

JEFFERSON COUNTY PLANNING COMMISSION

MINUTES FOR MARCH 5, 2003

- A. OPENING BUSINESS
- B. MLA02-485, UDC AMENDMENTS RELATED TO WASHINGTON ENVIRONMENTAL COUNCIL SETTLEMENT RE FISH AND WILDLIFE HABITAT PROTECTIONS AND AGRICULTURAL EXEMPTIONS
- C. SEAWATER INTRUSION ISSUE RELATING TO HEARINGS BOARD 180-DAY COMPLIANCE ORDER
- D. GENERAL COMP PLAN AMENDMENT ISSUES
- 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, Dwayne Wilcox, Eileen Rogers, Phil Flynn, Jenny Davis, Todd McGuire, Edel Sokol, and David Whipple.

DCD staff present were Josh Peters and Cheryl Halvorson, secretary. Dave Christensen, Natural Resources Specialist, was also present.

There were about five members of the public present. Those who signed the guest list were Dennis Schultz, Karen Driscoll, Andy Driscoll, and Joy Baisch.

The minutes for February 5, 2003, were approved as submitted.

The Chair invited staff reports.

Josh Peters reported on the appeals received on the 2002 Comp Plan amendment process. The secretary reported that she would be putting together the records for those appeals. Consequently, she would not be preparing minutes for the Planning Commission meetings until after the appeal records were forwarded from DCD.

Josh Peters reported on the BOCC's action on the Marrowstone seawater intrusion issue. He reported that the BOCC adopted an emergency ordinance on the issue. He reported on some of the specific provisions of the adopted ordinance.

Dave Christensen reported on a state DOE grant the county may be eligible for. He stated that the information he had received was that an individual could apply for a grant but the county or PUD could not sponsor a grant.

Tom McNerney asked that Phil Flynn provide a copy of the Seawater Committee's reference materials to the secretary for the record.

Josh Peters reported that the BOCC set a public hearing on the emergency ordinance for April 28 as required by the GMA. Dave Christensen explained that the emergency ordinance was an interim ordinance.

The Chair invited public comments. There were none received.

B. MLA02-485, UDC AMENDMENTS RELATED TO WASHINGTON ENVIRONMENTAL COUNCIL SETTLEMENT RE FISH AND WILDLIFE HABITAT PROTECTIONS AND AGRICULTURAL EXEMPTIONS

Josh Peters referred to the February 28 staff document that was forwarded via email to the Planning Commission as well as being posted on the county web site. He reviewed the summary memo.

Josh Peters reported that he had spoken with Al Latham of the Conservation District about this meeting. Mr. Latham had stated that the Conservation District would be meeting at the same time as the Planning Commission and he would try to get their comments on the proposal, which could then be forwarded to the Planning Commission.

Pat Rodgers stated that some county land had been designated as ag land, particularly lands in the Chimacum Valley. He then referred to ag lands he knew about in the Brinnon area which were on the Dosewallips River. He stated that one piece of land that was in the program would get one size buffer on a stream, while the next parcel, not in the program, would have a much larger buffer. However, both parcels were being used for agricultural purposes.

David Whipple made a proposal as an addendum to the staff report so that properties designated GMA ag lands, or were in the open space tax program, or whatever other designations the county may make, would receive an exemption from the standard buffers only when they had developed and implemented a conservation program that incorporated best management practices [BMPs] and that was approved by the Conservation District. When they had a plan in place on the ground and were actually doing conservation, then they could receive the exemptions. He provided his reasons for his proposal. He provided his proposal in written form to staff.

Dave Christensen responded that it would require the Conservation District to also approve of that as an option. It would put a different regulatory relationship onto the Conservation District, which was different from the relationship the district had with the farmers in the past. He questioned whether that would be acceptable to the Conservation District. David Whipple pointed out that there would only be about 75 property owners affected. Josh Peters clarified that the 75 property owners were only those whose property was enrolled in the ag open space tax program but whose property was not zoned for agriculture. Mr. Peters thought Mr. Whipple's proposal would affect many more properties.

In response to Tom McNerney's question, Dave Christensen stated that the Conservation District program in the past had been voluntary, whereas Mr. Whipple's proposal would change that relationship to include a more regulatory aspect. However, Mr. Christensen stated that he did not want to discourage the Planning Commission. David Whipple stated that it would still be a voluntary program, but it would provide more motivation for people to be involved in the voluntary program. Mr. Whipple thought the Conservation District would be regulatory in the sense that they would be approving a plan. However, it would be a cooperative effort in developing and implementing the plan.

Josh Peters summarized that Mr. Whipple's proposal would say that someone could qualify for an exemption from the standard buffer if they developed and implemented a plan that was approved by the Conservation District. Mr. Peters stated that the current proposal was that if someone was making a long term commitment to agriculture and had practiced agriculture over the last few years on their property, and that long term commitment was recognized either through the property being zoned for agriculture or participation in the tax program, then they would be exempt from the standard buffers. And, in addition, we had this voluntary program going on through the Conservation District over the next few years. That was acceptable to the petitioner. It was amenable to the petitioner that we did not have standard buffers because we had the voluntary program going on. However, the voluntary program was not part of the code; it was not regulatory. Mr. Peters stated that staff had reported to the commission before that other counties had a hard time presenting such programs before the Hearings Board.

Josh Peters asked Mr. Rodgers for further clarification of his point. Pat Rodgers stated that his point was that some formulaic, standard buffer distance was not really applicable in all places, depending upon the specific circumstances. Mr. Peters pointed out that the standard buffers could be varied from by doing a habitat management plan. He stated that if someone was practicing agriculture, they would be exempt from that under this proposal. Mr. Rodgers stated that what should drive the decision was the land itself. He stated that his point was that there were other agricultural lands in the county similar to the Chimacum Valley ag lands that should be treated in the same way. Those lands should be zoned for agriculture as well. Mr. Peters stated that Step 2 of the suggested process would be that the county would do some outreach and people could apply for the zoning. That was one option a property owner would have. A second option would be to apply for participation in the tax program. Mr. Rodgers stated that an issue was that the ordinance language said no future agricultural lands; it applied only to current ag lands. Mr. Peters stated that this proposal only applied to existing and ongoing agriculture, similar to other non-conforming use exemptions we had in the UDC.

Pat Rodgers and Josh Peters discussed two examples of neighboring property owners on the Dosewallips River, both raising beef cattle, one in the open space tax program and the other not. Mr. Peters explained the options for the property owner whose property was not in the open space tax program. The person whose property was in the tax program would have the exemption.

Josh Peters and Dave Christensen explained the voluntary Comp Plan amendment rezoning process proposed for this year. Mr. Christensen stated that if someone missed out on this year's voluntary process, they could come forward in a future year and apply for a rezone, but they would have to pay the Comp Plan amendment fees.

Josh Peters stated that staff had discussed something similar to Mr. Whipple's suggestion of having some kind of demonstration of a plan that was approved or on file, such as a farm plan. He pointed out that if the voluntary program was not working to protect the resource by 2006, the county may choose to implement such a plan requirement. One of the reasons the county did not want to do that now was that it would establish a regulatory relationship with the Conservation District that we wanted to avoid at this time, which may be a dis-incentive for some people to participate. Secondly, it would be expensive for some people. He stated that the commission had heard testimony that people were not making much money practicing agriculture and it would be a burden on them to have to hire someone to develop a plan. Mr. Peters stated that the basic idea was that it was better to have active riparian management than it was to have a standard buffer that may be left alone and have a noxious weed problem. He stated that we wanted to look at ways to encourage ag activities such that you actually protected the resource and not necessarily use standard buffers, which may not necessarily actually result in the goal, which was protection of the resource.

David Whipple offered the opinion that we may be in a situation in a few years where we would be adding regulations if the voluntary program did not work. He thought any incentives we could provide now in order to be ahead of the curve was prudent. He thought that the more we could keep from further degrading the environment and getting a process in place that people could easily opt into would be more advantageous. He suggested that

standard plans could be developed which would make it less expensive. Also, we could look into adapting standard plans to individual properties. He stated that if the expectation was that people would be a good steward of the land, they would meet that bar much more willingly. Josh Peters stated that staff was thinking that the expectation was there because we were providing an opportunity for agriculture to be exempt from standard buffers, but it was subject to performance standards that would come due in 2006, basically. Mr. Whipple offered the opinion that we should set those expectations up as early as possible because, otherwise, we got into the whole takings thing. However, if the expectation was set up, people would live up to it. It would not be a takings because someone would have an option, and depending upon how much someone wanted to develop their management plan, they could move the buffers down to as little as 15 and 20 feet. Should someone choose not to do this plan, it would mean they would go back to the standard buffer. It would be an option of the land owner; not a mandated thing. It would be like the tax program. Also under his proposal, someone would not have to be in an ag district or the tax program to take advantage of this option.

David Whipple moved that the Planning Commission amend the DCD recommendation so that properties that are GMA ag lands or participate in the open space tax program will receive an exemption from the standard UDC buffer requirements when they have developed and implemented a conservation program that incorporates best management practices and is approved by the Conservation District. Todd McGuire seconded the motion.

Jenny Davis stated that she remembers from the public hearing that farmers were forceful in their comments that they were responsible stewards of their land and were environmentalists. She thought it would take a lot of work for someone to come up with a plan and asked who would review it. She asked how such a program would be implemented, because it would be specific to individual farms. Tom McNerney commented that the answer appeared to be that the Conservation District would be the entity to review and approve the plan. David Whipple stated that in some cases it may be onerous to do it. In that case, they could choose not to do it and go with the standard buffers. He thought that how much would need to go into the plan would depend upon how close to the water's edge the farmer wanted to go. Ms. Davis asked if someone would have to hire an expert to do their plan. Mr. Whipple answered that it would depend upon how knowledgeable the land owner was. He stated that usually it was outcome based, so you would do upstream and downstream testing. Ms. Davis commented that it sounded like it would be fairly expensive. Dave Christensen stated that staff could get a copy of a farm plan from the Conservation District. He stated that they were generally prepared by either the Conservation District or consultants. They were generally not prepared by the farmer. Josh Peters added that Al Latham had said that he often helped a land owner prepare the plans. Mr. Peters stated that Mr. Latham had provided input that the Conservation District estimated that at least one additional full time position dedicated to water quality conservation plan preparation would be needed for implementation of the county model described in the staff memo.

Todd McGuire asked about the current situation in places like Chimacum Valley where the zoning was already existing, asking what happened if the exemptions were in place. Dave Christensen responded that right now everyone had an exemption. He stated that the proposal before the Planning Commission would restrict that exemption for agricultural practices. Depending upon how that was written, some things may not be allowed. Mr.

Christensen stated that, right now, there was nothing that would be a violation of county code, although there may be other state laws that were pertinent. Josh Peters stated that counties were "Johnny come latelies" to the regulation of agriculture under the GMA. He stated that he knew of no specific instances where there had been an enforcement case or any kind of agricultural plan submitted to the county for any reason. He stated that there had been wetland mitigation plans that were submitted which were related to agriculture practices, although it had been pretty rare.

Pat Rodgers stated that there would be a public hearing on March 19. He stated the hope that the Planning Commission would wait until after the public hearing, and hearing from the farming community, before making a decision about this motion. Edel Sokol agreed with his comment, noting the passion people had expressed at the last hearing.

Phil Flynn asked if Mr. Whipple had asked the Conservation District to review his proposal. David Whipple replied that he had discussed the general concept with Jerry Gorsline. Mr. Flynn suggested that Mr. Whipple ask Al Latham to review the proposal and comment on it, stating that the Conservation District should be made aware of the proposal since they would be involved in its implementation. Mr. Flynn commented that if it was optional for someone to do, it may not be so objectionable. Mr. Whipple stated that it went to the idea of a common expectation that people would be good land stewards. He acknowledged that there were good land stewards, just as there were good stewards in other trades, adding that there were also others who were not such good stewards. He stated that, unfortunately, it was the one who was not such a good land steward that damaged it for the others who were. Mr. Whipple stated that the more we could encourage people to be good stewards, the better it would be.

Dwayne Wilcox stated that he liked Mr. Whipple's idea, especially the free enterprise aspect of it. He added that sometimes it worked well and sometimes it did not. He supported Mr. Flynn's suggestion to have the Conservation District people review the proposal.

Tom McNerney expressed the opinion that he preferred to wait until after the public hearing and to hear from the public about this proposal. He suggested postponing a vote on the motion now or voting it down now. David Whipple stated that he would be willing to table the motion until after the public hearing. He stated that he would make an effort to follow up with the Conservation District before the hearing.

Todd McGuire stated that he would support tabling the motion. He stated that he liked the idea that the commission had some time and could get more input. He also liked the idea of Mr. Whipple raising the whole concept that it was not an either/or situation. His biggest concern was that the county not bypass the whole intent of the petitioners, who were trying to assure that we were dealing with this problem. Mr. McGuire supported getting all of the stakeholders onboard for the discussion, as he did with many issues that came before the Planning Commission.

Pat Rodgers thought that, conceptually, there were a lot of good things to the proposal. However, between concept and implementation, there may be some aspects that would take the people who would work with it to actually craft how it should be implemented. Mr. Rodgers stated that the underlying assumption was that there was a degradation of water quality and a buffer of 125 feet was at least a distance that would keep that from happening.

He stated that the fact may be, for example, that someone could test the water coming onto their land and test it going off, and if there was improvement or no significant difference, then they should not have to do anything; they should not have to have any setbacks.

Tom McNerney stated that the next meeting would be the public hearing on the issue. Then the commission could use the meeting after that to invite experts in the field, such as Al Latham or others who could provide technical input, to answer questions of the Planning Commission before the commission made its recommendation to the BOCC.

It was agreed by consensus to table the motion until the Planning Commission's post public hearing discussion on the issue.

Edel Sokol asked for clarification of staff's earlier comment about the Conservation District and "raising the bar". Josh Peters stated that up until this time, the Conservation District had a purely voluntary relationship with land owners in this county, and no regulatory relationship. He stated that Mr. Whipple's motion may introduce a certain element of regulatory authority if the Conservation District was in the position of approving a plan in order to qualify for an exemption from a regulation. Mr. Peters stated that staff had discussed the idea with Al Latham, who had stated that he would anticipate the need for one more full time position in order to review and approve farm plans for essentially all the agricultural land owners in the county.

Josh Peters reported on a bill in the state legislature that would eliminate the Conservation Commission, the body that oversaw the conservation districts. They funnelled information from the Natural Resources Conservation Service of the USDA to the conservation districts. Instead, the conservation districts would fall under the umbrella of the state Department of Agriculture, which would have a similar impact to the conservation districts (having more of a regulatory role).

The commissioners and staff discussed the work of the Conservation District. Edel Sokol commented that if it had been working on a volunteer basis, it may not be prudent to "mess" with that. Josh Peters noted that the Conservation District was meeting concurrently with this Planning Commission meeting. He stated that Al Latham was going to bring up the staff's proposal and, hopefully, get a formal statement from the Conservation District to the Planning Commission. Failing that, he thought there would be members of the Conservation District, as well as Mr. Latham, at the public hearing to comment to the commission on the proposal.

Dwayne Wilcox asked if there was any other county within this district, other than Jefferson. Dave Christensen replied that the districts were county by county.

Jenny Davis asked for clarification of a statement on Page 4 of the February 28 staff memo concerning the exemptions not being for future agriculture. Josh Peters explained that the paragraph was included because Mr. Rodgers had raised the question. Mr. Peters stated that, under this proposal, the exemption was for existing and ongoing agriculture, not for future agriculture. Dave Christensen stated that there was already UDC code that required compliance with existing UDC buffers for a new agricultural proposal. Tom McNerney stated that the Planning Commission could propose to change that provision to include future agriculture. Mr.

Christensen stated that would change the scope of the settlement agreement with the WEC, because that was a whole new piece that would be brought in.

The commissioners and staff discussed an example of a parcel of farm land that had not been used for some years, that was sold, and the new owner wanted to put the land back into agriculture production. They discussed what options there would be for that new owner in order to vary from the standard buffers. Josh Peters stated that, currently, it would take a habitat management plan.

The commissioners and staff discussed an example of a current agriculture use. Josh Peters explained that under the staff proposal, existing and ongoing agriculture would be exempt from the standard buffers if the land was in the open space tax program or was GMA designated ag land. Also, there happened to be a voluntary program through the Conservation District, which was how the county was able to craft the agreement with the petitioner because that voluntary program was as successful as it was. Mr. Peters stated that if the voluntary program was unsuccessful by the end of 2006, especially if it was unsuccessful because of lack of participation, then the county may have to do something else. Mr. Peters explained that Mr. Whipple's proposal would add approval and implementation of farm plans before the buffer exemptions would apply to any agricultural use, whether designated ag land or not. David Whipple stated that it would be the land owners option to participate or not. If not, then the standard buffers would apply. Mr. Peters stated that the voluntary program was being evaluated periodically now and it was hoped that the enthusiasm would increase with more participation so that by 2006, agriculture was, if not improving, at least not degrading water quality.

The Chair invited public comments on the agriculture issue.

Karen Driscoll asked if the amendment would be clear to the public beforehand. She wanted to be able to comment on it at the hearing. Ms. Driscoll would want to have the ability to comment on the tabled motion. Josh Peters stated that the staff proposal was on the county web site. He stated that staff could put Mr. Whipple's motion on the web site as well if the Planning Commission desired.

Dennis Schultz, North Jacob Miller Road, stated that he sat on the Conservation District board, but came to the Planning Commission meeting because of the topic before the commission. He stated that the Conservation District employees had a full plate now. If the county wanted to do Mr. Whipple's suggestion, the county would have to fund the extra personnel needed. Mr. Schultz stated that it must be realized that the Conservation District administered a voluntary program. The reason it worked was because the farmers could only afford to take their land out of production because of the Federal CREP program that paid the farmers to take their land out of production and devote it to buffers along the streams. He stated that the farmers could not afford to just give up their land. As an example, Mr. Schultz stated that he lived on 40 acres and would lose 10 acres to buffers without the exemptions. That was a significant hit. He stated his surprise that the farmers had continued farming and not given up and sold their land for houses. He stated that some had lost as much as 1/4 to 1/3 of their land to buffers. Mr. Schultz stated that it cost thousands of dollars per acre to set up the buffers to protect the streams. He stated that fencing was not cheap. The trees that were planted along streams were done through grants. He stated that the

farmers could not afford to do such buffer enhancement work on their own. Mr. Schultz stated that if the county was going to make it mandatory for farmers to provide buffers, the county must provide some kind of financial incentive or grants to pay (1) for taking the land out of production and (2) for the restoration work. He stated that the GMA did not require restoration. The purpose of the Act was to maintain the status quo. Concerning the buffers, Mr. Schultz stated that the biggest controversy in the West concerning any salmon stream was the buffer size. He stated that no one knew what the proper buffer size was; one size did not fit all. He stated that, as had been pointed out before, you would get 95% of the benefit in the first 10 to 15 feet of buffer.

Andy Driscoll, Eagle Mount, asked how the information would become available to the stakeholders. He acknowledged that it was on the web site. He asked if the entire proposal (four pages) was published when the county did the public notice. Josh Peters replied that the county did not; the county published a summary of what was being proposed, usually citing the UDC sections to be amended. Then the notice directed the reader to contact the DCD office or to check the web site. Mr. Driscoll recommended that the Planning Commission do a mailing to all of the people who attended the last meeting in order to involve as many stakeholders as possible.

Josh Peters stated that, ideally, the public participation program for all proposals would be far-reaching. He stated that we did not have the budget to do that, stating that the budget had been trimmed significantly in terms of copies, postage, etc. Mr. Peters reported that DCD was planning to budget for a mailing to agricultural land owners during Step 2. He stated that staff thought that people who came to that meeting would be paying attention, stating that staff had received phone calls. Mr. Peters stated that staff was hoping that the papers would help with the public participation outreach. Mr. Peters stated that, while he was not making excuses, his point was that there was a lot to do with limited staff.

Tom McNerney stated that his understanding was that the proposal was to do a mailing to people who were at the last meeting. Dave Christensen stated that he would write a press release for the papers. Josh Peters stated that there was an article in this date's paper with DCD's phone number and the county web site address.

Joy Baisch, Brinnon, asked if WEC would be able to continue to appeal at every step because they did not like a particular way it was written or a particular way it was implemented or a particular piece of property that had been overlooked or a particular piece of property that had been given an exemption and they did not agree with it. Another question was whether the city's open space ag land was included in this proposal or whether it was not. If it was not, Ms. Baisch thought that would add another category of ag land to the mix and did not think that was fair. She thought the city's setbacks should be just as important as anyone's in the rural area of the county in the open space ag. Ms. Baisch was concerned about Mr. Whipple's earlier statement about damaged ag lands. She stated that in her talks with other ag owners, she had not heard that there was a problem with damaged ag land so that mitigation had to be done. She thought that if someone was going to appeal all the work that had been done, it should have some kind of basis. It should not be just because they wanted to. She thought you should have to demonstrate that there was a problem. Ms. Baisch asked how the Brinnon Subarea Plan fit into this issue, noting that it was already an amendment to the county Comp Plan. She stated that in

the process of the Brinnon plan, they talked about their significant agricultural lands. Ms. Baisch stated that in 1993 when the county was setting up the interim ag lands, they had questioned why ag lands in Brinnon were not included. She reported that they had been told that it was because they did not have significant soils. She questioned what was considered significant soils. She stated that she had yet to have anyone show her the soil logs that determined what lands were in the ag designation and what was not. Ms. Baisch stated that their land had topsoil of 6 to 10 feet deep; it was prime ag property all the way up the valley. She stated that the valley had been farmed since 1857. She questioned who determined what lands were in the original ag zones. Ms. Baisch stated that they had not pushed for ag designation because they had been told that being in the open space ag tax program would be enough. She stated that they were already taking care of their land, stating that they had put thousands of dollars into their land in tree planting, bio-swales, and drainage ditches to deal with runoff from the county road; and they were not getting reimbursed. Ms. Baisch stated that to put a restriction on their land when there was not a problem created a huge concern. She questioned what would happen to those people whose land had never been in an ag zone or in the open space ag program for one reason or another, although she realized there was a proposal for them to opt in now.

Josh Peters explained that when he had talked about "opting in", he was talking about the Ag Lands of Local Significance which was addressed in the Comp Plan already. He stated that during the 2003 amendment cycle, it technically would not cost the landowners anything.

Joy Baisch stated that she would truly like to see those ag logs and asked why they were never brought to a public review. She stated that it was a significant issue. She stated that there were a lot of agricultural properties in the county that should be, by their soils, listed as ag. If it was something that was overlooked, it should have been dealt with. Ms. Baisch stated that the Brinnon plan was already an amendment to the Comp Plan and the plan had addressed the issue of ag lands in Brinnon, even though they could not get the county to give them an ag zone.

The Chair closed the public comment period and moved the agenda forward.

**C. SEAWATER INTRUSION ISSUE RELATING TO HEARINGS BOARD
180-DAY COMPLIANCE ORDER**

Josh Peters stated that staff was bringing the 180-day issue to the Planning Commission in the same spirit that the commission used with the Marrowstone Island issue. He stated that staff did not have a proposal that was line-in/line-out at this time. He stated that he knew the Planning Commission was interested in the issue, and staff hoped that perhaps the Seawater Committee would continue working on it. From that, perhaps the commission could provide guidance to staff. Then staff would prepare documentation that represented that guidance for the Planning Commission to deliberate.

Dave Christensen stated that the 90-day compliance issue related to Marrowstone Island had been completed. He reported that there would be a compliance hearing in April on that. Mr. Christensen stated that there were still about 90 days left for the 180-day compliance issues and reviewed those four compliance issues. He stated that, basically, the Hearings Board wanted details.

Dave Christensen stated that staff would recommend that the SIPZ maps be updated twice a year. If the Planning Commission accepted that recommendation, it would answer one of the four compliance issues. Then the Planning Commission could concentrate on the other three compliance issues. He thought that anything more often than twice a year, given staffing availability, would be onerous.

The Planning Commission and staff discussed using the Seawater Intrusion Committee to work with staff on the issues and bring a recommendation forward for review by the entire Planning Commission.

The Planning Commission and staff discussed the one compliance issue concerning how to define degradation. Dave Christensen offered the opinion that it was more complex than it appeared on the surface because it got into very technical details, especially something that was defensible through science. He reported on his talks with DOE on the issue, stating that they issued water rights in seawater intrusion areas. They conditioned those water rights, saying that if there was degradation, the user had to reduce their water use. However, they (DOE) did not do it. Mr. Christensen stated that, while he had not gotten an answer from DOE, he was still hoping to get some technical input from them.

Todd McGuire commented that it appeared there was no current best available science outline by the DOE. Dave Christensen stated that the best available science was around monitoring of contaminants. He explained that seawater intrusion was a whole different thing because it was much more variable than other types of contaminants. It comes and goes seasonally; it comes and goes with tides; and it comes and goes with water use. All of that variability had to be accounted for in defining what degradation was. Mr. Christensen stated that the Hearings Board kept wanting a bright line, a number. He stated that the county could have put a number in and the Hearings Board would have been happy, but that was not a true picture. Edel Sokol commented that it did not appear that the Hearings Board members were technical people. She asked if they had technical advice. Mr. Christensen replied that they apparently did not, and they did not accept the advice of the county's technical staff.

David Whipple stated that this was not a new issue in the world. He suggested that the county expand beyond Washington state, stating that the Barrier Islands on the East Coast had experience with the issue. Dave Christensen stated that he had talked with staff at the USGS, which had experience on the East Coast. He stated that it was real obvious when it (seawater intrusion) was severe. He stated that the aquifers on the East Coast were different in that they were very expansive and very connected. There were hundreds of miles of one homogeneous aquifer, so it was easy to map. We had a lot smaller aquifers and a lot more heterogeneous, mixed up groundwater situations. He reported that the USGS had decided that they did not want to "pitch in" on this issue, even though they were a technical body.

Tom McNerney stated that staff had talked about contamination at a certain percent and asked what that percent would be. His reference was to a landfill contamination of groundwater. Dave Christensen replied that he did not know the exact number but stated that it was in state regulations related to landfills.

Josh Peters displayed a chart on a well that showed it started out low, went up high, and then went back down low again. He questioned whether that well was degraded. The time period was seven years. Dave Christensen stated that was commonplace. He discussed his findings on well testing on Marrowstone Island for about 50 wells over about a 7-year period. About a third of the wells went up, about a third went down, and about a third went up and down. There was no discernable pattern. Mr. Christensen stated that the county had given the information to the Hearings Board and tried to explain to them that it was really hard to arrive at a number. However, they still wanted a number. Tom McNerney stated that the season of the year and the tides influenced the readings. Mr. Christensen stated that seawater intrusion was really challenging with a lot of factors. He stated that Jefferson County was certainly doing more than any other county in trying to come up with a level of degradation figure. Mr. Christensen reported that every other county used thresholds. If it was above a threshold, certain things happened. If it was below a threshold, other things happened.

Jenny Davis asked about Island County's program and wondered whether we could model a program after theirs. Phil Flynn stated that they had been doing it for years and had a lot of data. Ms. Davis stated that we had some data. Dave Christensen stated that their program was not one where they would come back retroactively and make changes or decisions to an existing plan; they were just monitoring for the sake of monitoring. Then they would make future decisions based upon what was happening with those old wells. He stated that what we had to do was actually make a decision that said we may close an area for future building permits if the wells in that area were going up. We had to identify what that figure would be. Tom McNerney commented that if half the wells in an area were going up and half were going down, it became a difficult decision. Edel Sokol commented that the Hearings Board did not understand that. Mr. Christensen responded that they did not agree with staff's statements. He thought they saw it as being more simple. He thought they thought that someone had figured it out somewhere in the country. He stated that he was waiting to hear from the USGS on the issue because he knew they were working on the issue on both coasts. Josh Peters stated that the USGS was very interested in studying the issue because it was an interesting phenomenon, but they were not interested in commenting on how to regulate it.

Eileen Rogers stated that one thing that was obvious and needed to be emphasized was that we did not have enough real scientific data. Dave Christensen responded that we had good data, but even with that data, it was inconclusive. He thought we had enough data to make a conclusion about an individual well, but not enough to make a conclusion about the overall picture. He stated that there were a lot of factors that could influence a well that the county had no control over.

David Whipple agreed that the aquifers on the East Coast were different from ours. He stated that there were areas on the West Coast that were similar, however, citing Vancouver Island and the islands going up towards Alaska as examples. Dave Christensen stated that everything he had seen, especially going up the West Coast, focused on identification and avoidance. None of it was the regulatory kind of information we needed. Mr. Christensen stated that he could give the Planning Commission what he had. He stated that it just did not seem relevant to the context before us. The question we were asking was just absent from all the documentation he had.

Edel Sokol asked what Mr. Christensen's expertise was. Dave Christensen replied that he was not a hydro-geologist, adding that the county did not have a hydro-geologist on staff. He explained that his experience was in ecology, but he had done a lot of modeling and statistics, and he understood the mis-use of statistics and was very cautious about their use.

Tom McNerney suggested that the Seawater Intrusion Committee meet on the issue. He urged any Planning Commissioner who could provide any data that would be helpful to the committee to do so. He also invited other Planning Commissioners to attend. It was agreed that the committee would meet on March 12 at 6:30 p.m. at a place to be determined.

Phil Flynn clarified that the issues before the county now were county-wide issues. Dave Christensen stated that the issue was not identifying other areas in the county where there may be seawater intrusion. The issue was really the broader issue of the science about seawater intrusion.

Todd McGuire asked if there had been any discussion with the petitioners about the remaining compliance issues. He asked if they had any data or resources. He stated that regardless of what happened, the county should get some kind of buyoff from the petitioners. Dave Christensen stated that if the Hearings Board saw the county's solution as acceptable, then it was acceptable. He stated that, in this case, it should be based on best available science and be defensible in that way. That should be a standard that would meet the Hearings Board's order. Josh Peters reported that a comment from the petitioner to the BOCC concerning the Marrowstone ordinance was that there should be something about an adaptive management program included. However, they did not provide any suggestions. Mr. Christensen stated that he would provide copies of the petitioner's briefs so that the commissioners could see the context for the criticisms raised by them.

Todd McGuire wondered if it was totally out of the question to involve the petitioner, who had an interest in the topic and may have other resources. Dave Christensen stated that right after the initial ruling from the Hearings Board, the county formed a group consisting of the petitioners, two Planning Commissioners, and other interested parties. It was called the Seawater Intrusion Group [SWIG]. What came out of that effort was a set of unanimous recommendations, although there were other issues that were far from unanimous. Staff had put in a lot of hours supporting the effort. It had failed in the end because, being a negotiated process, not everyone was happy, and the petitioners had gone to the Hearings Board and criticized what came out of it as being insufficient. Mr. Christensen stated that the county had the petitioner's briefs and knew what they were asking for. He stated that staff could give the committee the whole SWIG packet. Mr. McGuire asked if the petitioners had put forward what they thought would be a good solution. Mr. Christensen replied that they put some proposals forward and the SWIG group discussed them and voted on them. Mr. Christensen stated that until the BOCC asked staff to go back with the petitioners, staff would continue forward with what the petitioners had written in briefs, what the Hearings Board had written for instructions, and best available science. Mr. Christensen stated that it should be realized that staff was criticized pretty heartily by the public for not relying on the Planning Commission, because staff spent so much time with the SWIG. The criticism was that the Planning Commission did not get enough time to review the SWIG proposal. Mr. Christensen stated that his

opinion was that we should concentrate on compliance with the Hearings Board order. If the BOCC directed staff otherwise, staff would spend time negotiating with the petitioners. Mr. McGuire stated that his question related to the context of the search for information, data, and sources, and since the petitioners were very involved in the issue, they may be a resource. Mr. Christensen stated that the one comment he had heard from the petitioners was that they wanted an allowable percentage number for degradation. Phil Flynn stated that the number had to be relevant to the problem, however.

Tom McNerney stated that he thought he understood Mr. McGuire's point. However, the direction to the Planning Commission from the BOCC was for the Planning Commission to arrive at a recommendation. He thought that if there was to be any negotiation, it should be between the BOCC and/or staff and the petitioners, and not between the Planning Commission and petitioners. Todd McGuire stated that his point was that perhaps the petitioners had information that would be helpful to the Planning Commission. He stated that what he was hearing was that DOE didn't know anything and USGS didn't know anything, so the Planning Commission was going to solve it. Mr. McGuire stated that his question was where to look for information and perhaps the other interested party had some data and research. Phil Flynn and Mr. McNerney stated that the Seawater Committee had received a lot of information, but it did not provide an answer. Dave Christensen stated that he could push DOE to produce something in terms of telling us how to define a degraded well. That was a route staff could do if the Planning Commission could accept that as a recommendation. It could just be a technical exercise.

The commissioners discussed the role of the Planning Commission as it related to technical issues. Pat Rodgers stated that there was more to policy than technical issues. He thought there was a lot more to the issue than just the technical aspect; there was a policy issue. He thought that was the role of the Planning Commission. Todd McGuire stated that he had been told at one time that the Planning Commission's job was to support the staff. Tom McNerney stated that the Planning Enabling Act said that the Planning Commission was to help the staff, but it was also to advise the BOCC directly through its recommendations. If the staff did not agree with those recommendations, they could comment on them.

Jenny Davis stated that it would be helpful if staff could push a little at DOE and bring forward something to the Seawater Intrusion Committee. Josh Peters stated that he had asked the DCD intern to search for any regulations about seawater intrusion anywhere in the United States or anywhere in the world. He had found nothing so far.

David Whipple stated that the Planning Commissioners were appointed officials, not elected. He had reservations about setting broad ranging policies without some parameters from the elected officials. Rather than setting such broad range policies, he thought the Planning Commission's role was to flesh it out and review the implementing regulations. Concerning the seawater intrusion issue on Marrowstone, Dave Christensen stated that the BOCC never asked the Planning Commission to make a recommendation. Tom McNerney reported that the BOCC had rejected the earlier recommendations of staff which resulted in staff being at a loss and not knowing where to go from there. They had asked the BOCC if they wanted the Planning Commission to "take a crack at it", and they had said "Yes". Mr. McNerney stated that there were no further details given. Mr.

Christensen stated that, while staff could certainly work on some line-in/line-out proposals, he did not think it would be appropriate with these issues. Because it was not the typical land use issue, he thought it more appropriate to work with the Planning Commission from the start in order to arrive at a proposal.

Tom McNerney asked that the Seawater Intrusion Committee provide an update on their work at the first meeting in April.

D. GENERAL COMP PLAN AMENDMENT ISSUES

Josh Peters stated that staff was not anticipating a lot of Comp Plan amendments for this year's cycle. He stated that staff was currently working on the 2004 Comp Plan update. He stated that, other than the ag proposal that had been suggested, staff was not anticipating many amendments. Therefore, the Planning Commission may want to make suggestions for amendments. In answer to Todd McGuire's question, Mr. Peters stated that the date for amendments this year was May 1, with the date changing to February 1 in 2004.

Todd McGuire asked what amendments staff was currently aware of. Josh Peters replied that staff was aware of two possible Master Planned Resort [MPR] applications which would come before the Planning Commission. One was for the Old Alcohol Plant area and the other was a PRRD proposal in the Brinnon area that might turn into a MPR. Also staff expected the Port to propose their Airport Master Plan as a Comp Plan amendment which would probably include an airport noise overlay.

Todd McGuire expressed concern about the Planning Commission getting an understanding of the effect of Comp Plan amendments on capital facilities. Josh Peters stated that he would take the concern to the Director and see if the Planning Commission could have a presentation on it.

E. ADJOURNMENT

Dave Christensen stated that he had met with the BOCC concerning the Marine Resources Committee. They had suggested that the Planning Commission Chair meet with the Marine Resources Committee Chair to discuss responsibilities and roles of the two advisory groups and issues that may overlap. One overlapping issue may be the Shoreline Master Program [SMP]. Mr. Christensen stated that the Marine Resources Committee was concerned about having input into the SMP. It was pointed out that the SMP would be treated as a Comp Plan amendment.

Edel Sokol asked about the soil logs that Joy Baisch had spoken about. Dave Christensen stated that what Ms. Baisch had addressed was that the original ag lands designations had been based on soils. Josh Peters stated that he had displayed a map at the last meeting depicting prime farmland soils. He suggested the commissioners re-read the staff memo, look at the 1995 ordinance to figure out how those ag lands were originally zoned, read the Comp Plan section on ag lands, and look at the Comp Plan map on ag lands. Pat Rodgers stated that Ms. Baisch contended that her land had soils that would qualify for designation. Mr. Peters stated that the entire county had been soil surveyed by the Soil Conservation Service, now the NRCS, and the county had those logs. Dave Christensen explained that Ms. Baisch's concern was that there was some information that put her land in a category that may have been wrong and now it was too late to change.

He stated that he would discuss her options with her. Mr. Peters stated that the record shows that, at the time, there were many people who did not want their land to be zoned forest land, as well as some who did not want ag zoning. Perhaps at the time they thought they would be able to do more with their land under a rural residential zone. It was a balance. That was a reason for opening it back up to allow people to opt into the ag designation.

Tom McNerney stated that this would be the last meeting for Todd McGuire and Dwayne Wilcox as their terms were expiring on March 17. Mr. McGuire stated that he would be re-applying. Mr. McNerney expressed the Planning Commission's appreciation to both for their work on behalf of the county.

The meeting was adjourned at 9:40 p.m.

F. APPROVAL OF MINUTES

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

Thomas McNerney, Chair

Cheryl Halvorson, Secretary