

JEFFERSON COUNTY PLANNING COMMISSION

MINUTES FOR MARCH 19, 2003

- A. OPENING BUSINESS
- B. PUBLIC HEARING - MLA02-485, UDC AMENDMENTS RELATED TO ENVIRONMENTALLY SENSITIVE AREAS AND AG LANDS EXEMPTIONS
- C. DISCUSSION OF HEARINGS BOARD COMPLIANCE ORDER REGARDING PROTECTION AGAINST SEAWATER INTRUSION
- D. 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, Dwayne Wilcox, Eileen Rogers, Edel Sokol, Jenny Davis, Todd McGuire, and David Whipple.

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

There were about twenty-five members of the public present. Those who signed the guest list were Marilyn M. Lewis, Robert Huelsdonk, D. L. Dickson, M. K. Dickson, Tom Jay, Diane Johnson, Nancy Dorgan, Jerry Gorsline, Barney Burke of the Leader, Dennis Schultz, Bob Pontius, Larry Dennison, Joy Baisch, Al Latham, Julie Boggs, Karen Driscoll, Andy Driscoll, Dick Schneider, and John Boulton.

The minutes for February 19, 2003, were approved as submitted.

Tom McNerney reported on the BOCC's decision that the two Planning Commissioners whose terms had expired could continue serving until they were either reappointed or replaced.

Tom McNerney expressed his appreciation to the people from the West End who had come to the hearing.

## **B. PUBLIC HEARING - MLA02-485, UDC AMENDMENTS RELATED TO ENVIRONMENTALLY SENSITIVE AREAS AND AG LANDS EXEMPTIONS**

Tom McNerney outlined the hearing procedure.

Josh Peters pointed out that there was staff information available for handout at the table (memos of February 13 and February 28). He reviewed the three maps on display. One was from the 1998 Comp Plan depicting the prime farmland soils. It was used to help make the ag lands designations. The second map was also from the Comp Plan and depicted Agriculture Lands of Long-term Commercial Significance (ag resource lands). He pointed out the Agriculture Production Districts. He explained the category of Agricultural Lands of Local Significance. The third map depicted the commercial agriculture zoned properties, the Ag Production Districts, and all of the properties in East Jefferson County that were in the Open Space-Ag tax program. Mr. Peters explained that there were some lands in West Jefferson County that participated in that program. However, there were no lands designated as agriculture lands under the GMA in the West End.

An audience member asked why there were no GMA ag lands designated in the West End. Josh Peters replied that he would get to that issue during his presentation. However, part of the proposal was that there be a process by which interested landowners could have their land designated for agriculture if that was their desire. He explained that there may be some disadvantages, as well as some advantages, to that so a landowner would need to analyze the whole picture.

Josh Peters provided a Power Point presentation, starting with a history of the ag designations and UDC adoption and regulations. He explained that the ag exemptions would exempt someone from the buffers for streams and wetlands. He reviewed the provisions of the settlement agreement with the Washington Environmental Council [WEC], noting that the ag exemptions issue was just one

of the issues. He explained that the thought in the settlement agreement was to apply the exemptions only to Ag Lands of Long-term Commercial Significance. Mr. Peters explained the revisions to the original proposal that was not being recommended by staff. He stated that the county had gotten positive feedback from both the Conservation District and the appellant (WEC) on the revised proposal.

Josh Peters reviewed the results of taking this first step. He explained the basin by basin voluntary program that was also part of the settlement agreement, stating that there was a current program going on in the Chimacum Creek watershed.

Josh Peters reviewed the second step of the revised recommendation, which included reviewing the ag land designations and their criteria during the next Comp Plan amendment cycle. It included a petition process for farm owners desiring designation as GMA ag lands. He pointed out that the uses that would be allowed or prohibited in ag lands would have an effect on a person's decision to opt into an ag designation program.

The Chair invited questions from the audience.

Dennis Schultz stated that anyone applying for an ag tax exemption (Open Space-Ag) now would not receive that exemption before 2005. If you applied now, it would be decided the following year, and the exemption would take effect the year after that. It would keep people in limbo for a minimum of two years. He asked if staff had thought about that situation. Josh Peters replied that he had discussed the issue with the Assessor and he had not mentioned that. Mr. Schultz stated that the county planned to send out a mailing regarding the petition process for people to apply for GMA ag designation. He asked how the county could approach those people who were outside either the GMA ag lands or the open space tax program. Mr. Peters stated that the county would probably confer with the Conservation District and others who were knowledgeable about people who were practicing agriculture to try to develop a mailing. He stated that, unfortunately, the county did not have the resources to do a mailing to every resident of the county. He stated that the county would do an outreach program of some type that would be as extensive as the county resources would allow. Concerning the first question, Mr. Peters felt sure the county would not take active enforcement action against someone who was applying for the Open Space-Ag tax program because they had to wait until 2005. He stated that it was an issue staff had not discussed, because this was the first time staff had heard it could take so long.

Larry Dennison, Port Townsend, asked if there was a window for the opt in program or if it would be an ongoing thing. Josh Peters replied that the exemption was for "existing and ongoing" agriculture. It was essentially five years back from the date of this amendment. Basically, agricultural activities would have had to be conducted annually for the last five years. Mr. Peters stated that the cleanest window would be for this year. However, if someone came to the county next year or two years from now and could show that they had been practicing agriculture for five years from the date of this adoption, and they were in the pipeline for the tax program, the county could say they were "existing and ongoing".

Joy Baisch, Brinnon, referred to the acreage figures in the staff memo, and asked how many of the Open Space-Ag tax program acres were in the city. Josh Peters replied that there was 87 acres inside the city enrolled in the tax program. He pointed out that the city had their own Comp Plan and their own

critical areas regulations. He stated that the county had nothing to do with that, although the county did have something to do with the tax program in the city. He agreed that it could be confusing. Ms. Baisch asked how many parcels were included in that 87 acres. Mr. Peters replied that he did not have that information.

Kit Simeon, Quilcene, asked if someone were to develop their land in an agriculture use in the future, whether they could apply for an ag designation. Josh Peters replied that they would not qualify for the exemption for existing and ongoing agriculture at the time of the adoption of the code. It would be a new use and they would have the same buffers as anyone. He stated that he did not know of any jurisdiction that had said future agriculture would be exempt from critical areas regulations. Mr. Peters emphasized that the proposal was to only apply to existing and ongoing agriculture, from now to five years back. It would not apply to future agriculture.

James Jackson, West End, asked if there was a definition for "commercial agriculture". Josh Peters replied that the Open Space Taxation Act of 1991 defined farm and agriculture land in that it related to both the size of the parcel and the number of dollars per acre per year. Then the Comp Plan discussed a definition, but it was not as specific as that in the Open Space tax program.

Dave Christensen stated that anyone who proposed a new farm in the future would have to comply with the standard UDC buffers for streams and wetlands. The UDC already addressed new agricultural uses. It was pointed out that a future ag use could apply for and get into the open space tax program, however; but it would not qualify for an exemption from the standard buffers.

Pat Rodgers asked if there had ever been a survey or inventory of ag lands in the West End. Josh Peters replied that he did not know what went into the planning for the West End. He stated that there was 165 acres on about seven tax parcels in the ag tax program. Mr. Rodgers stated that the reason he raised the issue was because if it had never been done, it raised the prospective issue of doing a mapping error process. Mr. Peters responded that it could be corrected as part of Step 2 in terms of the ag lands designation process, where we could have both commercial agriculture as well as local agriculture.

An audience member asked, if a property was not exempt, how the buffers were determined. Josh Peters replied that the buffers were determined either by stream type or wetland class. He stated that there was an opportunity for a land owner to have that buffer reduced under specific conditions, usually formulation of a habitat management plan.

The Chair opened the public hearing to public testimony.

Marilyn Lewis, West End, stated that she had 150 acres of farmland on the Upper Hoh River, with 3/4 mile of river frontage. She stated that she saw a lot of loopholes in this proposal. She stated that the Hoh River was a meandering river, explaining that the river bed moved from year to year, sometimes adding ground and sometimes taking ground on either side. She wondered where the buffers would be. She did not think this proposal took that into consideration. She stated that she had a contract with Jefferson County to maintain an easement across her land. She asked how the county would maintain that easement if there was a buffer where no one could work. She asked if it [the buffers] would apply to the National Park Service or to

the Indian reservation. Ms. Lewis stated that if it would not apply to them, she questioned why it should apply to homestead farms that had done nothing to injure the environment or habitat. She stated that she was not going to sell her land on the Hoh; it would go to the next generation. She stated that she did not want to be involved in this proposal. Ms. Lewis stated that somewhere in state law it said that while the Department of Fish and Wildlife had a right to propagate fish and wildlife, they had no right to infringe upon the landowners' rights. She stated that she raised cattle and vegetables on her property and planned to start a tourist activity in a few years. She did not want to raise trees and fish on her property; she wanted to be left alone. She thought we seemed to be losing our rights. Ms. Lewis stated that cattle had absolutely no bearing on fish. She stated that the cattle ate the same thing as the deer and elk. If we were going to control the cattle, we should control the deer and elk too. She stated that they had few privileges out West. She felt it was a violation of their rights. Ms. Lewis spoke about the violation of their property rights by Indians hunting on their land. She asked what would happen if the stream moved to within 25-feet of her house.

Tom McNerney asked staff to address a buffer on a meandering stream such as the Hoh River. Dave Christensen responded that the current code said the buffers were to be measured from the ordinary high water mark. If there was evidence that there was channel migration, the UDC administrator could increase the buffer to account for that channel migration. Mr. Christensen stated that a channel migration study of the Hoh River had been completed recently. Mr. Christensen stated that he was missing the point since the buffers would be exempt on Open Space-Ag land.

Marilyn Lewis stated that the point was that the river had wiped out fifty acres of her land because of some work the National Park had done up river. Now her neighbors across the river were complaining because the riprap she installed may force the river over onto their land. She stated that her riprap was doing nothing more than protecting her land. She questioned how a buffer strip would protect it. She stated that she did not think a lot of thought had been given to the difference between West Jefferson County and the East. There were many variations between the two ends of the county.

Bob Huelsdonk, West End, addressed the issue of commercially viable ag land. He stated that there were a lot of farmers who had gone broke in this country and a lot of farmers were still working on their land, even though it may not produce a profit. However, it may be of great value to the community in terms of food production, quality of life, and husbandry of the land. He thought the definition of "commercially viable" was too tight. He acknowledged that if someone was in the Open Space-Ag program the exemption would apply. He congratulated the county on that exemption. He thought it was a good deal. However, he thought there may be problems in the future. Referring to the 165 acres in the West End, Mr. Huelsdonk thought it was really more like 1,000 acres. He stated that he had nearly that much himself [165]. Concerning newly developed ag land, he suggested something similar to what was proposed for the existing land. Buffers on land newly adapted to agriculture should need to be no more than what had been in existence unless it could be shown that there was a real problem. Mr. Huelsdonk described a major creek on his land, stating that there were buffers varying from 30 to 50 feet. The buffer area had not been touched for maybe fifty years. He stated that there had been lots of fish some years and not many other years. He stated the conviction that wider buffers would be of no particular value because of the historical situation. He suggested that be part of the plan for new ag land. He stated that he had been involved in the Comp Plan years

ago. He stated that this was not an economically rich county. He stated that to do the job of land planning right, the county would need a lot more people who were better educated and a lot more work done because every piece of land was different. He stated that you could not write a one size fits all situation, nor could you afford to apply lots of different rules in different places. There was the enigma. He thought it was more appropriate to give the landowner more freedom and create the situation where the neighbors had an opportunity to resolve a problem before coming to the county.

Dave Dickson, West End, stated that a number of years ago they had worked on the West Jefferson Community Plan, but it had not been adopted. It addressed a lot of their concerns of the time. He stated that the settlement agreement said this issue must be resolved by March 26. Josh Peters responded that it would only go into effect if the BOCC adopted the proposal. Mr. Dickson stated that they were the third generation on the family farm. They had cut down their cattle herd because the river had meandered, resulting in the loss of 60 to 80 acres of the original homestead. Mr. Dickson asked if this was adopted whether the setbacks would become effective immediately on those lands that were not designated or in open space. Mr. Peters responded that he knew the Dickson property was currently in Open Space-Timber and Rural Residential. He stated that they could change some of that forest land to Open Space-Ag, and could do so relatively easily according to the Assessor. Or they could petition for the ag designation during Step 2. Or they could do nothing, in which case they would be subject to the standard buffers. Mr. Dickson asked if he opted into an ag designation during this amendment cycle whether the buffers would apply if the county adopted the UDC amendments by June, for instance. Mr. Peters stated that this proposal was part of a two step process. He stated that everyone appeared to be cognizant of the fact that Step 2 was the Comp Plan amendment cycle to opt into an ag land designation. While he could not say with 100% certainty, he was fairly confident that nothing would happen between adoption of this proposal and that Comp Plan process. Mr. Dickson suggested that anyone between now and the end of the year who decided to opt into the ag land designation should be exempt from the buffers during that interim time.

Tom Jay, Chimacum, stated that for a good part of thirty years he had been involved in salmon restoration. He had not been involved in trying to get land regulated. He had been involved in trying to cooperate with landowners to work something out. He thought this settlement agreement was an ideal kind of solution to some of the problems that landowners and communities ran into. Mr. Jay stated that the context to view this in was the GMA. He stated that the GMA said to protect agricultural lands and to encourage salmon habitat restoration and to encourage fisheries improvement. He thought this proposal tried to set a middle ground to try to bring those two things together. He thought the proposal did a great job of it. Mr. Jay stated that it was not about buffers on existing ag lands. It talked about local people getting together with the Conservation District to work out their own riparian management plan, not buffers. The riparian areas could be used in the context of their family farm operations. That was entirely different than set asides, buffers, etc. However, those plans had to include fisheries because we had been sacrificing fish for economic gain for a long time, and the GMA recognized that. Mr. Jay stated that the genius of this settlement agreement between the county and WEC was that there would be a great deal of local control, you eliminated the whole bugaboo of buffers, and there was a time table to allow people enough time to work it out for themselves to a degree they were comfortable with within a context. He stated that the other context was their family farm operation and the issue

of fisheries and how they did their work on that ground. He thought that in the long run people would respond to it, stating that we had found that to be true already in this county. He stated there would be no tax increases, stating the opinion that there had been a lot of "red herrings". Mr. Jay thought this was a simple agreement; it was not rocket science. He supported the proposal.

Diane Johnson, Sequim, stated that she had the old family farm in Dabob which was homesteaded in 1889 and had been used as a farm the entire time. She stated that it had only been in open space for about ten years. She stated that the Planning Commission had really listened to the public who were present at the last hearing. She appreciated that. Ms. Johnson thought the new proposal looked flexible. She stated that the original farms in the Ag Lands of Long-term Commercial Significance were the dairy farms. She provided some statistical information on the beef farms, stating that they tended to be small farms, while the dairy farms were large. She stated that the economics of small beef farming made a significant contribution in this state to the overall production of beef, compared to small dairy farms. She stated that small beef farms were significant agriculture in this state. Ms. Johnson stated that her information did not include the small truck farms that raised produce for sale in farmers markets.

Nancy Dorgan, Port Townsend, complimented staff on the excellent agricultural planning web page. Ms. Dorgan provided a letter for the record and read it into the record. She supported salmon habitat enhancement over agricultural uses.

Larry Dennison, Port Townsend, thanked the Planning Commission for giving the public this opportunity. He thought it was good to give the farms that were not now on the map the opportunity to opt in. It was obvious that people were opposed to strict buffers, which was more or less a one size fits all scenario. This proposal was the antithesis of that. It said we would work on a case by case basis to see what kind of management program worked best to provide the same kind of protection that buffers were originally intended to address. He thought this gave property owners much more flexibility and many more choices than the more strict approach. He stated that he would think that landowners would tend to embrace this proposal. It dealt with willing property owners and was not a one size fits all process. Mr. Dennison stated that the alternative was pretty clear that if the county could not come up with something like this that worked in the community, the Hearings Board would be very willing to require strict buffers. He thought this proposal was a win-win situation for both the property owners and the wildlife and the community values that we held. He encouraged the Planning Commission to give this proposal serious consideration. He thought it worked better for everyone and gave people a chance to work together for a change rather than on an adversarial basis.

Al Latham, Chimacum, stated that, while he worked for the Conservation District, his statements reflected his own opinion. He stated that he did not have an official stance to offer from the Conservation District, although there were Conservation District board members present. Mr. Latham stated that anyone who read the Capitol Press and had seen what had been going on in other counties concerning agricultural buffers and regulations would realize that this proposal was a pretty good deal. He thought we were fortunate to have this opportunity to work out some voluntary efforts that had been going on, and continued to be ongoing on the part of the landowners, to protect salmon habitat and water quality. Mr. Latham thought one reason we had this opportunity was that the WEC, mainly because of Jerry Gorsline, recognized

the efforts that had already been made on ag lands to protect habitat and that improvements were continuing to happen. He reported that the Conservation District had more interest from landowners to do projects than they had the capability of undertaking. Since the trend was towards the improvement of habitat, not the degradation of habitat, and the Conservation District had monitoring data to show that, he thought imposing arbitrary buffers would be counter productive. It would ruin a lot of the good relationships between the landowners and the Conservation District and some of the other community organizations that had worked on salmon restoration, such as Wild Olympic Salmon and North Olympic Salmon Coalition. Mr. Latham stated that the other part of the settlement agreement called for a basin by basin plan for voluntary protection for fish and wildlife habitat on agricultural land. He reported that it had already been done on many peoples' farms. For places where it had not been done and there were problems, he had found that if you showed people there was a problem, they were more than willing to work at finding a solution, if you could do it in a non-confrontational, voluntary way. He stated that the alternative, if this amendment to the UDC was rejected, was that we would be back under the control of the Hearings Board, who were people we had not elected. He stated that he could guarantee that we did not want them determining what we could do. He was in favor of adopting this amendment and moving on with the process.

Jerry Gorsline, WEC representative, stated that he had provided input to the Planning Commission at the earlier meetings. He stated that it was their hope that this kind of flexible, site specific approach would lead over time to a comprehensive approach that would protect fish and wildlife habitat and also protect ag land use as a viable land use in the county. He stated that was their goal.

Joy Baisch, Brinnon, stated that it always concerned her about the designation of significant agriculture. Being a skeptic, she stated that she would have to see the use table before she would say that she would agree with the proposal. She stated that their land had been farmed continuously since 1887 and 1889. She did not know how more long term you could get than that in this county. Ms. Baisch stated that one of the issues seemed to be water quality. She stated that a comment was made that water quality continued to deteriorate. She stated that at the February hearing the comment was made that the county had found no problems of significance that they were not already working on through the Conservation District. She stated that the idea had been suggested of an upstream and downstream water test, which might preclude long term steps, just because. She thought that may be a positive way to approach the issue, because she did not think the county had the money or the time to go house by house when most of the ag people were already doing restoration and environmentally sound practices. She stated that they had 10 cows and 69 elk, along with other wildlife. She questioned who was doing the damage. She thought it was ludicrous to say it was the farmers. Ms. Baisch stated that Oregon State University had done a study that showed that 87% of the effluent impact from cows was reduced when a secondary water source was provided for cattle off the rivers. She stated that the practice was implemented many years ago in their valley for that very reason. She stated that Washington State had found that 1:20 acres was the most efficient and environmentally sound size to farm because there was less chemicals, less herbicides, less pesticides, which equaled less impact. Concerning best practices, she stated that when we cleaned the streams before, it literally sterilized them. She stated that it was hard to say the farmers had destroyed the fish when the fish were not allowed to come back. She stated that it was not necessarily on the ground that was the problem.

This was a bigger problem than whether or not a fish could actually get through the Hood Canal Bridge, or get through the Straits of Juan de Fuca. She stated that we needed to get through some of the more complex, long standing issues. It was not as simple as "Keep it clean in the streams and they'll all come home". It was a lot more complicated than that. Concerning the process, she thought this proposal was the best she had seen the county bring forward. Unfortunately, she would like to see the use tables to see the actual effect. Ms. Baisch stated that a question she had, when this was all said and done, was who got to appeal each and every one of us. She asked when it was all going to end.

Julie Boggs, Chimacum, stated that she had lived in the valley all her life. She stated that there had been a time when Chimacum Creek was in poor shape. However, through the Conservation District and people working voluntarily with it, the cattle had been fenced out of the creek. There had been planting along the creek. She stated that salmon restoration had been successful and water testing had been very successful. She stated that up to this point it had been a voluntary process that the farmers and residents had undertaken. Ms. Boggs stated that the proposal before the Planning Commission would basically continue their efforts, rather than taking more than what was actually needed. She stated that ag land was valuable and necessary to feed the communities. She stated that, while they did not have a lot of cattle, they fed a lot of families with the beef they raised. She thought the fish were very important. She also thought the farmers and land owners thought that it was important that they maintain the creeks for the best. With the help of the Conservation District, it was something they could do.

Karen Driscoll, Eagle Mount Road, stated that their land was in the exact type of land that this amendment covered. Their land was in the open space tax program but not in the long term ag lands designation. She supported the amendment as proposed. She thought it did a good job and would accomplish what it was meant to accomplish. She thought that under the proposal, the people from the Hoh River would be able to have the same relief from arbitrary buffers. They would be able to have the open space tax designation and then would be exempt from the buffers and could work with the Conservation District if there was a problem. Concerning the point that was made about this proposal being one more exemption and the "poor salmon", she stated that the salmon meant the world to them. While their property was not on a stream, they had a wetland that drained into the creek. She stated that there was certainly the question of "death by a thousand cuts" with the whole idea of many little exemptions for commercial reasons. She thought the commercial reasons were pretty weak in this county. Still that was a point. Ms. Driscoll stated that from the research she had read, in terms of watershed basins, the big industrial farms certainly had an impact on salmon. However, the biggest problem for salmon was increased impervious surface that came with residential development. She admitted that if you put thousands of cows on a stream, it was a bad thing. She thought the thing that should be considered was that the farmland of the type we had in this county was not the type that would have a big impact on the salmon. She acknowledged that there were other problems for salmon that needed to be addressed, such as impassable culverts. Ms. Driscoll stated that assuming we started working on such problems and assuming that we had the Conservation District to help with individual circumstances on farms, there were practical things that could be done to help the salmon that were much better than simply a buffer. She stated that the thing that could hurt the salmon was if the ag land went away and was turned into residential development. Ms. Driscoll thought this was a good proposal. She did not support the proposed amendment by Mr. Whipple,

stating that it made the process too complicated and moved us into an adversarial position between the Conservation District and the farmers.

Andy Driscoll, Eagle Mount Road, stated that he had a farm and was also on the North Olympic Salmon Coalition board [NOSC]. He stated that he was now raising 50,000 Summer Chum for release. Therefore, he came at the issue from several angles. He thought the way the Planning Commission and Planning Department was now approaching the issue, after listening to the public and determining that there were programs in existence through the Conservation District that were working, was the best way. He thought that with the type of farm community we had and the type of people we had running the farms, we had shown that we were able to have both activities occur, farming and salmon. The habitat could be enhanced through the process that had been talked about, particularly with the volunteer work with the Conservation District. He endorsed the current proposal.

Dick Schneider, Mats Mats, stated that he had worked with the NOSC and Wild Olympic Salmon for about six years, so he was a salmon advocate. He stated that he also recognized the importance of continuing farming in Jefferson County. He thought this proposal allowed both things to happen. It allowed for fish protection in a non-adversarial, non-bureaucratic way. He stated that NOSC wrote grant proposals and received grant dollars to do restoration work. In the past, they had been able to accomplish a lot of restoration with no cost to the farmer. He was strongly in favor of this proposal.

John Boulton, Leland Valley, stated that his farm abutted about a mile of Highway 101 and had a good portion of his land along Andrews Creek, which flowed into Crocker Lake and then into Salmon Creek. Therefore, his farm was particularly impacted by fish. He expressed his appreciation that the Planning Commission and staff had listened to the public. He stated that he was the chairman of the Conservation District. He stated that he had offered the District's help at the last meeting in making flexible buffers. He thought incentive based methods for agriculture were far superior to adversarial or one size fits all sort of regulation, which seemed to be the other alternative. Mr. Boulton thought that perhaps there could be some parcels that were currently in forest open space that could be changed to ag open space. He described some property he currently owned that fell into that category. He stated that the land had been logged and he had left a 90-foot buffer. He referred to the mitigation program that had been mentioned whereby a property owner could do a habitat management plan and reduce or eliminate the buffer in order to utilize it for farming. He appreciated Tom Jay's comments. Mr. Boulton stated that they had a salmon incubator on their land for the last three years with production of around 18,000 Coho released into the stream. He stated that his was just one of the many farms that were trying to promote fish but that were also trying to promote a farm.

Robert Pontius, Port Ludlow, stated that he was not against salmon. However, he stated that he also owned a farm. It appeared that there were some people who wanted to take some of his farm. He stated that fisheries people came onto his land without permission to do their fish research. He resented that. Mr. Pontius referred to the culverts under the highways, stating that they gaged the creek and prevented the stream from scouring out downstream as it normally should. Instead, it caused the water to back up on his land, which caused a wetland. He appreciated the Planning Commission taking the public's concerns into consideration. He urged the county to talk to the State of Washington about their highway culverts impeding the stream flows and creating wetlands on the farm lands. He suggested that the county and WEC research the historical farmlands, both in the West End and East county,

and put them in this exemption. He stated that historically they were farmlands and should be recognized as such. He stated that he was curious about existing buildings inside those buffers. Concerning constitutional property rights, he stated that there was a big difference if the government asked them or told them to do something with their land. He thought cooperation was the preferable way to go.

Dennis Schultz, North Jacob Miller Road, stated that up until now there had been no incentive for people to have their land in the Open Space-Ag tax program if they were not in the historic dairy land areas. Now there was an incentive. However, he did not see anything about how or when people could choose to opt into the ag program. He thought this proposal needed to be adopted and a program needed to be put in place. Also, there needed to be some sort of grace period for people who wanted to opt in while they were going through the process.

Marilyn Lewis stated that she had lived on the Hoh River for sixty years and had spent a lot of time watching the habitat. She stated that last year there had been one of the biggest salmon runs she had seen in twenty years. She stated that did not come from her cows defecating in the river. It came from what happened in the environment, what happened out at sea, and what happened at the mouth of the river. Ms. Lewis stated that we had college educated "idiots" who had book learning but no practical experience and they were creating jobs for themselves. She stated that in Africa the fish survived on hippopotamus dung. She acknowledged that a dairy farm that was feeding a high protein feed might cause a problem. However, a naturally grown cow raised on grass caused no more damage to the salmon than the elk or deer. She stated that the Olympic National Park was doing more damage to the Hoh River than any farmer in either Jefferson or Clallam Counties because of their sewage. She was adamant in her question about why the county would pick on the farmers when the National Park was getting away with so much. She asked for clarification about where the buffer would be on a meandering river. She stated that she had lost 50 to 80 acres of her property to the meandering river. She stated that she had logged her land and left a 200-foot buffer along the river as protection for the river. However, the river had since taken out that buffer, along with the timber that was on it. She stated that she did not get paid for that timber nor get any recognition for leaving the 200-foot buffer, even though she had done a habitat management plan in 1990, which was new in this state at the time. She urged the county to be careful about what it was doing in the West End before it "shook up the natives".

Bob Huelsdonk asked about the buffering requirements for a river like the Hoh. Josh Peters responded that the Hoh River would be a Type I stream in the area Mr. Huelsdonk was interested in, so the buffer would be 150 feet. Mr. Huelsdonk asked where that buffer would be measured from. He stated that the Hoh was rather self regulated. The temperature did not vary a great deal no matter what part of it you were on and no matter how much the buffering was. He questioned the point. Mr. Peters stated that temperature was one factor. Dave Christensen stated that he could talk to Mr. Huelsdonk about the science that went into developing the county's buffers during the break, stating that they were focused around residential development. He stated that there had not been a lot of discussion about agricultural uses, even though the county knew agricultural operations would be affected by the buffers. Mr. Christensen stated that the county did not regulate the timber; that was the state's jurisdiction. Mr. Huelsdonk stated that for years the state wanted all the woody debris out of the rivers and now they were putting it back in.

Marilyn Lewis stated that her mother was a Huelsdonk and had married a Lewis on the opposite side of the river. If she wanted to go across the river to see her parents, she would just cross on a log. She stated that today there were places where the river was almost a quarter of a mile across. She described the flooding of the river, stating that the fish went into the more shallow water because the main course of the river was now a power house. She stated that the log jams in the river would just be broken apart by the force of the river. She stated that with the fish in the shallow areas, when the river dropped, it did so suddenly and left the fish high and dry. She stated that we lost a lot of fish that way. She stated that we needed some natural resource management in that river as much as we needed management of the uses on the side of the river, because as long as that was going on, we were losing fish. She stated that it was not all the farmers fault. She stated that now there were no foot logs across the river.

An audience member asked if she was clear that if the West End peoples' land was in, or got into, the Open Space-Ag tax program, their land would be exempt from the buffers. Josh Peters replied that they could do that, or they could petition in the Comp Plan amendment process this year to opt into an ag land designation. The audience member stated that they would not be subject to the 150-foot buffer on the river in that case. Pat Rodgers stated that some of their land was in a rural residential designation, so they would be subject to the 150-foot buffer. Mr. Peters responded that it would not apply if they opted in for an ag lands designation, although the property would need to meet the definition for ag lands in the Comp Plan. If there was agriculture being practiced on the land, it would be a candidate. He explained that it would be a site specific amendment as part of a county suggested amendment process that would be done in a comprehensive manner. People would not have to pay the site specific amendment fee this year; the county would be taking a "second crack" at the ag lands designations in the county.

Julie Boggs asked if the residence on the farm would be subject to the buffers or if it would be considered part of the farm land. She pointed out that their residence and one acre was taxed as residential land while the remainder of the farm was taxed as ag land. If a person's residence was close enough to the river, she asked how it would be affected. Josh Peters stated that if the residence was already there, it would be a legal, nonconforming structure. That was governed by a particular section of the UDC.

Marilyn Lewis stated that she understood that if she passed her land on to the next generation, they would have to pay those back open space taxes. Some audience members stated that was not the case, if the land was continued in the open space use, either ag or forest or open space.

There being no further public testimony, the Chair closed the public hearing.

Tom McNerney suggested that the Planning Commission invite experts in the agriculture field to the next meeting in order to deal with questions the commissioners may have before making a recommendation to the BOCC. Phil Flynn asked about the Conservation District meeting, stating that the Planning Commission would want to have their expertise and input. Al Latham stated that the Conservation District met the first Wednesday of the month, which would conflict with the next Planning Commission meeting. Mr. McNerney stated that he would consult with the Conservation District about the meeting.

**C. DISCUSSION OF HEARINGS BOARD COMPLIANCE ORDER REGARDING  
PROTECTION AGAINST SEAWATER INTRUSION**

Before beginning an update from the Seawater Intrusion Committee, Jenny Davis provided information on a PUD meeting she had attended where a member of the public accused her of a conflict of interest because she lived on Marrowstone Island and supported a public water system. Ms. Davis stated for the record that she was a Marrowstone Island resident and personally supported a public water system for the island and, therefore, wished to bring the issue before the Planning Commission for a ruling. Phil Flynn stated that he would be in the same situation. He stated that while he supported a public water system if it was economically feasible, he had not been involved with the petition to the PUD. Dave Christensen pointed out that the county had no authority in approving a public water supply for Marrowstone Island. Tom McNerney stated that there was not a conflict of interest because the committee would only be making a recommendation to the Planning Commission and the Planning Commission as a whole would be making a recommendation to the BOCC, and the issue was a legislative one, not quasi-judicial. Therefore, the conflict of interest and appearance of fairness doctrine did not apply.

Phil Flynn reported on the Seawater Committee's activities. The first two meetings addressed seawater intrusion on Marrowstone Island. That information was reported to the Planning Commission and forwarded to the BOCC. Then the committee was assigned the task of beginning to address the 180-day compliance order issues. They had held one meeting and provided some input to staff. The committee would meet again on March 26. They would address adaptive management procedures that would be triggered by increased degradation, as well as a formula for determining if degradation was occurring. The committee was also considering a workshop that the entire Planning Commission would hold on Marrowstone Island concerning conservation and a public education program.

Dave Christensen reported that staff went before the BOCC with a report on what it would take to do what the Planning Commission had recommended for monitoring. He stated that the BOCC had indicated a financial commitment to implement those recommendations. He stated that staff would be meeting with the PUD and other county departments to determine how to most efficiently accomplish the implementation. He thought the quickest thing that would happen was the water conservation workshop, stating that some money would be put into various means of advertising for it. Mr. Christensen stated that, in the past, seawater intrusion workshops had focused on what it was without much focus on the things people could do. This proposed workshop would focus on the nuts and bolts of how to conserve water.

Dave Christensen stated that the other direction the BOCC had given staff was to run the seawater intrusion policy as a Comp Plan amendment in this years amendment cycle. Josh Peters stated that staff would propose augmenting the Comp Plan language that was already there. Mr. Christensen stated that the things that would direct county staff and the programmatic material would be in the Comp Plan and the regulatory aspects would be in the UDC.

Phil Flynn asked if staff had time to work on the formula the committee had asked about. Dave Christensen replied that he had spent a lot of time on the telephone with USGS and DOE hydrogeologists. He stated that the problem with this degradation issue was that we were really out past everything the USGS had, stating that all of their information was 1980 or before. He stated that DOE said that if they issued a water right, they were assured that there

would not be degradation and, therefore, they did not really need to know how to measure it because they would not issue the water right if it would cause degradation. Mr. Christensen stated that what he had done was to try to look at how much a well varied and trying to predict how much a well would vary, if there was a typical amount of variability. What it looked like was that there was a limit to how much a well may vary. There was a way to look at the variability and determine after a given number of samples, perhaps four on a particular well, what the typical variability was, and then project that anything above that was degradation. Anything within that variability would just be considered variability. He stated that, because this had not been tested, he felt sure people would find holes in it, but he thought it was better than a lot of the other options available. He stated that he would continue working on it prior to the next committee meeting.

Tom McNerney referred to the low flow pumps the Planning Commission had discussed. He reported on a discussion with a Public Works staff person who talked about a restricter that could be put in the line instead of people having to install a new pump. Dave Christensen stated that the county had heard a lot of criticism of requiring those because they created a lot of pressure in the line and people said they would burn out the pumps prematurely. He stated that the county had talked about that in 1996 and had dismissed it. Pat Rodgers stated that we really would not care how someone got two gallons per minute, whether they used a pump that ran two gallons per minute or used a restricter to accomplish that rate. Mr. Christensen stated that the issue was the follow-up. He stated that the question was, if the county found out that someone was using more water and was causing degradation, who would be the one to turn that pump way down; whether it was an expectation of county staff.

Edel Sokol asked if there were any grants available to help people with the purchase of pumps, etc. Dave Christensen replied that there were not. He reported that there were some metering grants from DOE associated with water rights holders. Ms. Sokol asked if there would be a discount to the county for purchasing the special pumps and then reselling them to the residents. Mr. Christensen stated that there would be a concern about the county undercutting private business.

#### **D. ADJOURNMENT**

Tom McNerney stated that the 1995 Tri Area Community Plan was proposed by the BOCC as the probable basis for the Tri Area UGA planning. He asked that staff copy that plan for the Planning Commissioners. He reported that the BOCC had held a workshop on the UGA issue. They had discussed possible Comp Plan amendments for the 2003 cycle as well as ones for the 2004 cycle.

The meeting was adjourned at 9:47 p.m.

#### **E. APPROVAL OF MINUTES**

These minutes were approved this \_\_\_\_\_ day of April, 2003.

\_\_\_\_\_  
Thomas McNerney, Chair

\_\_\_\_\_  
Cheryl Halvorson, Secretary