, by statute, were responsible for water usage. The reality was that those agencies were overwhelmed with work and Jefferson County was low on the radar screen in the big picture. He stated that most of the water issues were in Eastern Washington. Dwayne Wilcox jokingly commented that we could probably get away with almost anything within reason then.

Al Scalf stated that the Hearings Board would probably find us non-compliant. Edel Sokol asked what would happen then. Mr. Scalf replied that they would invalidate our sections on salt water intrusion. Dwayne Wilcox asked if that would happen even if we restricted usage to 1,500 gallons. Randy Kline offered the opinion that the Hearings Board would probably require a moratorium if the county was found out of compliance. The commissioners discussed a moratorium on building on Marrowstone. Mr. Scalf offered the opinion that a moratorium on building would prompt people to get public water, which was the ultimate solution. Josh Peters noted that staff had recommended a moratorium, but the BOCC had rejected it.

David Whipple moved that the Planning Commission recommend the BOCC adopt a building moratorium on Marrowstone Island to be in compliance with the Hearings Board directive. Dwayne Wilcox seconded the motion.

David Whipple stated that absent any other stringent requirements being proposed and absent any other way of becoming compliant, and since we would only be looking at ten to twelve building permits per year for two years, we were not talking about a huge economic impact, and such applicants probably would not be able to get a building permit anyway because they could not prove potable water. Al Scalf stated that if a person had one of those building permits, it was a huge economic impact [to them]. Mr. Whipple stated that a lot more positive economic impact would be when a water system did come in. He thought it would be a galvanizing step in order to get people to move ahead.

Jenny Davis stated that since living on the island and being in the community, she felt sorry for people who wanted to retire there. She stated that her well and her immediate neighbors' wells were good. It seemed to be an isolated problem. She thought there should be another solution; a moratorium was too drastic. She stated that people who had drilled a well and had good water still could not build under a moratorium.

Dave Christensen stated that they had shown the Hearings Board our data that some readings went up and some went down. However, they had followed a DOE

recommendation from a 1995 letter that said there should be no new building on Marrowstone. The Hearings Board had then ruled that there should be no new withdrawals on Marrowstone Island. Mr. Christensen stated that the commission's points were quite valid, but another board had reviewed it and looked at the data, and had looked at it differently.

Jenny Davis stated that it was unfortunate the process worked as it did, because, like the ag people who were present for the hearing, there were a lot of people who did not know what was going on. She stated that she could not support a moratorium on Marrowstone Island when the people of Marrowstone did not know what was happening. She suggested that perhaps we should talk about informing people about what was going to happen.

David Whipple asked what other solutions Ms. Davis would propose. Jenny Davis stated that, while she did not have the answers, she just did not like a moratorium because it was too extreme.

Eileen Rogers stated that she could not support the motion. She stated that the DOE could not process a water right for twenty years. She wondered where common sense was and thought something was wrong. She stated that a moratorium was not the answer. She stated that people had a right when they bought property to think they would be able to build on it. She thought a response in thirty days was ridiculous if we could not come up with the right answer. She suggested that the county ask for more time in order to come up with a workable solution for everyone.

Phil Flynn stated that a moratorium would be the last resort in his view. However, he thought there were a lot of people with seawater intrusion problems on Marrowstone, contrary to what Ms. Davis had experienced. While he agreed with Ms. Davis on the moratorium issue, the seawater intrusion problem was more pervasive than she thought.

Pat Rodgers stated that he understood the reason Mr. Whipple proposed the motion; it was to force the issue to get the public water system moving. However, in his opinion, he thought that if we put a moratorium on building on Marrowstone, we would never see a water system, because he thought there were enough people in position to kill a system. Mr. Rodgers stated that his thought would be to limit the usage to 500 to 800 gallons per day, to require special pumps, and to not let them water. He quite honestly believed that if we put a moratorium on building on Marrowstone, it would never come off. David Whipple countered that the last moratorium had come off.

Edel Sokol asked about the DOE water requirements. Dave Christensen replied that they were in a guidance document. He stated that he would provide a copy of it to the Planning Commission for reference. He described the contents of the pertinent RCW, adding that the DOE, instead of developing rules, and developed a guidance document. Mr. Christensen stated that there was a lot of concern with catchment systems. Phil Flynn pointed out that the county had approved some catchment systems of sizes less than the state minimum. Mr. Christensen agreed that the county had, but added that the county took on a lot of liability too. He stated that the county had approved two in the eight years he had been on staff.

Edel Sokol asked about the county's ability to require a flow restriction on wells. Al Scalf stated that the DOE and DOH were out of it as far as the county could see because we were working under the GMA, and the Hearings Board had indicated that the county had certain water power now. Dave Christensen explained that the county had made the argument to the Hearings

Board that the county did not have the power to restrict water flow below what was allowed in the state code. He reported that the Hearings Board had responded that they were not convinced that the county did not have that power.

David Whipple called for the question on the motion. The vote on going to the question carried.

The motion on a building moratorium on Marrowstone Island failed with one in favor and seven opposed.

Phil Flynn suggested that the Planning Commission develop a list of items to go forward to the BOCC, including restricting water and possibly requiring everyone on Marrowstone to have water meters, and other best management practices. And as an alternative to the BOCC that, as a last resort, they adopt a building moratorium.

Al Scalf stated that we were only really talking about those ten building permits per year. Josh Peters commented that we could try anything. He stated that staff had said from the beginning that if we really wanted to solve the problem, we needed to deal with everyone on the island. He stated that the BOCC had indicated that they did not want to do that. Therefore, we needed to convince them, if the Planning Commission was of that mind, that we needed to try that. Pat Rodgers commented that everyone should share the pain.

Phil Flynn stated that we did not know if we were getting further degradation. He stated that we did not have enough tests, or successive tests over time, to prove that we were or were not getting further degradation. That was one of the criteria we needed to develop. He thought we should try to restrict how much water people used as well as how they used it until we got public water. He thought we should at least attempt to freeze an overdraft on the aquifer.

Pat Rodgers stated that, of course, any new wells should have a monitoring device. Phil Flynn stated that we could require further restrictions on new wells requiring the new style pumps, a flow meter, etc. Mr. Rodgers stated that it would allow people to put their house in. Mr. Flynn stated that everyone knew, with the exception of the golf course, that 1,000 gallons was adequate.

David Whipple excused himself from the remainder of the meeting.

Al Scalf summarized that the restriction would be 1,000 gallons per day and BMPs. He asked about putting all of Marrowstone Island as a high risk SIPZ. Dave Christensen stated that would make every person who wanted a building permit pay a hydrogeologist a cost that was equivalent to putting in a well. The commissioners did not support Mr. Scalf's suggestion. Mr. Scalf then suggested the red areas be high risk SIPZ and everywhere else be an at risk SIPZ. Mr. Christensen stated that would mean that everyone else would have to be monitored and they would have to put a flow meter on their well.

Pat Rodgers stated that one of the biggest complaints about the UDC and the Comp Plan was this very thing, the idea of just drawing a line. He stated that we had people on the commission who had gone to the meetings and were knowledgeable about this issue. He suggested a subcommittee that would have those people on it to work out a recommendation, rather than doing it now on

the spot. He stated that he was very uncomfortable with it because he had seen some very difficult problems created by that process.

Phil Flynn stated that he had no problem with doing that, stating that we ought to have a workable alternative that could go forward, with the worst case scenario being a moratorium. He suggested discussing it with the BOCC. Al Scalf suggested asking the Hearings Board for more time, perhaps an additional 180 days. Pat Rodgers stated that if we did that we should clearly describe what we were trying to accomplish and who was on the committee.

There being a consensus agreement on the suggestion, Tom McNerney appointed a committee of Jenny Davis, Phil Flynn, and Eileen Rogers. He stated that he would sit in on the committee meeting as well. Mr. McNerney stated that the committee's charge would be, as soon as possible, to come up with a list of recommendations to take to the BOCC. If the BOCC decided they wanted to study some of the recommendations, then the county could ask the Hearings Board for more time to do so.

Phil Flynn was appointed chair of the committee. The committee agreed to meet on Thursday, February 13, at 10:00 a.m. at the ambulance station on Marrowstone Island. The committee asked someone from staff to attend.

Al Scalf stated that the resolution to support public water on Marrowstone would be on the BOCC's consent agenda for February 10. Staff stated that they would inform the BOCC about the commission's committee.

E. ADJOURNMENT

The meeting was adjourned at 10:05 p.m.

F. APPROVAL OF MINUTES

These minutes were approved this _____ day of March, 2003.

Thomas McNerney, Chair

Cheryl Halvorson, Secretary