

JEFFERSON COUNTY PLANNING COMMISSION

MINUTES FOR APRIL 2, 2003

- A. OPENING BUSINESS
- B. WORKSHOP ON MLA02-485, UDC AMENDMENTS RELATED TO ENVIRONMENTALLY SENSITIVE AREAS AND AG LANDS EXEMPTIONS
- C. STAFF UPDATES
- D. DISCUSSION OF HEARINGS BOARD COMPLIANCE ORDER REGARDING PROTECTION AGAINST SEAWATER INTRUSION
- E. ADJOURNMENT

A. OPENING BUSINESS

The regular meeting was called to order at the WSU Learning Center at 7:05 p.m. by Chair Tom McNerney. Planning Commission members present were Pat Rodgers, Edel Sokol, Jenny Davis, Phil Flynn, and David Whipple. Eileen Rogers and Todd McGuire were excused. Dwayne Wilcox was absent.

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

There were about twelve members of the public present. Those who signed the guest list were Leone Smith, David Smith, Herb Beck, Dennis Schultz, Al Latham, Lige Christian, Roger Short, Sara M. Johani, Tom Jay, and Julie Boggs.

B. WORKSHOP ON MLA02-485, UDC AMENDMENTS RELATED TO ENVIRONMENTALLY SENSITIVE AREAS AND AG LANDS EXEMPTIONS

The commission began with a workshop with the Conservation District board. Al Latham introduced the members of the Conservation District board who were present: Lige Christian, Glen Huntingford, Roger Short, Julie Boggs, and Dennis Schultz.

Tom McNerney asked Mr. Latham to provide a summary of the Conservation District's activities.

Al Latham stated that the Conservation District had been in existence since 1946. He explained the kinds of activities the Conservation District had done in the past, including working with local farmers on implementation of best management practices. He stated that the District's current emphasis was on fish habitat improvement projects. He stated that the District had no regulatory authority. Mr. Latham stated that the way the District's work related to the UDC amendment was that it built on the District's past successes in implementation of fish habitat improvements. He stated that, usually, the stumbling blocks were funding and permitting for some things. He stated that when the UDC proposal was being drafted, their input was that things were improving; the existing agriculture was not posing a threat to fish and wildlife habitat. He stated that the major impacts of changing the Chimacum Valley, or any of the areas, happened in the late 1800's to the early 1950's or so. Since then, anything the landowners had done had been generally an improvement. He stated that in Chimacum Creek, where most of the agriculture was located, the salmon stock that used the main part of the creek was the Coho, which were considered healthy. Therefore, with the improvements that landowners were making and a fish stock that was healthy, the District felt that to impose mandatory and non-site specific remedies such as various sized buffers would have more of a negative impact on the farming. Also it would polarize the community and make it harder to get things done voluntarily. He stated that mandatory buffers would not necessarily be that beneficial. Mr. Latham referred to reports in the Capital Press about other counties before the Hearings Boards on agricultural issues, stating that the results were not really very palatable. When he saw the settlement agreement the county reached with WEC, he thought it was the best deal he had seen because it gave the local landowners the opportunity to devise a plan themselves for how to manage fish and wildlife on their property. He stated that the Conservation District has started that planning process in the Chimacum watershed. He reported that a lot of the information going into the plan were things people were already doing, so it recognized

the stewardship that had been going on already. Mr. Latham stated that approving the current UDC proposal would pretty well encompass most of the people who were in agriculture with the inclusion of those properties that were in the Open Space-Ag tax program along with the GMA ag lands.

Tom McNerney asked if the current revision to include Open Space tax program land would be compatible with what the Conservation District was doing. Al Latham replied that it would. He stated that there were a few inconsistencies with the way the GMA ag designations were determined. He stated that by including the Open Space-Ag program land, we would capture almost all the ag land in the county.

Tom McNerney referred to the delegation from the West End who attended the last meeting. He asked what those people could do. Al Latham stated that there were 165 acres in the Open Space-Ag program that would be eligible in the West End. There was a lot of other ag land in the West End that was in Open Space-Timber. Mr. Latham stated that the Assessor had indicated that it was pretty easy to segregate out the ag land from the timber land and put it into the Open Space-Ag program. In that way, the ag acreage would be eligible.

Glen Huntingford stated that he had received several telephone calls from people asking why their property had been left out (of an ag designation). He stated that was not the original intent. Mr. Huntingford stated that the original intent was to consider all ag land in the county, whether it was zoned ag or not, as being significant to the county. After the appeal and after looking at what was going on in other counties, we tried to find some way to make the settlement work so it was not so devastating to the farmers. He thought this was a pretty reasonable approach to make sure that those ag lands that were currently not zoned would be allowed to carry on their agricultural activities. He thought this was probably as good a deal as we could get. He urged the commission to move the proposal forward in order to get this issue behind us.

Dennis Schultz stated that there was a lot of ag land that was not in the GMA designated ag lands or even in the Open Space-Ag tax program. He advocated finding a way to put that land in an ag designation because there was no way for that land to be classified as ag lands at the present time. He thought the Agriculture Lands of Local Significance may be the appropriate category to use.

Glen Huntingford stated that when we first started to figure out how to deal with Ag Lands of Long-term Significance and as we came up with some criteria, we found that we had a checkerboard up the agricultural valleys of ag land interspersed with nothing. They did not think that made a lot of sense. They thought that protecting the integrity of the valleys for agriculture was more important than having that broken up pattern. That was how they came up with the Ag zone (Agriculture Protection District) up through the valleys. It was a means to allow for the protection of agriculture use and to allow the same exemptions throughout the valleys in order to keep their integrity.

Lige Christian stated that this proposal was really an extension of the current agriculture work that had been done. He stated that you may have a contiguous piece that was in Open Space-Ag but that was not eligible under the current zoning designation criteria. This proposal would capture those lands and allow them to continue their agricultural use. He stated that it made no sense to go part way up the valley and then have a non-designated

parcel and then go back into designated land. In answer to Mr. McNerney's question, Mr. Christian stated that he thought, as now written, the proposal was adequate to address the issue.

Roger Short stated that he had been dairying for 32 years. He stated that one of the reasons ag had a tough time was the stresses involved with life. As a property owner who had two miles of salmon stream, just the thought of some of the buffers on resource lands caused tremendous stress. Putting that together with other regulations and things a dairy had to deal with, it became overwhelming. He questioned why we would even be considering excluding some of the agricultural land with additional buffers. He thought it should be a "no brainer" that there should be no buffers on resource lands, whether ag, timber or mineral. He advocated that ag lands especially should be exempt from any buffering.

David Whipple stated that there were multiple sides to why we had buffers. Not considering them was not appropriate either. He stated that you would not want someone logging right up to the edge of a stream. Roger Short stated that was why GMA cost so much. Mr. Whipple stated that there was some logic behind some of it too. Glen Huntingford stated that there were different kinds of buffers. One was on the streams. Another was on the perimeter of the property to protect a mineral resource or timber resource. In the case of mineral or timber resources, the buffer was on the adjoining property, which had created problems for the county.

Glen Huntingford suggested that the Planning Commission go on a field trip sometime to see some actual, on-the-ground examples of projects that were going on. He described some examples in the East County and described how much land various sized buffers actually took in. Tom McNerney suggested that a tour may be appropriate when the Planning Commission got into the Comp Plan amendment process, which was Step 2 of this proposal.

Glen Huntingford stated that he thought a lot depended on the science and the function of a specific property. Al Latham stated that just because we did not have mandatory buffers did not mean we did not have buffers at all. He stated that there were a lot of smaller buffers. He stated that we were getting some pretty wide buffers with the Conservation Reserve Enhancement Program [CREP]. Mr. Latham stated that, while it may take a bit longer, we would get more reasonable site specific buffers and protections in place voluntarily than by mandatory requirements. He stated that most of the landowners were concerned about fish and were willing to do something to protect and improve the habitat. He stated that the Planning Commission should not get the idea that if we had no mandatory buffers there would be no buffers, because there were more buffers appearing all the time, along with other fish and wildlife enhancement projects.

Dennis Schultz stated that there was a cost to create a buffer in fencing and planting within the buffer area. Al Latham stated that it would cost about \$2,000 per acre to plant and maintain the trees for the three to five years it would take for them to become established.

Tom McNerney asked Mr. Latham to explain the CREP program. Al Latham explained that it was a Federal program whereby they would rent a buffer from 50 to 180 feet wide along salmon streams. They would rent it for 10 to 15 years at about \$200 per acre per year, which was the general figure for around this area. The price was dependent upon the soil type. He stated that they would also pay for all the planting and maintenance for three to

five years. Mr. Latham thought there was about 100 acres so far in the CREP program in Jefferson County.

Lige Christian stated that he thought the reason the Conservation District board was present was to discuss their plans for addressing the WEC settlement in terms of the basin by basin planning. Tom McNerney responded that the current proposal before the Planning Commission resulted from an appeal of the UDC which resulted in a settlement agreement. The current UDC proposal was limited to the buffer issue and ag exemptions. He stated that the current proposal was to encompass most of the agricultural uses in the county, whether that land was designated as GMA ag land or not. That was the reason for including the Open Space-Ag tax program lands. Mr. McNerney stated that another part of the settlement agreement addressed a voluntary program. He stated that the commission was interested in what that voluntary program would be, what it cost, and how it worked. Mr. Christian stated that the Conservation District was basically going on a watershed basis, writing a plan including a history of stream monitoring for water quality. They had eleven years of historical data. They proposed to continue that monitoring. The general approach was that if the water quality coming onto a property was the same as that going off the property, then the landowner would basically not have to do anything. If the water quality was worse, then there were some voluntary things the property owner could do. They were considering the issue on a watershed basis, stating that they would not necessarily have to treat every parcel in order to achieve the desired result. If they could treat a large enough number of parcels in the watershed, the desired goal could be achieved. They thought they could do this with the landowners on a voluntary basis rather than imposing an arbitrary buffer. Mr. Christian stated that given the various types of land forms and ecology in our various streams around the county, he would defy anyone to say that a specified buffer width would solve the problem in all of the stream reaches. Mr. Christian stated that they were trying to look for a plan that would preserve both agriculture and fish and wildlife habitat for the community. He stated that most of the people in the county did not want urbanization of the farm land and the development of 5 and 10-acre ranchettes as had happened all over the U.S. People wanted the farm open space maintained.

Pat Rodgers asked about just how easy it was to convert from timber open space to ag open space. Glen Huntingford stated that he thought it was a fairly easy trade to do. There was a fee to do it, but he did not think any compensating taxes would have to be paid.

Pat Rodgers stated that he thought most of the Planning Commission members agreed that uniform buffers were not necessary or workable. He agreed that it should be dependent upon the specific site and the needs for the stream at that site.

Concerning the patchwork pattern that had been discussed earlier, Pat Rodgers stated that there were examples of such a pattern up the Dosewallips River where there was some farming going on that would qualify interspersed with other uses. That would result in a checkerboard effect along that river. By the same token, he had serious doubts that the whole length of the Dosewallips had water quality that was below that needed for fish. Mr. Rogers asked how the Conservation District would monitor a river such as the Dosewallips. Al Latham stated that they had quite a bit more data for the Chimacum watershed than they had for the other streams. They also had a limiting factors analysis for fish on the stream. Mr. Latham stated that they were also looking at a reach approach, considering what the problems

were for a specific reach and what property owners could do to improve conditions in that area. In places like the Dosewallips, where there was little agriculture, they would work with the landowners to see what improvements could be made. He thought that in the end we would get very good protection. He thought that once people got involved, they would be interested in doing more than the minimum necessary.

Pat Rodgers stated that the assumption seemed to be that there was degradation. It seemed to be backwards, that the landowners had to prove that there was no degradation, as opposed to someone proving that there was. He believed that on the Dosewallips, Duckabush, and Hoh rivers there was no problem. He suspected there may be no problem on the Big and Little Quilcene rivers. He thought it was less than honest to say that there was a real need for this rule in this county. Lige Christian responded that there were problems on the Duckabush and Dosewallips rivers, but they were a result of DOT issues and had nothing to do with the farmers. Mr. Christian stated that there were some watersheds where zoning could have an impact and the Chimacum watershed was one of those. Mr. Rodgers stated that was a reason for not having a one size fits all regulation. Mr. Christian stated that if a certain size buffer worked on one watershed, Chimacum Creek for instance, it did not mean that the same thing would be true for the Dosewallips or Duckabush. Mr. Rodgers stated that was the reason he liked the essence of what the Conservation District was doing.

Phil Flynn asked if there was a formal buffer that was imposed on a stream when testing indicated there was no problem. Glen Huntingford responded that one must remember that buffers were used for different things. There would be specific buffers used in timber practices. This issue was about agricultural practices. He stated that you could not just look at one thing; you needed to consider the whole picture. Mr. Huntingford stated that the point was that agriculture did not want to cause any more harm; they wanted to try to make more improvements. He thought they had made a lot of progress in ten years.

Phil Flynn asked if we had improved fish habitat and asked what proof we had of that. Al Latham provided information on the monitoring that was done which gave in indication of the improvements. He thought that if we just improved the habitat, it would make a difference.

Jenny Davis commented that she had heard Mr. Short talk about eliminating all buffers. Roger Short clarified that he was opposed to mandatory buffers. He stated that did not mean there would be no buffers provided by the farmers.

Julie Boggs related how they had bought some land along Chimacum Creek twenty years ago and had fenced it with a buffer distance that had been planted through the Conservation District. She stated that they chose the size of the buffer. She stated that farmers had done such things for some time, but it was something they had to be able to afford to do. Ms. Boggs stated that when the large, mandatory buffers were talked about, the result would be the loss of their whole acreage. She stated that the stress of such talk made the farm owners not want to cooperate, not want to allow anyone on their property. The pressure came from mandatory buffers that were unreasonable. She stated that the work the farmers had already done had improved the water quality. The farmers were saying that they had already done the work.

Jenny Davis stated that her impression was that the farmers knew more about their land than anyone. Roger Short stated that the farmers did more about

it (habitat improvements) than anyone. Glen Huntingford stated that Mr. Short had been doing experimental activities on his farm for many years to find ways to improve the water quality. Mr. Huntingford stated that the Conservation District group had a lot of information to share.

Edel Sokol asked how we knew that this settlement proposal would not be appealed. She referred to a letter from Nancy Dorgan that had been received. Glen Huntingford responded that the county had an agreement with WEC, the appellant, and we hoped they would support the county on it. It was going through a public process. However, it may be appealed. He stated that if it was, the county would have to work through it. That was the process, like it or not. Al Latham stated that Ms. Dorgan had not asked the Conservation District for information, stating that they had monitoring data from 1988. It was pointed out that anyone could appeal, even out of ignorance. Mr. Latham stated that all we could do was the best we could. Julie Boggs suggested that Ms. Dorgan be invited to a field trip on the farm projects. Mr. Huntingford stated that, concerning appeals, we had only been talking about the parties who had been involved. He pointed out that after all this work was done and adopted, someone else could find fault with it and appeal it as well for some other reason we had not even thought of.

David Whipple stated the opinion that we could all agree that standard buffers were a last resort. He stated that it appeared that Chimacum Creek had been the primary focus of the Conservation District. He asked if the District had a long range plan for other streams in the county. Al Latham replied that the Conservation District had done work on other watersheds as well. Mr. Latham stated that Chimacum Creek was the first plan being done under the settlement agreement. Then they would go on to the next watershed, and then the next, and so on.

Glen Huntingford provided information on the kinds of things the Conservation District had done in other watersheds. Al Latham stated that the watershed planning process was described in the settlement agreement. Lige Christian stated that other organizations, such as Wild Olympic Salmon and North Olympic Salmon Coalition, would be asked to participate in project planning and funding as well.

The Planning Commissioners thanked the Conservation District representatives for attending the meeting, providing their input, and answering the commissioner's questions.

In parting, Al Latham stated that his personal comment would be to urge the Planning Commission to pass this proposal and send it on to the BOCC.

The Chair opened the meeting to public comments.

David Smith, West Valley Road, stated that they had 3.5 acres where they grew flowers, which they sold. They had been operating their business since 1993. They were particularly interested in hybridizing dahlias. He stated that they had purchased their property specifically for their flower business. He stated that the county maps showed their land contained a wetland. The maps also showed there were two streams, which were nonexistent. He stated that the wetland was nonexistent in 1996 when they built their house. Mr. Smith stated that the proposed changes, as he read them, would at the worst put them out of business or at the best, it would put them at the mercy of someone who wanted to complain to the county about their activities if the proposal was passed. He knew there were some alternatives. Mr. Smith

provided information on a person from King County who had a similar property and business. King County had simply grandfathered such uses in. Mr. Smith stated that while they could apply for the Open Space-Ag tax program, there would be lag time between when they applied and when the tax program would take effect. So they were sort of caught inbetween and did not know what to do.

Leone Smith, West Valley Road, stated that their intentions in farming were to walk lightly on the land, stating that they grew much of their own food on their property. She stated that, at their age, they did not have another ten years to re-locate and start again, stating that it took considerable time to hybridize the dahlias, which was very important to them. She stated that from the comments they got from the people in the valley, their efforts were appreciated by the community. She stated that it was very much their intention to add to the beauty of the valley.

Tom McNerney stated that he had taken notes on their situation and the Planning Commission would take it into consideration. He suggested the Smiths discuss their specific issues with staff. Randy Kline stated that staff was aware of the Smith's situation, stating that there were other people in similar situations in the county. Mr. Kline stated that staff wanted to bring forward a proposal that would address such situations. Josh Peters stated that, in the Smith's particular case or for anyone whose land was not currently in the GMA agriculture designation or the Open Space-Ag program, there was a window of opportunity which was Step 2 of the process. They could either petition for a GMA ag land designation free of charge during this year's amendment cycle or apply for the Open Space-Ag tax program.

Josh Peters explained the timing of the Open Space application to implementation process. He stated that if someone applied in 2003 for the tax program, the decision would be made by May 1, 2004, and the tax effect would be in 2005. Therefore, there was a lag time in the taxing effect. Mr. Peters stated that during this window of opportunity, the Director of DCD had directed a draft policy to address those properties affected during the interim. He explained that the policy was a draft now because staff did not know what proposal would come out of this process.

Herb Beck, Quilcene, stated that they had buffers on the streams on their farm for 30 to 35 years. He stated that within four years after the Boldt decision, the Summer Chum were gone from the stream. He stated that agriculture came to the table and was doing its best. He stated that the people who harvest the fish or the canneries were not at the table trying to solve the problem. He stated that the problem was that we could improve the fish runs and the streams could be in fantastic shape, but if the fish could not get back to the stream, the habitat was moot. He stated that the Summer Chum were important because they were a caviar fish. He asserted that the harvesting of the fish was the problem. As a farmer, he did not like to be "beat up" as the guy who was causing the problem when there were other people who were involved in the issue, and he did not see them at the table. It seemed that it always fell to the landowners to do all the work. He asked for some monetary help from the people who were catching the fish. Mr. Beck stated that another item was that the designs of some of the buffers was important, stating that alders grew fast and provided shade. Another thing to be considered was the hydrology of the stream and the siltation factor. He thought there were a lot of things that should be considered that were not being discussed. He suggested that the farmers be compensated for giving up

larger buffers. Mr. Beck stated that he hoped the issue could be settled, although he did not think it could ever be brought down to a fine science where it could be settled. Concerning the buffers, he stated that there were other people contributing to the problem, not just the agricultural community, and he did not see them being brought to the table.

Tom Jay, Chimacum, stated that he had been involved in salmon restoration for thirty years. He stated that he wholeheartedly supported this amendment and the whole voluntary approach. It was something he had advocated from the beginning when they started Wild Olympic Salmon. They advocated for cooperation and voluntary effort. He thought this amendment was in that spirit. It meant that landowners would not have mandatory buffers. They would have a choice and a part in the process to decide what would happen on their land. He stated that the Conservation District had the capacity, knowledge, and the integrity to do a good job on this. Mr. Jay stated that the watershed approach was exactly the right approach to take. He thought Mr. Beck's point about the interception fishery was a good point. It was a point that was always left out. There seemed to be some fear about taking on that issue. Mr. Jay stated that as local people, we could give some support to that issue. He thought it was something the county could get behind as well. While the county landowners were doing their part, the interception fishery should at least be monitored and there should be a release. He stated that there had to be a scheme that let fish come back. He stated that the interception issue was important. Mr. Jay reiterated that the proposal before the Planning Commission was something that was built on community, and was a trust building process, and it was the only thing that would work. He thought it was a winner.

Randy Kline stated that staff had spoken with the Chair the day before on several topics, one of which was how the county handled nonconforming uses in environmentally sensitive areas [ESAs]. Mr. Kline handed out a copy of UDC Section 3.6.4, which addressed ESAs. He reviewed the nonconforming use provisions, stating that they were pretty liberal. At Tom McNerney's urging, Mr. Kline explained the reasonable economic use variance provision. He clarified that basically it was meant for construction of a residence.

The commissioners and staff discussed the ag use issue presented by the Smith's dahlia farm. At issue was whether the use pre-dated the adoption of the UDC and could be a nonconforming, grandfathered use. They discussed the wetland issue on the Smith property. Staff indicated that while the map may show a wetland, it would trigger a site inspection. It may be that the property was not actually in a wetland area. The commissioners agreed that you could not grow dahlias in a wetland. Pat Rodgers commented that the Smith property may be in a wetland buffer area as opposed to being in a wetland. He stated that the question then became whether the use affected the wetland.

Josh Peters explained that the settlement agreement said that, in terms of existing and ongoing agriculture, the county agreed to modify the general exemption so that we were only talking about lands that were committed to agriculture. He stated that the county had essentially negotiated that the lands that were committed to agriculture were those that were zoned that way or were participating in the tax program for ag lands. He stated that after looking at other Hearings Board cases, this settlement agreement and the resulting UDC amendment proposal was the best deal for this county when compared to other places, in his opinion as a planner.

Concerning the Smith property, Josh Peters stated that if a complaint was received, staff would look at the exempt activities, stating that gardens were exempt. Mr. Peters referred to the DCD Director's enforcement policy that was handed out at the meeting concerning how to deal with the ag uses during the interim period. He explained how the department handled complaints. Randy Kline stated that it was an interesting point the farmland owners made about the stress of waiting for someone to complain about their activities because technically they were doing something that was against the rules.

The commissioners discussed the definition of ag lands. Pat Rodgers made the point that the land types the county had decided were the ag lands were in the valleys. However, the fact was that it was the use. He stated that the people from the West End made that point pretty clearly. He thought we may want to revisit what constituted commercial ag land. Josh Peters stated that review and completion of the ag lands issue would come in Step 2. Randy Kline stated that during the Comp Plan development, people did not want to be in an ag designation for some reason. Now they wanted the designation. The Step 2 process would be an opportunity to finish the ag land designation issue.

Staff and the commissioners discussed the amount of ag land in the West End. Josh Peters stated that there were only 165 acres in the Open Space-Ag tax program. He thought that there were many other acres actually used for agricultural purposes that were in the Open Space-Timber program. Mr. Peters stated that the Assessor had indicated that it was relatively simple to transfer land from Open Space-Timber to Open Space-Ag, although it did represent some change in how the land was taxed.

Edel Sokol asked about the opt in provision. Josh Peters stated that when he talked about an opt in program, he was talking about someone opting into the Ag Lands of Local Significance designation. That would give them the exemption. Mr. Peters stated that with the grant the county had received from the state, we could do some public outreach. Mr. Peters stated that staff had yet to develop that process, noting that it would occur during the Comp Plan amendment process. Jenny Davis stated that there would probably be some people who would come in after the fact who would want the designation. She thought some provision should be made for them.

Pat Rodgers stated that the definition should probably be changed as well, stating that, otherwise, someone like the Smiths with 3.5 acres could not get the designation. Josh Peters described how the process might work. Mr. Rodgers suggested that possibly the county should consider designating whole areas regardless of what the actual uses were on individual parcels, similar to what had been done for the Chimacum Valley district designation. He stated that Chimacum was not the only area where agriculture was practiced in a broad sense. Mr. Rodgers thought that would be more conducive to the watershed planning approach the Conservation District wanted to do than a checkerboard approach. He thought that whole river valleys were basically in agricultural uses.

Randy Kline stated that the Planning Commission would be involved in changing the criteria and drafting new criteria. Mr. Kline stated that he had found that, for Open Space-Ag tax purposes, a person only needed one acre minimum. He thought that may be a good starting point for the county's Ag Lands of Local Significance. Mr. Kline agreed that for the larger areas like the Hoh River, it may be more appropriate to look at an ag district zoning. Josh

Peters stated that something we should be careful about would be changing someone's zoning when they possibly did not want it changed. Mr. Peters added, however, that an ag district designation would not change an individual parcel's zoning.

Pat Rodgers stated that the West End drafted a community plan some years ago. He suggested it may provide some insight into what that community desired in terms of agricultural use.

The commissioners and staff discussed buffers or setbacks for streams and wetlands in rural residential areas. They discussed legal, nonconforming uses versus a new use.

Tom McNerney asked about the provision concerning the state Fish and Wildlife Department's comment period. Josh Peters explained that besides the ag exemptions, there were two other parts to the UDC amendment proposal. One was to replace the replacement ratios for compensatory wetland mitigations to match those of the state. The other part of the original proposal was to allow the WDFW additional time to comment on a project proposal that involved habitat management plans or wetland mitigation plans. He explained that the state had management plans for various species and had developed boiler plate recommendations that they used. Randy Kline stated that the mitigations the state applied were typically not too onerous. Mr. Kline stated that due to budget constraints, the WDFW now pretty much limited their reviews to bald eagles and salmon. If the county had a permit that triggered some other species, the WDFW would frequently tell the county they would not comment.

Tom McNerney and staff briefly discussed whether a residential property owner in Brinnon could fence the elk out.

In response to Pat Rodgers' comment, Randy Kline explained the 5-foot setback from a buffer edge. Josh Peters explained that sometimes there were different purposes for buffers and setbacks.

C. STAFF UPDATES

Randy Kline reported that the interviews for the two Planning Commission positions would occur during the following week. He reported that there were three applicants for each position.

Randy Kline reported that the county had received a permit application from Fred Hill Materials.

Randy Kline addressed the Comp Plan amendment process for this year. One anticipated amendment was from the Port for the airport, including the noise overlay and expanded light industrial uses. Another would be something on the seawater intrusion issue. Another would be a rezone in Lower Hadlock for the Wooden Boat School. Pat Rodgers asked if South Seven was addressed. Mr. Kline stated that it was. He added that the big issue with South Seven was that they needed sewer.

Randy Kline reported that the county had not yet gotten to the point where we had seen the petitioners' briefs for the recent appeals so we did not know their substantive issues. Mr. Kline reported that the petitioners had argued in the Glen Cove case that the expert third party review of the boundary by William Nielson should not be allowed as part of the record for a number of legalistic reasons. He commented that it was frustrating because that was

the basis for a lot of the work the county did. However, it was not something that would damage the county's case. He stated that the Hearings Board had decided not to allow the Nielson report, but the county had not yet received their documentation with their reasoning for that ruling.

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

Tom McNerney asked for an update from staff on the status of seawater intrusion from the BOCC's standpoint. Josh Peters reviewed the possible meeting schedule in order to meet the June 5 deadline. He stated that the deadline may be subject to change if the BOCC decided they needed more time. He stated that if the Planning Commission could develop a recommendation, staff could develop a line-in/line-out proposal for a public hearing before the Planning Commission. Then the BOCC may, or may not, hold their own public hearing.

Josh Peters stated that staff had met to discuss who would do what work with regard to implementing the regulations that had already been adopted. He described the duties that DCD and Environmental Health would perform. He stated that the county would offer money to the PUD to allow them to do the whole monitoring program instead of sharing that duty. Tom McNerney asked who would deal with the installation of meters for the monitoring program. Mr. Peters stated that he was not aware of anything on that issue yet, although it would be a county responsibility.

Phil Flynn commented about the database that would be used in this program. He asked if the database was compatible for the three entities that would be using it (DCD, Environmental Health, and the PUD). Josh Peters stated that he did not have an answer to that question yet, but it was one that staff would need to address.

Phil Flynn stated that on March 13 the Planning Commission had submitted its report to the BOCC for the 90-day compliance issue regarding Marrowstone Island. The BOCC had adopted those recommendations, so that part of the compliance order was completed. He stated that after consulting with David Alvarez and Colette Kostelec, it had been decided that a compliance hearing was not necessary at this time.

Phil Flynn reported on the last Seawater Committee meeting (March 26), stating that the committee had continued its meeting to April 9 at 10:00 a.m. at the Health Department conference room. He stated that the committee would continue its discussion of what formula to use to determine if degradation was triggered. He stated that was not an easy task. Mr. Flynn stated that one of the things the committee would ask for was that all of the high chloride wells be re-tested, because those wells had last been tested 15 to 20 years ago. While some well tests were very current, there were a lot that were quite old. Tom McNerney stated that some anecdotal information they had heard about those early tests was that some people had flushed their well with chlorine and had not waited long enough to test the well or where a well driller had gone down through to salt water. Mr. Flynn stated that he would be very cautious about regulating people based on old data.

Phil Flynn stated that he had talked with Barb Bowen at Environmental Health whose duties would be to develop and implement a public education and conservation program. He thought that the program should also introduce the new regulations. Randy Kline stated that the people in Environmental Health

did not want to be known as regulators; they were scientists. Mr. Kline stated that DCD staff would probably accompany her to the education forums to address the regulations issue. Mr. Flynn stated that getting people to volunteer for the monitoring program fell into that whole program.

E. ADJOURNMENT

Tom McNerney asked if staff would be making any further changes to the ag lands exemptions issue. Randy Kline replied that he did not think staff would be suggesting anything further because of the input that had been received from the public. It was pointed out that the Planning Commission had not voted on any of the provisions in MLA02-485.

Tom McNerney suggested that the Planning Commission complete its work and make a recommendation on the whole ag lands issue at the April 16 meeting. Then the commission could concentrate on the seawater intrusion issue. The secretary pointed out that there were five Wednesdays in April and the commission could hold an additional, special meeting on April 30 if necessary.

The meeting was adjourned at 10:00 p.m.

F. APPROVAL OF MINUTES

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

Thomas McNerney, Chair

Cheryl Halvorson, Secretary